



GENERAL TERMS AND CONDITIONS OF USE OF THE 'SPOKI' WEB APP

ARTICLE 1 - INTRODUCTION

- 1.1 NextAI S.r.l., with registered office in San Vito dei Normanni, Viale Francia s.n.c., Tax Code, VAT No. 02717930743 ("**NextAI**" or the "**Company**") has developed and is the owner of an online platform called "Spoki", accessible through a *web app* ("**Web App**"), aimed at integrating the API (*application programming interface*) owned by WhatsApp Inc, 1601 Willow Road Menlo Park, California 94025 ("**Whatsapp Business**"), that allows to automate customer care and service and to send promotional messages through access to a set of support functions developed by NextAI ("**Services**").
- 1.2 The user is a natural person who uses the Web App in his/her own name ("**User**") and on behalf of the Client, a legal entity or a natural person, interested in using the Web App, in connection with his/her business or professional activity for the benefit of his/her end customers ("**Client**").
- 1.3 The Web App may only be used by Users who are at least 18 years old and have the capacity to act on behalf of the Client. The Web App is not intended for consumers, *i.e.* natural persons acting in the context unrelated to their trade, business, craft, or professional activity, pursuant to Article 3 of Legislative Decree 206/2005.
- 1.4 The Client uses the Web App by means of registration by an owner user ("**Owner User**" and, jointly with the other Users, "**Users**") and other Users, who will be assigned a specific role from time to time by the Owner User.
- 1.5 The Web App is accessible via Internet connection, via the URL spoki.it and/or spoki.app ("**WebSite**") by the User. Therefore, in order to be able to access the Web App and use the Services, each User is required to have, at his/her own care and expense, a device connected to the Internet.
- 1.6 Pursuant to the EU Regulation 2016/679 ("**GDPR**"), NextAI is the autonomous controller under Article 24 of the GDPR of personal data - as defined in Article 4 of the GDPR ("**Personal Data**") - from time to time processed by NextAI within the scope of the Services, as better described in the privacy policy drafted pursuant to Article 13 of the GDPR ("**NextAI Privacy Policy**").
- 1.7 These general terms and conditions ("**General Terms and Conditions**") and together with the NextAI Privacy Policy "**User Agreement**") govern the relationship between NextAI and the User (also referred to as the "**Party(ies)**") and constitute a "software as a service – SAAS" licence for the Web App for the use of the Services offered by NextAI, under the following terms and conditions.

ARTICLE 2 -REGISTRATION ON THE **WEB APP**

- 2.1 In order to use the Web App, the User is required to create his/her own personal account ("**Account**"), according to the following registration procedure ("**Registration**"): (i) enter his/her personal data, including, first name, last name, e-mail address; (ii) sign this User Agreement by means of the "point and click" procedure; (ii) specifically approve pursuant to articles 1341 and 1342 of the Italian Civil Code by means of the "point and click" procedure, the following articles of the General Terms and Conditions: article 3.2 (role of NextAI); article 5 (commitments of the User); article 7 (limitation of liability); article 8 (lack of warranty); article 10 (suspension and indemnity); article 11 (early termination); article 14 (modification of the General Terms and Conditions); article 17 (applicable law and venue); (iv) adhere to the terms of service of WhatsApp LLC ("**Whatsapp**") relating to the Whatsapp Business Solution product and related technical business solutions, as updated from time to time (available at <https://business.whatsapp.com/terms-and-conditions>) ("**Whatsapp Terms of Service**"); (v) adhere to the terms of service of Meta Platforms Inc. ("**Meta**"), as supplier of Whatsapp Business Solution for access to the tools necessary to enable Whatsapp



Business Solution, including Facebook Business Manager and Facebook Developer, as updated from time to time (available at <https://facebook.com/legal/terms/> e https://www.facebook.com/legal/commercial_terms) (collectively “**Facebook Terms of Service**”). The User accepts and acknowledges that: (i) activation of the Account is authorized by Meta, at its own discretion and according to the relevant terms of use and that, only once such authorization has been communicated by Whatsapp to NextAI, the User will be able to use the Web App; (ii) access to certain additions and features of the Web App (e.g. the possibility to contact a larger number of contacts) is subject to a further verification of the Account by Meta, at its own discretion and according to the relevant terms of use, and that, only once the positive outcome of such verification has been communicated by Whatsapp to NextAI, the User will be able to use the additional features of the Web App, depending on his/her profile.

- 2.2 Following the Registration procedure, the User will be associated with a member of the Client team (“**Team**”). The Owner User may change the members of the Team and assign each User an operational role with specific roles (e.g. chat administrator, chat manager, chat operator), subject to the maximum number of users under the Plan.
- 2.3 Following the Registration procedure, by means of an e-mail address (and the Owner User also by means of a telephone number), the User logs on to the Web App, integrates/edits his/her Account, manages the chats assigned to him/her in accordance with his/her role on the Web App, and uses the Services, within the limits provided for in this User Agreement.

ARTICLE 3 - ROLE OF NEXTAI

- 3.1 NextAI provides a digital intermediary service through the neutral technical services of the Web App supporting an “innovative conversation”, aimed at enabling Users and, more generally, Clients to effectively use Whatsapp in their communications with end customers and to provide them with assistance through the entire consumer experience, from marketing to sales and after-sales support.
- 3.2 The User accepts and acknowledges that the Services are closely related to the use of services/products provided by third parties, such as Whatsapp and Meta. NextAI is a third party with respect to the business relationship in force directly between the User and Whatsapp under the Whatsapp Terms of Service and between the User and Meta under the Facebook Terms of Service and, therefore, NextAI has no control over the content and the amendments, made to these documents. Without prejudice to the provisions of article 6.5 below, for the duration of the User Agreement, the User, on behalf of the Client, agrees to monitor any amendments to the Whatsapp Terms of Service and the Facebook Terms of Service.

ARTICLE 4 - SERVICES

- 4.1 Through the Web App, the User benefits from the Services included in the commercial plan selected by the Client (“**Plan**”), according to the agreement executed between NextAI and the Client (“**Client Agreement**”). The User is advised to ask the Client which Plan, from time to time, is applicable to this User Agreement.
- 4.2 Through the Web App, the User can: (i) interact via chat with end customers and have access to a credit balance, which can be renewed periodically; (ii) activate the “ticketing” option, through which he/she can open a ticket for solving problems and monitoring the resolution status; (iii) use the Web App’s integrations and automations; (iv) display his/her statistics (e.g. messages sent; messages received; number of end customers who have interacted in the conversations) through an interactive dashboard (“**Dashboard**”); (v) send “template” messages, pre-authorized by Whatsapp, to end



customers; (vi) create lists of end customers, grouped according different criteria, in order to facilitate, by way of example, the sending of promotional communications (e.g. Black Friday sales); and (vii) set up automatic messages generated by the Web App artificial intelligence system to answer end-customers' frequently asked questions (e.g. FAQs).

- 4.3** In addition to the Services indicated in article 3.4 above, according to the Plan chosen by the Client, the User shall use the additional Services indicated in the Plan itself [\[at the following link\]](#).
- 4.4** The User acknowledges and accepts that services in addition to the Services set in this article 4 may only be provided and/or performed by NextAI upon agreement between NextAI and the Client.

ARTICLE 5 – USER'S COMMITMENTS

- 5.1** The User undertakes to
- 5.1.1** keep the log-in credentials to the Web App, including the Account password, strictly confidential and not accessible to third parties;
 - 5.1.2** not include in the Registration and in the Web App in general, nor communicate to NextAI, for the purposes of the Services, personal data (as defined by the GDPR) that are false, fictitious or otherwise intentionally incorrect, incomplete or untrue;
 - 5.1.3** use the Web App within the scope of his/her own professional activity and in accordance with applicable laws (including, but not limited to, the GDPR and/or Legislative Decree 206/2005), industry best practices, Whatsapp Terms of Service, Facebook Terms of Service, these General Terms and Conditions and any further instructions provided by NextAI (including through the Web App);
 - 5.1.4** not to use the Web App in a fraudulent and/or detrimental way to the rights and commercial reputation of NextAI, and of third parties (including, but not limited to, end customers);
 - 5.1.5** not to use the Services for unlawful, fraudulent or defamatory activities or to communicate Illegal Content, as defined below in article 6.3;
 - 5.1.6** not to engage in any kind of conduct, action or behaviour that could potentially jeopardize – in any way and even temporarily – the proper functioning of the Web App;
 - 5.1.7** use the Services for personal and non-commercial purposes, such as selling, licensing or renting the Web App to third parties.

ARTICLE 6 - CONTENTS OF THE WEBB APP

- 6.1** The Web App collects User-generated content, such as text, images, audio, actions, video or a combination thereof ("**Content**").
- 6.2** The Contents published on the Webb App, if not in the public domain, may present authorial and/or creative material subject to protection under copyright and assimilated rights under applicable law ("**IP Content**"). The ownership of the IP Content is presumed to be of the Client in whose name and/or on whose behalf the User has uploaded the IP Content on the Web App, or of the different subject indicated by the User in the Web App under his/her sole responsibility.
- 6.3** The User represents and warrants that the Content: (i) is not unlawful or fraudulent or defamatory (e.g. violent, pornographic, obscene or discriminatory in nature); (ii) does not violate the rights (including image or intellectual property rights), interests or reputation of third parties (including end customers); (iii) does not contain spam or offensive, threatening, abusive or otherwise unethical information; (iv) does not contain misleading or unauthorised information (e.g. selling non-compliant or counterfeit products, selling products in violation of consumer protection laws); or (iv) does not



contain misleading or unauthorised information (*e.g.* sale of non-compliant or counterfeit products, sale of products in breach of consumer protection laws); or (v) where it includes personal data within the meaning of article 4 of the GDPR, has been authorised in advance by the data subjects to whom such personal data relate (collectively “**Illegal Content**”).

- 6.4** User agrees to immediately delete any Illegal Content posted or disseminated on the Web App in violation of the foregoing provisions.
- 6.5** In the event of termination of this User Agreement, and with the Client’s prior authorisation, the User may download the Content onto his/her devices outside of the Web App, and within 1 (one) year from the termination of the User Agreement. In accordance with the applicable law, NextAI reserves the right to request payment of a fee for this activity, if the technical-administrative effort is not proportionate to the value of the User Agreement.

ARTICLE 7 - LIMITATION OF LIABILITY

- 7.1** The Web App is intended to provide Services constituting a technical-informatics support tool for the Client and Users within the scope of their professional activity, under their sole responsibility and at their own risk.
- 7.2** NextAI does not exercise any authority or control over the Users or third parties who use the Web App and create, provide and publish Content under their sole responsibility and, therefore, NextAI does not guarantee the truthfulness, completeness and correctness of the information relating to the content published in the chats on the Web App, nor the quality of the Content.
- 7.3** Likewise, NextAI is exempted from any form of liability relating to chat conversations on the Web App and, therefore, the User accepts that the Content and data exchanged between the User and the end customer, or between the User and NextAI, are private.
- 7.4** Under no circumstances NextAI shall be liable for any loss or damage of any kind (including, without limitation, damages for loss of profits, loss of goodwill, loss of data, etc.) that is directly or indirectly attributable to: (i) the Web App; (ii) the activities of Users; (iii) the incorrect use of the Services; (iv) any action taken in connection with an investigation by NextAI or a public authority; (v) any damage to Users’ devices or other technology, caused by security breaches, viruses, bugs, tampering, fraud, errors, omissions, interruptions, defects, delays, network failures or any other technical malfunction; (vi) incorrect data provided by Users; (vii) acts or facts not in accordance with the law, these General Terms and Conditions or the Clients’ instructions.
- 7.5** NextAI is not liable for any amendment, suspension or termination of the service by Whatsapp Business, which reserves the right to claim a breach of the Whatsapp Terms of Service and/or the Facebook Terms of Service by the User.

ARTICLE 8 - LACK OF GUARANTEE

- 8.1** The Company provides the Client and the Users with the Web App in the most recent version available at the time of execution of the General Terms and Conditions, and in any case at the time of uploading the web page, possibly with the technical documentation relating to the operation of the Web App and/or the Services. The User accepts the Web App with the features and functionalities available at the execution of these General Terms and Conditions, without the need for any testing for the purpose of activating the Web App.
- 8.2** NextAI guarantees the proper functioning of the Web App, except where failure to function is due to causes beyond NextAI’s reasonable control.



- 8.3** The User states that he/she is aware and accepts that, in general, it is in the nature of software products (such as Web App) not to be completely error-free. Therefore, the User expressly accepts that the possible existence of errors in the Web App, unless they result from intent or gross negligence on the part of NextAI, does not constitute a breach of the obligations assumed by NextAI by reason of and/or in connection with these General Terms and Conditions.
- 8.4** At any time, NextAI is entitled to propose amendments to the functioning of the Web App that are not detrimental to the use of the Services, in such case article 13.2 below will apply. Should any ordinary and/or extraordinary maintenance work be necessary to ensure correct access to the Services, NextAI reserves the right to proceed, upon prior notice to the User (by email), to temporarily suspend the Services, undertaking to reactivate them as soon as possible depending on the nature of the maintenance work that will have become necessary.

ARTICLE 9 - INTELLECTUAL PROPERTY RIGHTS

- 9.1** The User acknowledges that NextAI is the owner or the licensee of the intellectual and industrial property rights relating to the Web App ("**IP Rights**") and that the IP Rights are and remain of the exclusive property and/or full availability of NextAI.
- 9.2** Therefore, the User undertakes, at any time during the term of this User Agreement, and thereafter, directly or indirectly, to:
- 9.2.1** use IP Rights exclusively for the purposes set forth in these General Terms and Conditions and in accordance with the obligations assumed herein;
 - 9.2.2** use the utmost diligence to prevent third parties from carrying out actions and/or acts that may invalidate or limit the validity or possibility of use of IP Rights;
 - 9.2.3** not challenge, directly or indirectly, the validity of the IP Rights or NextAI's right, title and interest in the IP Rights;
 - 9.2.4** do not copy, modify or decode the Web App and its IP Rights;
 - 9.2.5** not infringe and/or weaken IP Rights in any way.
- 9.3** The User undertakes to inform NextAI immediately in writing of any conduct by third parties that is harmful or even potentially harmful, to IP Rights or their use, of which the User becomes aware during the duration of these General Terms and Conditions.

ARTICLE 10 - SUSPENSION AND INDEMNITY

- 10.1** In the event of: (a) alleged or actual non-fulfilment by the User of one of the commitments set out in articles 5.1, 6.3, 6.4, 9.2, 9.3, (b) reporting of a possible breach of the Whatsapp Terms of Service or the Facebook Terms of Service, or (c) if it becomes necessary to carry out actions to ensure the security and efficiency of the Web App (as set out in article 8.4 above), NextAI reserves the right to suspend the use of the Web App and the Services by the User, by sending an immediate communication to the User indicating the reasons of the suspension, for a period of time required to verify the reports received and/or until the User remedies the breach and/or non-compliance that caused the suspension of the Web App and/or the Services.
- 10.2** In the event of a breach by the User of any of the commitments provided for in articles 5.1, 6.3, 6.4, 9.2, 9.3, without prejudice to any further remedy in favour of NextAI, the User undertakes to indemnify and hold NextAI harmless from any credit, compensation, damage or prejudicial effect that may arise, either directly or indirectly, from claims by third parties (including, but not limited to, Clients, end customers or any authorities) as a result of such breach.



ARTICLE 11 - DURATION - EXPRESS TERMINATION CLAUSE - TERMINATION - EFFECTS OF TERMINATION

- 11.1** The duration of the User Agreement is equal to the duration of the Services associated with the Plan purchased by the Client, until the credits needed to use the Services of the last purchase made by the Client are entirely spent or expire and/or the Client Agreement is terminated for any cause or reason.
- 11.2** Without prejudice to any further rights provided for by law, NextAI may terminate the User Agreement, in accordance with article 1456 of the Italian Civil Code, granting the User with a notice period of 30 (thirty) days, by means of a written communication containing a declaration of its intention to exercise this termination clause, in the event of the User's failure to comply with any of the following articles: 5.1, 6.3, 6.4, 9.2, 9.3.
- 11.3** In any case of termination of the Whatsapp Terms of Service or the Facebook Terms of Service, the User Agreement will immediately cease to have effect, without any right to compensation or penalties in favour of the User.
- 11.4** In any case of termination of the User Agreement: (i) the Account shall be deleted and no User shall be able to access it anymore; (ii) in any case the following articles 8, 15, 16 shall remain effective to the maximum extent permitted by law.
- 11.5** Immediately following the termination, for whatever reason, of the User Agreement, the User may no longer access the Web App or use the Services, and must refrain from using the IP Rights of NextAI. NextAI will not be liable for any detrimental consequences arising from the termination of the User Agreement in the relationship between the User and the Client.

ARTICLE 12 - PRIVACY

- 12.1** The User acknowledges and accepts that his/her personal data (as defined by the GDPR) communicated to NextAI for the purposes of the Services and/or entered during registration within the Web App will be processed by NextAI, as an autonomous data controller ex art. 24 of the GDPR, in accordance with the NextAI Privacy Policy.

ARTICLE 13 - FORCE MAJEURE

- 13.1** Without prejudice to any different provision of the General Terms and Conditions, if NextAI is prevented from fulfilling its contractual obligations, including, in particular, guaranteeing the operation of the Web App and the performance of Services, due to epidemics and pandemics, extraordinary measures by the competent authorities restricting or preventing business activities, fires, wars, strikes, embargoes, government regulations or other civil or military authorities, vandals or hackers failure or malfunctioning of networks or technologies of third parties (including Whatsapp and Whatsapp Business), telecommunications equipment, websites, software and hardware, and in general for any circumstance beyond the will and reasonable control of NextAI ("**Force Majeure**"), the period for the performance of the Services covered by these General Terms and Conditions will be extended for the period of delay or inability to perform due to the specific causes of Force Majeure. It is understood that, if the Force Majeure lasts for more than 60 (sixty) days, the User may terminate the User Agreement, without the right to claim any compensation or indemnity from NextAI.

ARTICLE 14 - MODIFICATION OF THE USER AGREEMENT

- 14.1** The User acknowledges and accepts that NextAI may amend the User Agreement at any time due to changing technical, economic and management requirements.



- 14.2** In the event of a change as referred to in article 14.1 above, the User acknowledges and accepts that:
- 14.2.1** if the modification relates solely to the technical operation of the Web App, it shall immediately become effective between the Parties, without the User being able to object to anything;
 - 14.2.2** if the amendment is required, on penalty of nullity or invalidity of one or more provisions of the User Agreement, by reforms of applicable laws and/or regulations, or is intended to protect the User against fraud, malware, spam, data breaches or computer security risks, the amendment shall become effective immediately between the Parties, without the User being able to object to anything;
 - 14.2.3** in all other events, the amendments proposed by NextAI shall only become effective after the lapse of a period of 15 (fifteen) days from the communication by NextAI to the User.

ARTICLE 15 - CONTACT AND CUSTOMER SERVICE

- 15.1** Any notices or communications between the Parties shall be made in writing and sent using the following means.
- 15.2** Communications concerning the effectiveness and validity of the User Agreement (*e.g.* the notice of termination of the User Agreement pursuant to article 11.2) are sent by registered letter with acknowledgement of receipt/certified electronic mail, if they concern the effectiveness and validity of the User Agreement, to the following addresses:
- 15.2.1** NextAI: NextAI S.r.l. - Viale Francia s.n.c. - Brindisi - 72019 - certified e-mail: nextai.srl@pec.it;
 - 15.2.2** User: addresses and contacts provided when signing the User Agreement. The User undertakes to update and keep these addresses accessible.
- 15.3** Communications of a technical/operational/commercial nature are sent by Whatsapp support on the Web App, or by e-mail, to the following addresses:
- 15.3.1** NextAI: info@spoki.it, or to another e-mail address that NextAI undertakes to update and/or communicate;
 - 15.3.2** User: e-mail address provided when signing the User Agreement. The User undertakes to update and keep this address accessible.

ARTICLE 16 - MISCELLANEOUS

- 16.1** (*Tolerance*) Tolerance of conduct in breach of the provisions contained in the General Terms and Conditions does not constitute a waiver of the rights arising from the breached provisions, nor of the right to demand the exact fulfilment of all terms and conditions herein.
- 16.2** (*Completeness*) The General Terms and Conditions and the Annex, with respect to what they provide for, constitute the sole agreement between the Parties and supersede all prior commitments, agreements, estimates, negotiations, and written or verbal understandings between the Parties.
- 16.3** (*Prohibition of assignment*) The User shall not assign or transfer to third parties, in whole or in part, for any reason whatsoever, the User Agreement or any rights or obligations arising from them, except with the prior written consent of NextAI. On the contrary, NextAI may assign or transfer to third parties, in whole or in part and for any reason whatsoever, the User Agreement or any right or obligation arising therefrom, provided that the Services remain unchanged.

ARTICLE 17 - APPLICABLE LAW AND VENUE



17.1 The User Agreement is governed exclusively by Italian law.

17.2 For any dispute concerning the User Agreement, including its execution, interpretation and/or termination for any reason whatsoever, the Court of Brindisi shall have exclusive jurisdiction, any other jurisdiction being excluded.