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advertising); (d) that is, or may reasonably be considered to be, defamatory, libelous, hateful, profane, abusive, racially, religiously or otherwise biased or offensive, threatening or harassing to any individual or entity, or otherwise contains foul or inappropriate language; (e) for which you were compensated or granted any consideration by any third party; (f) that contains any computer viruses, worms or other potentially damaging computer programs or files; (g) harasses or advocates harassment of another person; (h) exploits people in a sexual or violent manner; (i) involves the transmission of “junk mail”, “chain letters” or unsolicited mass mailing or “spamming”; (j) solicits passwords or personal identifying information for commercial or unlawful purposes; or (k) includes any information or photograph of a third party without such third party’s consent. YOU ACKNOWLEDGE AND AGREE THAT YOU MAY BE SUBJECT TO CRIMINAL AND CIVIL PENALTIES IF YOU POST OR UPLOAD ANY USER CONTENT THAT IS COPYRIGHTED OR CONTAINS ANY PROPRIETARY RIGHTS OF A THIRD PARTY.

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### **Limitation of Damages**

Next Level Performance specifically disclaims any liability (whether based in contract, tort, strict liability or otherwise) for any direct, indirect, incidental, consequential, or special damages arising out of or in any way connected with use of or access to the website and/or any prizes selected by you (even if Next Level Performance has been advised of the possibility of such damages) including liability associated with any viruses or malware which may infect a user's computer equipment.

### **Indemnity**

You agree to indemnify, defend and hold harmless Next Level Performance and its shareholders, directors, officers, managers, employees, agents, consultants and representatives from and against any and all claims, liability, losses, damages, litigation, judgments, costs and expenses (including reasonable attorneys' fees) arising out of or relating, directly or indirectly, to (a) your breach of these terms and conditions, (b) any material, information or other content provided by you to or through the website (including any comments made by you) and (c) any other use or access by you of this website (including any participation in any activities or programs). Your obligations pursuant to this paragraph will survive any termination of these terms and conditions and/or your use of and access to the website (including any participation in any activities or programs).

**Changes**

Next Level Performance reserves the right to revise these terms and conditions at any time and users are deemed to be apprised of and bound by any changes to these terms and conditions. Please check these terms and conditions periodically for changes. Your continued use of or access to this website following the posting of changes to these terms and conditions will indicate your acceptance of those changes.

**Violations of Terms and Conditions**

Next Level Performance reserves the right to seek all remedies available at law and in equity for violations of these terms and conditions, including the right to suspend and/or terminate your use of and access to this website, or block access from a particular internet address to this website.

**Access to Password Protected/Secure Areas**

Access to and use of password protected and/or secure areas of this website is restricted to authorized users only. Unauthorized individuals attempting to access these areas of this website may be subject to prosecution.

**Children**

This website and Next Level Performance do not knowingly solicit data from children, and we do not knowingly market to children. By using this website you represent that you are at least 18 years old.

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# Privacy Policy

## What This Privacy Policy Covers

This policy covers how Next Level Performance treats personal information that Next Level Performance collects and receives, including, without limitation, information related to your past use of Company products and services. Personal information is information about you that is personally identifiable, such as your name, address, photograph, email address or phone number, and that is not otherwise publicly available.

## Information Collection and Use

Next Level Performance collects personal information when you visit this website in different ways including, without limitation, when you visit this website or the website of certain partners. Next Level Performance automatically receives and records information on our server logs from your browser, including your IP address, website cookie information and the particular page(s) you visit on this website. At this time the website does not specifically respond to do-not-track signals. Next Level Performance uses information about you in a number of different ways including, without limitation, to customize the content you see, fulfill your requests for products and services, improve our services, contact you and conduct research.

## Information Sharing and Disclosure

Next Level Performance does not rent, sell or share personal information about you with other people or nonaffiliated companies except (a) to provide products or services that you have requested, when we have your permission, (b) to the Sponsor (who has access to the website and all activity of you and the other users) and (c) under the following circumstances:

We also provide personal information to partners and affiliates who work on behalf of or with Next Level Performance under confidentiality agreements. These companies may use your personal information to help Next Level Performance communicate with you about offers from Next Level Performance, our affiliates and our marketing partners. However, these companies do not have any independent right to share this information with other nonaffiliated companies other than in the performance of their services. We respond to subpoenas, court orders or legal process, and may disclose your personal information to establish or exercise our legal rights or defend against legal claims. Although we do not screen or monitor usage for fraud, violations of law, physical threats or other illegal activity and/or compliance with any codes of conduct, in the event we do become aware of any such types of matters, and we may share such information if we believe it is necessary to investigate, prevent or take action regarding illegal activities, suspected fraud, situations involving potential threats to the physical safety of any person or as otherwise required by law. We may transfer information about you if Next Level Performance is acquired by or merged with another company or if all or substantially all of Next Level Performance's assets are sold. In this event, Next Level Performance will use reasonable efforts to notify you, using contact information you have provided, regarding the transfer of information. We will inform you at that time whether your information will become subject to a new privacy policy.

### **Deletion Request Rights**

You have the right to request that Next Level Performance delete any of your personal information that we collected from you and retained, subject to certain exceptions. Once Next Level Performance receives and confirms your verifiable consumer request, we will delete (and direct our service providers to delete) your personal information from our records, unless an exception applies.

We may deny your deletion request if retaining the information is necessary for us or our service provider(s) to:

1. Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, fulfill the terms of a written warranty or product recall conducted in accordance with federal law, or otherwise perform our contract with you.
2. Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.
3. Debug products to identify and repair errors that impair existing intended functionality.
4. Exercise free speech ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.
5. Comply with the California Electronic Communications Privacy Act (“CCPA”)
6. Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information's deletion may likely render impossible or seriously impair the research's achievement, if you previously provided informed consent.
7. Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
8. Comply with a legal obligation.
9. Make other internal and lawful uses of that information that are compatible with the context in which you provided it.

### **Exercising Access, Data Portability, and Deletion Rights**

To exercise the access, data portability, and deletion rights described above, please submit a verifiable consumer request to Next Level Performance by either:

1. Calling us at 1-800-433-7712

2. Emailing us at [cs@nxlperformance.com](mailto:cs@nxlperformance.com)
3. Visiting [nxlperformance.com/contact](http://nxlperformance.com/contact)

Only you, or someone legally authorized to act on your behalf, may make a verifiable consumer request related to your personal information.

You may only make a verifiable consumer request for access or data portability twice within a 12-month period. The verifiable consumer request must:

1. Provide sufficient information that allows Next Level Performance to reasonably verify you are the person about whom we collected personal information or an authorized representative.
2. Describe your request with sufficient detail that allows Next Level Performance to properly understand, evaluate, and respond to it.

Next Level Performance cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and confirm the personal information relates to you. Next Level Performance will only use personal information provided in a verifiable consumer request to verify the requestor's identity or authority to make the request.

### **Response Timing and Format**

Next Level Performance endeavors to respond to a verifiable consumer request within forty-five (45) days of its receipt. If Next Level Performance requires more time (up to 90 days), we will inform you of the reason and extension period in writing.

If you have an account with Next Level Performance, we will deliver our written response to that account. If you do not have an account with Next Level Performance, we will deliver our written response by mail or electronically, at your option.

Any disclosures Next Level Performance provides will only cover the 12-month period preceding the verifiable consumer request's receipt. The response Next Level Performance provides will also explain the reasons we cannot comply with a request, if applicable.

Next Level Performance does not charge a fee to process or respond to your verifiable consumer request unless it is excessive, repetitive, or manifestly unfounded. If Next Level Performance determines that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

### **Personal Information Sales Opt-Out and Opt-In Rights**

Next Level Performance does not sell the personal information of consumers. Consumers who opt-in to provide personal information may opt-out of at any time. To exercise the right to opt-out, you (or your authorized representative) may submit a request to Next Level Performance by visiting the following Internet Web page link:

<https://www.nxlperformance.com/contact/>

Once you make an opt-out request, Next Level Performance will wait at least twelve (12) months



before asking you to reauthorize personal information. However, you may change your mind and opt back in to personal information sales at any time by:

<https://nxlperformance.com/contact/>

Next Level Performance will only use personal information provided in an opt-out request to review and comply with the request.

### **Cookies**

Next Level Performance may set and access website cookies on your computer, mobile phone and other similar devices. Next Level Performance may use web beacons to access website cookies inside and outside our network of websites and in connection with company products and services. The data collected from these cookies helps us to analyze browsing patterns of our visitors and improve the content and design of the website. The information collected from these cookies is for the exclusive use of Next Level Performance and its affiliates and will not be shared with other vendors.

### **Confidentiality and Security**

We use commercially reasonable efforts to protect your personal information from unauthorized access or use. We use customary encryption and authentication tools to protect the security of your personal information that you share with us. However, no data transmission over the Internet can be guaranteed to be 100% secure. Therefore, while we strive to protect your personal information, we cannot guarantee or warrant the security of any information you transmit to or from our website and you do so at your own risk.

### **Policy Changes**

If we change our privacy policy in whole or in part, we will inform you by posting a notice on our website. Those changes will go into effect on the date posted in the notice. The new policy will apply to all current and past users of our website and will replace any prior policies that are inconsistent.

### **Privacy Rights for California Residents (or “California Privacy Rights”)**

This Supplemental Privacy Policy applies solely to all residents in the state of California. This Supplement is adopted to comply with the California Privacy Rights Act of 2020 (CPRA).

Next Level Performance only collects, uses, retains, and shares personal information as reasonably necessary in furtherance of Next Level Performance’s purposes. In the preceding twelve (12) months, Next Level Performance has not sold any personal information. Next Level Performance may disclose personal information to a third party for business purposes. When Next Level Performance discloses personal information for business purposes, we enter a contract that describes the business purpose(s) and requires the recipient to both keep that personal information confidential and not use that personal information for any purpose except performing under the contract. The CPRA prohibits third parties from re-selling your personal information unless you have received explicit notice and have not opted-out of such a sale. Next Level Performance may share personal information with third party service providers. Next Level Performance discloses personal information for business purposes to the following third parties: Microsoft Azure, NGC, Save On Resort, Vivid Seats, and Replink.

Under the California Privacy Rights Act of 2020, if you are a resident of California you have the right to request that Next Level Performance disclose certain information to you about our collection and use of your personal information. You may submit up to two (2) of these requests per year for access to Next Level Performance's records relating to collection of your personal data. Once Next Level Performance receives and confirms your verifiable consumer request, we will disclose to you:

1. The categories of personal information Next Level Performance collected about you.
2. The categories of sources for the personal information Next Level Performance collected about you.
3. Next Level Performance's business or commercial purpose(s) for collecting or selling that personal information.
4. The categories of third parties with whom Next Level Performance shares(ed) that personal information.
5. The specific pieces of personal information Next Level Performance collected about you (also called a data portability request).
6. If Next Level Performance disclosed your personal information for a business purpose, identifying the personal information categories that each category of recipient obtained.

Next Level Performance will not discriminate against you for exercising any of your CPRA rights. Unless otherwise permitted by the CPRA, we will not do any of the following in response to your exercise of any of your rights under the CPRA:

1. Deny you goods or services.
2. Charge you different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties.
3. Provide you a different level or quality of goods or services.
4. Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.

However, we may offer certain financial incentives permitted by the CPRA that can result in different prices or rates. Any CPRA-permitted financial incentive offered will reasonably relate to the information's value and will contain written terms that describe the incentive's aspects. Participation in a financial incentive program requires opt-in consent to personal information sales, which you may revoke at any time.

For individuals sixteen (16) years or older, you have the right to opt-out of any sale of the personal data we may hold. For individuals between thirteen (13) and sixteen (16) years old, you have the right to opt-in to the sale of personal data we may hold. Parents or legal guardians have the right to opt-in to the sale of personal data for any consumer less than thirteen (13) years old. Consumers who opt in to sales may opt out at any time.

Individuals have the right to ask us to delete personal data we may hold or restrict how it is used. Individuals similarly have the right to request that Next Level Performance correct any inaccurate personal information collected or held. Only individuals or their legally authorized agent may make a request to know, correct, or delete any personal information. There may be exceptions to the right to deletion or correction for specific legal reasons under the CPRA which, if applicable, we will lay out and enumerate in response to your personal request.

California Civil Code Section § 1798.83 permits California residents who use our Website to request information regarding our disclosure of personal information to third parties for their direct marketing purposes.

If you would like to make any of the above requests, please contact Next Level Performance here:

<https://nxlperformance.com/contact/>

We will process and respond to all requests for access to personal data, opt-ins to collection of personal data, opt-outs of collection of personal data, correction of personal data, or deletion of personal data within forty-five (45) days as required by law. To aid in Next Level Performance's ability to respond to your request, and to expedite same, please specify that you are making a request regarding personal data under the California Privacy Rights Act. We may need to request specific information in order to confirm your identify.

We reserve the right to amend this privacy policy at our discretion and at any time. When we make changes to this privacy policy, we will post the updated notice on the Website and update the notice's effective date. **Continued use of our Website following the posting of changes constitutes your acceptance of such changes.**

Effective February 10, 2021