

# Crexendo Business Services, Inc. - Business Phone Services Terms of Use

## 1. TERMS OF SERVICE

These Terms of Service constitute the agreement between Crexendo Business Solutions, Inc. (“Crexendo”) and the user of Crexendo’s communications services and any related products or services (“Customer”). This agreement governs both Crexendo service and any Crexendo -approved or Crexendo -provided devices used with our service. It applies to all lines on each Crexendo account. Us or our shall refer to Crexendo, and you or yours shall refer to Customer as appropriate by context. **By subscribing to or using our service, you agree to these Terms of Service. All information linked to these Terms of Service is part of it. You further confirm that you are of legal age to enter into this agreement and that you have read and understand fully its terms and conditions.**

Price and Delivery. Crexendo online shopping, Products and prices are offered to United States residents only. Price and delivery terms are FOB Crexendo shipping origin. Upon Crexendo’s delivery of the Products to the carrier at the FOB point, title and risk of loss and damage to the Products shall pass to the Buyer. All prices are subject to change without notice. Crexendo reserves the right to make adjustments to the price of all Products due to changing market conditions, Product discontinuation, manufacturer price changes, errors in advertisements and other extenuating circumstances. Prices for particular purchases will be those in effect at the time of shipment. Crexendo may make delivery in installments and receive payments for each installment. All delivery dates are estimated. CREXENDO SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES FOR CREXENDO’S FAILURE TO FILL, OR DELAY OR ERROR IN FILLING ANY ORDER, OR FOR ANY DELAY IN DELIVERY. Out of stock items will be deleted from the order after confirmation from you. These items may be placed on back order if requested.

Shipping Information. Crexendo ships products within the continental United States, Alaska, Hawaii, and Puerto Rico. Crexendo cannot ship to a Post Office box address, territories, addresses outside the United States or APO/FPO addresses. Upon acceptance by Crexendo, orders for in-stock items will be shipped the next business day following the processing of the order. Orders will be shipped via FedEx ground and no signature is required. If a signature is to be required there is an additional charge of up to \$3.00, which will be added to your order. Please allow two (2) to seven (7) business days for shipments to arrive. A flat rate shipping charge applies to all orders. For current shipping rates, please reference plan details at: [www.crexendotelecom.com](http://www.crexendotelecom.com).

## 2. USE OF 911 SERVICES

Crexendo 911 service is different from traditional 911 and cellular/wireless 911, dialing that may differ depending on where you are located, and the device used, when using your Crexendo service.

When you dial 911 your Crexendo phone number and registered address is sent to the local emergency center serving your location, and emergency operators have access to this information in order to send help and call you back if necessary. When you dial 911 local emergency operators answering the call may not see your Crexendo telephone number or your registered address. The emergency center may not be equipped to receive, capture or retain your Crexendo telephone number and registered address, 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 disconnected, dropped or otherwise terminated.

We require you to provide the physical address where you will be using our service for 911 purposes. This address is used to route 911 calls to your local emergency center. When you initially provide your physical address, it can take up to 24 hours to verify your address and activate 911 services at this address, you should have alternate 911 service until your 911 has been activated and you have been notified by Crexendo of that activation. If you move this device to another location, you must update your address. You may register only one location at time. If you do not update your location, your 911 calls may be sent to an emergency center near your old address. There may be an additional delay of up to 24 hours after you notify Crexendo of the device having been moved.

If you have selected a service that enables you to utilize the same telephone number for two different devices you may be required to use an alternate service to contact local 911 service 911 will only work at the location where the device is

located. Please note that our 911 Dialing service will not function in the event of a broadband or power outage or if your broadband, Internet Service Provider (ISP), or Crexendo phone service is terminated.

### 3. TYPE OF SERVICE

Our service is not a telecommunications service, and we provide it on a best efforts basis. There are important distinctions between a telecommunications service and our service. Our service is subject to different regulatory treatment than a telecommunications service. This treatment may limit or otherwise affect your rights of redress before regulatory agencies. Our service requires a high speed broadband connection which we do not provide. Events beyond our control may affect our service, such as power outages, fluctuations in the Internet, your underlying ISP or broadband service, or maintenance. We will act in good faith to minimize disruptions to your use of and access to our service.

### 4. USE OF SERVICE

We provide our service and the device to you solely for use as a small business user or domestic business traveler. The following uses are not considered small business uses and are not permitted autodialing; continuous or extensive call-forwarding, inbound/outbound centralized or distributed call center activity, telemarketing of any kind (including, but not limited to, charitable or political solicitation or polling); fax or voicemail broadcasting and fax or voicemail blasting. You are responsible for supplying, operating, and supporting the standard SIP based Customer Premise Equipment for use with the service. As the subscriber and operator or administrator of this equipment, you are responsible for maintaining the security of the equipment, including but not limited to the physical and network security elements of your device.

If you use the service or the device in a way that is inconsistent with the service level that you contracted for you will then be subject to at Crexendo 's sole discretion, to pay the rates for the service or plan that would apply to the way you used the service or device, or terminate the plan. Failure to contact Crexendo in response to its notifications and/or failure to promptly correct usage activity to conform to normal use will result, in Crexendo's sole discretion, in immediate mandatory transfer to another appropriate plan, suspension or termination of service. You acknowledge that if your service is terminated under this provision, you are subject to all applicable disconnection and device or other rebate recovery charges. Crexendo's right to terminate your account.

**SERVICES NOT SUPPORTED.** Crexendo service does not support 0+ or operator assisted calling, including, without limitation, collect calls, third party billing calls, 900, or calling card calls. Our service may not support 311, 511, and other x11 services in one or more service areas. Our service does support specified dialing such as 911 and 411, which are provided for elsewhere in these Terms of Service.

**NO DIRECTORY LISTING.** The phone numbers you get from us will not be listed in any telephone directories. However, if you are able to transfer a number it may (but there is no guarantee or control that it may be) may be listed.

**CERTAIN INCOMPATIBLE SERVICES.** You acknowledge that our service may not be compatible with all non-voice communications equipment, including but not limited to home security systems, TTY, medical monitoring equipment, certain versions of™, satellite television systems, PBX, Centrex, other private telephone networks, or computer modems. You waive any claim against Crexendo for interference with or disruption of these services and equipment, as well as any claim that Crexendo is responsible for any disruption to your business, if applicable. You acknowledge that our service presently is not compatible with AOL™ cable broadband service and certain versions of TiVO™. There may also be other services with which our service may be incompatible. Some providers of broadband service may provide modems that prevent the transmission of communications using our service. We do not warrant that our services will be compatible with all broadband services and expressly disclaim any express or implied warranties regarding the compatibility of our service with any particular broadband service.

**NETWORK INFRASTRUCTURE.** Crexendo services rely on the customer's network infrastructure (routers, switches, cabling, etc.) and internet connection which may be provided by various other parties and as such the customer is responsible for the availability and quality of the network infrastructure and the internet connection.

### 5. CHANGE TO SERVICE/TERMS AND CONDITIONS

Your service plan includes terms and conditions such as monthly service allowances, limitations and features, and the associated charges, which have been described in your order confirmation. You acknowledge that your service plan is also subject to these Terms of Service. Our service is subject to our business policies, practices and procedures, which we can change at any time without notice. Unless otherwise prohibited by applicable law, or the terms of your specific confirmation we can also change the terms and conditions of your service plan (such as features and prices) at any time, with or without notice. If we do give you notice, it may be provided on your account web page, by email, or monthly bill, in a newsletter, or other communication permitted under applicable law.

## 6. BILLING; FEES ON DISCONNECTION; PORTABILITY NOTICE TO TERMINATE AND RENEWAL OF SUBSCRIPTION

We provide our service to you indefinitely. Your terms for billing (i.e. monthly, annually or otherwise is detailed in your order confirmation). The service term is the term that you agreed to when you signed up for our service. You will be billed the first month of service in advance upon execution of your subscription agreement together with any installation fees if applicable. Your first service term begins on the date we either (a) ship your equipment or phone(s) if we are not providing installation services, or (b) upon completed installation of your phones or system if we are providing installation. We will adjust your second bill to conform to the service period. Your service will continue until canceled by you or by us as provided for herein. Please note that the obligations of this agreement begin on execution of the subscription agreement and are indefinite. Your subscription will automatically renew at the end of your subscription agreement for a period of one year at the then current rates unless you notify us thirty (30) days prior to the scheduled termination of your subscription.

**FEES ON DISCONNECTION:** Disconnection by you. If you attempt to disconnect service for one or more of your lines before the end of your current service term, you will be responsible for all the charges for your current term that are applicable to the disconnected lines(s), including unbilled charges, plus a disconnect fee the price for which is detailed on our website at [www.crexendotelecom.com](http://www.crexendotelecom.com), the additional terms of which are incorporated by reference herein. Disconnection by us without a reason. If we discontinue service generally, or disconnect your service without a stated reason, you will only be responsible for the charges that have accrued through the date of the disconnection, including a pro-rated portion of the final service term charges, and any recovery fees. Disconnection by us with a reason. If we disconnect your service for any of the reasons detailed in this agreement, (including but not limited nonpayment or use of service outside the parameters of you plan) you will be responsible for all charges through the end of your current service term, including unbilled charges, plus any disconnection and any recovery fees.

**NUMBERS MAY NOT PORTABLE:** You may not be able to take, or "port," your current number to another service provider. If you ask your new service provider to port a number from us, we reserve the right terminate our service for that number promptly after we receive notification from our competitive local exchange carrier that the porting of your number to your new service provider has been completed successfully. We will terminate our service in this fashion even if you have not independently called us to request disconnection. Once your service is terminated in this manner, you will remain responsible for all charges and fees through the end of the current billing cycle, including any unbilled charges, as well as for any disconnection or recovery fees that may be due.

**TO TERMINATE YOUR SERVICES:** In order to terminate your service, you must contact our Customer Support Department at 1.855.211.CALL (2255). For a list of our then current service hours please see, [www.crexendotelecom.com](http://www.crexendotelecom.com).

**FAIR USAGE POLICY:** It is important to Crexendo - Business Communication Service that all eligible Crexendo customers are able to access our services. For this reason, and to ensure the provision of quality and reliability of our services, a Fair Use Policy applies to all our services and plans. We reserve the right to vary the terms of this Fair Use Policy from time to time.

## 7. DEVICE AND INSTALLATION INFORMATION AND LIMITATION OF WARRANTY ON DEVICE AND INSTALLATION

Except as set forth in these Terms of Service, if you received a device from us and the device included a limited warranty from another person (such as the manufacturer) at the time you received it, you should read the separate limited warranty document you got with the device for information on the limitation and disclaimer of certain warranties. Unless specifically otherwise notified all equipment we provide is manufactured by another party. We will provide a limited warranty on the

device only for manufacturing defects for the entire term of your subscription so long as you are current on all payments due. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. *Repair or replacement is your sole remedy* for any breach of any limited warranty or other breach of any duty regarding a device is to get a repaired or replacement device by following the instructions of our customer service representative which may be contacted at 1.855.211.CALL (2255). This limited warranty applies in place of the limited warranty included with the device if the included limited warranty is less favorable to you than this warranty. **This warranty gives you specific legal rights, and you may also have other rights which vary from State to State.**

**If You Are in Receipt of damaged devices.** If you receive cartons or devices that are visibly damaged, you must note the damage on the carrier's freight bill or receipt and keep a copy. You must also keep the original carton, all packing materials, and parts in the same condition in which you received them from the carrier. You must then contact our Customer Service Department immediately at 1.855.211.CALL (2255). If we install equipment or otherwise provide services for you, we will provide a limited warranty on those services for a period of one (1) year from the execution of the subscription agreement. This warranty applies only to work completed by us and not altered by you or your agents. Your sole remedy will be repair of improper installation or workmanship. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

**Ownership and Risk of Loss.** You will own your device and bear all the risk of loss, theft, or damage. This risk is from the time we ship your device to you until the time you return it to us according to this agreement

**Tampering with the Device.** You may not change the electronic serial number or equipment identifier or encryption keys or other authentication or technical data of your device or perform a factory reset of your device without first getting our written consent.

**Disclaimer.** Other than express warranties for the device in the documentation that comes with your device and the retail customer limited warranty in this agreement, following the term of the limited warranty, we make no warranties of any kind, express or implied, and specifically disclaim, following the term of the limited warranty, any warranty of merchantability, fitness of the device for a particular purpose, title or non-infringement, or any warranty arising by usage of trade, course of dealing, or course of performance, or any warranty that the device or any firmware or software is "error free" or will meet your requirements. This section does not limit any disclaimer or limitation of warranty in the documentation provided with your device.

## 8. CHARGES, TAXES, AND ADDITIONAL FEES

**Our current fees and charges are located at [www.crexendotelecom.com](http://www.crexendotelecom.com).** These fees and charges may change from time to time. We may introduce new products and services at special introductory pricing. At our discretion, we may change pricing. Where required by law, we will send notification of invoices to your email address on file with us. We will not give you credit for any interruption of Crexendo service, including international calling services. We bill usage charges in full minute increments. We round partial minutes up to the next full minute, unless we state otherwise in the rate schedules on our website. We bill fractional usage charges in full cents. We round up cents.

**TAXES:** State and local governments may assess taxes, surcharges, or fees, or all of these, on your use of our service. These charges may be a flat fee or a percentage of your Crexendo charges and may change without notice. These charges are based on the rates applicable to the address you provided to us. You are responsible for all applicable taxes, fees, or charges for your subscription, use, or payment for our service or your device. These amounts are in addition to the payment for your service or devices. We will bill these charges to your payment method according to the terms in this agreement.

**TOLL FREE CHARGES:** If you use our "Toll Free" feature, we may recover from you any charges imposed on us either directly or indirectly for toll free calls made to your number. We may recover these amounts by means of a per call charge, rounded up to the next cent, or in any other way we decide is appropriate for the recovery of those costs.

## 9. BILLING PAYMENT AND DISPUTE

**BILLING:** We will charge your method of payment in advance for each monthly service plan fee, associated taxes and surcharges; in arrears for any usage and calls not covered by your plan; and immediately on disconnection for any unbilled amounts and any disconnection, and other fees that are due. If you subscribe to a prepaid annual plan, we will bill

you in advance for the service plan fee due for the entire year, plus any associated taxes, fees and surcharges, and in arrears on a monthly basis. Late payments will be subject to late payment fees and returned electronic check payments will be subject to returned check fees, each of which are further detailed as part of our fees structure which may be found at [www.crexendotelecom.com](http://www.crexendotelecom.com) the terms of which are incorporated herein by reference. Failure to provide payment within 15 days of the billing date could result in termination of service. When you subscribe to our service, you must give us a valid email address and a payment method that we accept. We reserve the right to stop accepting your payment method or your payments. You must advise us at once if your payment method expires, you close your account, your billing address changes, your email address changes, or your payment method is cancelled and replaced on account of loss or theft. Failure to do so may be deemed to be a default of this agreement and subject you to immediate cancellation.

**PAYMENT:** When you subscribe to our service, you authorize us to collect from your payment method, including disconnection fees, late fees, check return fees, rebate or device recovery fees and any other outstanding charges. This authorization will remain valid until 30 days after you terminate our authority to charge your payment method.

**COLLECTION:** If we disconnect your service, you will remain liable to us for all charges under this agreement and all the costs we incur to collect these charges, including, without limitation, collection agency fees, reasonable attorneys' fees, and arbitration or court costs.

**NOTICE AND BILLING DISPUTE:** You agree to promptly update your account information whenever your personal or billing information changes (including, for example, your name, address, e-mail address, telephone number, and credit/debit card number and expiration date). You acknowledge and agree that Crexendo will be sending you information regarding your service, including via e-mail, over the Internet. If notices are sent by us to the last email address provided by you, you agree that we have provided sufficient email notice and you waive any rights to assert failure of notice. If you want to dispute any Crexendo charges on your statement, you must notify us within 7 days after you receive your statement from your bank or credit card issuer. If you do not dispute the charges within 7 days, you waive any right to contest the charges.

## 10. PROHIBITED USES; UNLAWFUL USES AND CONDUCT

**LAWFUL PURPOSES:** You may use our service and your device only for lawful, proper and appropriate purposes. You may not use our service or your device in any way that is illegal, improper or inappropriate. Crexendo in its sole discretion may determine what improper and inappropriate activities are.

**MONITORING AND PROVIDING OF INFORMATION TO AUTHORITIES:** We may monitor the use of our service for violations of this agreement. We may remove or block all communications if we suspect a violation of this agreement, or if we think it necessary in order to protect our service, or Crexendo, its parent, affiliates, directors, officers, agents, and employees from harm. If we believe that you have used our service or your device for an unlawful purpose, we may forward the relevant communication and other information, including your identity, to the appropriate authorities for investigation and prosecution. You consent to our forwarding of any such communications and information to these authorities. In addition Crexendo will respond to any subpoena or court order or law enforcement or other governmental agency requests.

**Use of Service and Device by Customers outside the United States.** The Crexendo services are only offered and supported in the United States. Our service is designed to work generally with unencumbered high-speed Internet connections. However, if the high-speed Internet connection you are using is not within an Crexendo service area or your ISP or broadband provider places restrictions on using VoIP services, we do not claim that they will allow you to use our service. You will be solely responsible for any violations of local laws and regulations or violations of ISP and broadband provider terms of service because of your use of our service. If you ship a device outside the United States for use in another country, you are solely responsible for determining and adhering to compliance with all applicable custom, regulatory and other laws regarding the transport, distribution and use of such device and the service.

**No Transfer of Service.** You are the sole account holder for the service for all purposes and are solely responsible for all charges incurred on the account, regardless of changes to the account, including billing information. You may not resell or transfer your service, account or your device or provide a telephone service to anyone else by using your Crexendo service or features of your Crexendo service without first getting our written consent. In no event may your account be assigned to a non-U.S. resident.

**No Alterations or Tampering.** If you copy or alter or have someone else copy or alter the program, hardware or software of the device in any way that facilitates a compromise of your service, you are responsible for any charges that result. You may not attempt to hack or otherwise alter or disrupt our service or make any use of our service that is inconsistent with its intended purpose.

**Theft of Service.** You may not use or obtain our service in any manner that avoids Crexendo policies and procedures, including an illegal or improper manner. You will notify us immediately if your device is stolen or if you believe that your service is being stolen, fraudulently used, or otherwise being used in an unauthorized manner.

**Unauthorized Usage of Device; Firmware or Software.** You have not been granted any license to use the firmware or software we use to provide our service or that we provide to you in providing our service, or that is embedded in your device, other than a nontransferable, revocable license to use the firmware or software in object code form (without making any modification to it) strictly according the terms and conditions of this agreement. You also agree that you will use your device exclusively for our service.

## 11. SERVICE AS IS, DISCLAIMERS OF WARRANTY LIMITATIONS ON LIABILITIES

**AS IS Services.** You agree that our services are provided "as is," except to the extent provided herein.

**No Warranties on Service.** We make no warranties, express or implied, including but not limited to, any implied warranties of merchantability, fitness of the service or device for a particular purpose, title or noninfringement or any warranty arising by usage of trade, course of dealing or course of performance. In addition, we do not warrant that the service or device will be without failure, delay, interruption, error, omission, degradation of voice quality, or loss of content, data, or information. Neither Crexendo nor its officers, directors, employees, affiliates or agents, or any other service provider or vendor who furnishes services, devices, or products to the customer for our service will be liable for unauthorized access to our or your transmission facilities or premises or equipment or for unauthorized access to, or alteration, theft, or destruction of, customer's data files, programs, procedures, or information through accident, fraudulent means, devices, or any other method, regardless of whether such damage occurs as a result of Crexendo's or its service provider's or vendors' negligence. Statements and descriptions concerning our service or device, if any, by Crexendo or Crexendo's agents or installers are informational and are not given as a warranty of any kind. We will not give you credit for any interruption of Crexendo service, including international calling services.

**Disclaimer of Liability for Damages.** In no event will Crexendo, its officers, directors, employees, affiliates or agents or any other service provider who furnishes services or devices to you in connection with our service be liable for any damages, including but not limited to personal injury, wrongful death, property damage, loss of data, loss of revenue or profits, or damages arising out of or in connection with the use or inability to use a device or the service, including inability to access emergency service personnel through the 911 dialing service or to obtain emergency help. These limitations apply to claims founded in breach of contract, breach of warranty, product liability, tort, and any and all other theories of liability. These limitations apply whether or not we were informed of the likelihood of any particular type of damages. *Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.*

**Disclaimer of 911 Liability.** We disclaim all responsibility for the conduct of local emergency response centers and the national emergency calling center. We do not have any control over any local emergency response center. Therefore, we are not responsible for whether they answer calls using our 911 dialing service, how they answer these calls, or how they handle them. We rely on third parties to assist us in routing 911 dialing calls to local emergency response centers and to a national emergency calling center. We are neither liable nor responsible if the data used by a third party to route calls is incorrect or produces an erroneous result. Neither Crexendo nor its officers or employees may be held liable for any claim, damage, or loss, fine, penalty, cost, and expense (including, without limitation, attorney's fees) by, or on behalf of, you or any third party or user of our service, relating to our service, including, without limitation, 911 Dialing, or your device.

**Limit on total liability.** Our total liability under this agreement will not exceed the service charges for the affected time period. Crexendo will not be responsible for third party fees or charges, including but not limited to, banking fees, overdraft fees, cellular phone or other wireline charges, technician charges, or other similar charges.

## 12. INDEMNIFICATION AND WAIVER OF CLAIMS

**Indemnification.** You shall defend, indemnify, and hold harmless Crexendo, its officers, directors, employees, affiliates and agents, and any other service provider who furnishes services to you for our 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 or user of our service, relating to our service, including, without limitation, 911 Dialing, or your device(s), or use of our service by you or others using your account (whether or not such usage is expressly authorized by you).

**Waiver of Claim or Causes of Action.** You waive all claims or causes of action arising from or relating to our 911 dialing service unless the claims or causes of action arise from our gross negligence, recklessness, or willful misconduct.

**Content.** You are liable for all liability that may arise from the content transmitted to any person, whether or not you authorize it, using your service or device(s). You promise that you and anyone who uses your service and all your and their content comply at all times with all laws, regulations, and written and electronic instructions for using our service and the device.

**Account Information.** You are liable for all liability that may arise from your failure to provide true, accurate, current and complete information and to maintain and promptly update such information.

## 13. DISPUTE RESOLUTION AND BINDING ARBITRATION

**It is important that you read this entire section carefully. This section provides for resolution of disputes through final and binding arbitration before a neutral arbitrator instead of in a court by a judge or jury.**

**Arbitration.** Crexendo, its parent company, affiliates, assigns and successors and you agree to arbitrate any and all disputes and claims between you and Crexendo. You specifically waive any right to a trial by Jury or by Court. Arbitration includes all right in law or equity including but not limited to: disputes and claims arising out of or relating to any aspect of the relationship between you and Crexendo, fraud, misrepresentation or any other legal theory; disputes and claims that arose before this or any prior agreement (including, but not limited to, claims relating to advertising); disputes and claims that may arise after the termination of this agreement; disputes and claims that are currently the subject of individual litigation; disputes and claims which may be raised in class action litigation whether or not you are or waive your right to be a member of a certified class; and disputes and claims concerning the scope of this arbitration provision. References to "Crexendo," "us" and "you" include our respective subsidiaries, affiliates, agents, employees, predecessors in interest, successors and assigns, as well as all authorized or unauthorized users or beneficiaries of the service under this agreement or any prior agreements between you and Crexendo. The arbitration shall be administered by the American Arbitration Association ("AAA"). The arbitration shall be governed by the AAA's Commercial Dispute Resolution Procedures. Rules are Crexendo at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. Unless you and Crexendo mutually agree otherwise, all hearings conducted as part of the arbitration shall take place at a location no further than 250 miles from the address where the Crexendo services were contracted.

**Waiver of Jury Trial.** You and Crexendo agree that, by entering into this agreement, you and Crexendo are waiving the right to a trial by jury.

**Waiver of Class Actions.** You and Crexendo agree that the arbitrator may award relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. You and Crexendo agree that you and Crexendo may bring claims against the other only in your or its individual capacity and not as a plaintiff or class member in any purported class or representative proceeding. You and Crexendo agree that, unless you and Crexendo agree otherwise, the arbitrator may not consolidate more than one person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding. Notwithstanding any other provision in this agreement to the contrary.

## 14. MISCELLANEOUS TERMS

**Governing Law.** The law of the state of your residence will govern this agreement as well as the relationship between you and us, except to the extent such law is preempted by or inconsistent with applicable federal law. Because this

agreement is a transaction in interstate commerce, the Federal Arbitration Act ("FAA"), and not state arbitration law, shall govern the interpretation and enforcement of the arbitration provision.

**No Waiver of Rights.** Our failure to exercise or enforce any right or provision of this agreement will not constitute a waiver of the right or provision. Crexendo reserves all of its rights at law and equity to proceed against anyone who uses its services or device illegally or improperly. All determinations by Crexendo under these Terms of Sale and exercise of its rights are made and done in our sole and absolute discretion.

**Credit and Reporting.** You authorize us to investigate and/or review your credit history, including requesting a consumer report, both when you sign up for our service and at any time after you sign up, for any purpose, including, but not limited to, your initial qualification for an account, your continued compliance with the terms of your account and general customer base evaluation purposes not specifically associated with your account and to share credit information about you with credit reporting agencies. Upon your request we will inform you whether or not we have requested a consumer report, and if a report was requested, the name and address of the consumer reporting agency that furnished the report.

**Privacy.** Crexendo uses, in whole or in part, the public Internet, the public switched telephone network, and third party networks to transmit voice and other communications. Crexendo is not liable for any lack of privacy which you may experience from using our service. Please refer to our Privacy Policy located at [www.crexendotelecom.com](http://www.crexendotelecom.com) for additional information, such as how we use your information and how you can opt out of receiving marketing messaging.

**Changes to this Agreement.** We may change the terms and conditions of this agreement from time to time. By subscribing to our service, you agree that we may provide to you by use of electronic communications required notices, agreements, and other information concerning Crexendo, including changes to this agreement. We may give you notice of a change by posting the change to your mailbox on your account web page or monthly bill, in a newsletter, by e-mail, or any other reasonable means of communication. These changes will become binding on you on the date they are posted and we are not required to give you further notice in order for you to continue using our service. By continuing to use the service after revisions are in effect, you accept and agree to all revisions. If you do not agree to the changes, you must terminate your service immediately. Disconnection fees and recovery fees will not be applicable to termination of service due to increases in service plan prices or other material changes if your account is in good standing and you call us to terminate within 30 days after posted notice of the change.

**Survival.** The provisions of this agreement that by their sense and context are intended to survive the termination or expiration of this agreement shall survive.

**Entire Agreement.** This agreement, including any future modifications to its terms, and the rates for services found on our website constitute the entire agreement between you and Crexendo. This agreement governs your use of our service, and the use of our services by the members of your household and your guests and employees. This agreement supersedes any prior agreements between you and Crexendo. It also supersedes all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter.

**Severability.** If any part of this agreement is legally declared invalid or unenforceable, all other parts of this agreement will remain valid and enforceable. This invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this agreement.