

Protection Plus Business Maintenance Plan

This Protection Plus Maintenance Plan Agreement (the “Agreement”) is between Nex-Tech, LLC and its subsidiaries, with headquarter offices at 145 N. Main, Lenora, KS 67645 (“NEX-TECH”), and (“CUSTOMER”). Hereinafter, NEX-TECH and CUSTOMER may be referred to individually as a “Party” and collectively as the “Parties.”

The said Parties hereto, in consideration of the undertakings, comments and agreements hereinafter set forth, respectively agree as follows:

1. NEX-TECH agrees to provide CUSTOMER with all parts and labor necessary in connection with maintenance and repair of the telephone equipment described in the Sales Order or Quote (hereinafter “THE EQUIPMENT”).
2. This Agreement shall remain in effect for term specified on the Protection Plus Maintenance Agreement (the “Initial Term”), commencing on the date the Protection Plus Maintenance Agreement is executed, and shall automatically renew for additional one (1) month terms (each, a “Renewal Term”) unless written notice of intent to terminate is provided by either Party prior to or upon expiration of the then current term.
3. CUSTOMER agrees to pay NEX-TECH for the term of the Agreement, plus other charges as may be provided for herein.
4. For the term of this Agreement, NEX-TECH will provide reasonable training of personnel and employees of CUSTOMER in the operation of THE EQUIPMENT.
5. CUSTOMER agrees to grant reasonable right of entry to NEX-TECH's employees to perform the service hereunder and will make available a reasonable amount of such repair or maintenance parts as it deems necessary.
6. NEX-TECH shall, throughout the term of this Agreement, subject to conditions below, maintain THE EQUIPMENT in good working condition and repair, including the furnishing of all necessary materials with respect thereto. NEX-TECH shall respond to requests to perform repair and maintenance service in connection with any malfunction of THE EQUIPMENT (hereinafter "REGULAR SERVICE") within twenty-four (24) hours of receipt of notice from CUSTOMER requesting such service. NEX-TECH shall respond to requests to perform repair and maintenance service in connection with a "total system failure" of THE EQUIPMENT to operate as required (hereinafter "EMERGENCY SERVICE") within four (4) hours of receipt of notice from CUSTOMER requesting such service. EMERGENCY SERVICE shall be provided only in case THE EQUIPMENT suffers a "total system failure" to operate as required. Expressly excluded here from is REGULAR SERVICE and EMERGENCY SERVICE in connection with maintenance and repair of THE EQUIPMENT caused by wear and tear resulting from accident, theft or unexplained loss, abuse, connection of foreign power, fire, flood, wind, act of God or public enemy, or improper wiring, installation, repair or alteration of THE EQUIPMENT by anyone other than NEX-TECH. If requested by CUSTOMER, repairs necessitated by any of the above causes shall be made by NEX-TECH, and the reasonable cost of labor and materials shall be paid to NEX-TECH by CUSTOMER. CUSTOMER shall agree to pay for labor and materials necessary for any such repair at NEX-TECH's then prevailing rates for similar services and materials in the same area.
 - A. REGULAR SERVICE is defined as service rendered within twenty-four (24) hours of receipt of notice from CUSTOMER requesting such service for repair or maintenance in connection with any malfunction of THE EQUIPMENT.
 - B. EMERGENCY SERVICE is defined as service rendered within four (4) hours of receipt of notice from CUSTOMER requesting such service in connection with a “total system failure” of THE EQUIPMENT.
 - C. “Total system failure” is defined as the loss of a minimum of twenty-five percent (25%) of system capabilities or system problems that significantly impede business function.
7. For the term of this Agreement, NEX-TECH shall, if requested by CUSTOMER, rearrange or relocate THE EQUIPMENT on THE PREMISES. CUSTOMER shall agree to pay for labor and materials necessary for any such rearrangement or relocation at NEX-TECH's then prevailing rates for similar services and materials in the same area.
8. CUSTOMER agrees to use due care in handling and operation of THE EQUIPMENT, and CUSTOMER agrees to operate THE EQUIPMENT during the term of this Agreement according to the instructions of NEX-TECH and shall not alter or permit the alteration of THE EQUIPMENT in any manner. CUSTOMER agrees to immediately notify NEX-TECH of any difficulties in the operation of THE EQUIPMENT and first notice shall be to NEX-TECH as opposed to any other party.
9. In the event of NEX-TECH's material breach of this Agreement, CUSTOMER may cancel this Agreement. This shall be the exclusive remedy available to CUSTOMER, and NEX-TECH shall in no event be liable for any special or consequential damage for loss, damage or expense directly or indirectly arising from CUSTOMER's inability to use THE EQUIPMENT either separately or in combination with any other equipment or from any other cause.
10. In the event CUSTOMER fails to pay for services as provided herein, NEX-TECH may, upon written notice to CUSTOMER, cancel this Agreement and provide no further services hereunder. This remedy shall be in addition to any other remedies available to NEX-TECH in law or equity.



11. If more than one (1) party is named as CUSTOMER in this Agreement, the liability of each shall be joint and several.
12. In the event that any equipment is added, moved or changed from that as listed on the attached equipment list hereof, then at NEX-TECH's option, this Agreement may be modified to include or exclude such equipment.
13. CUSTOMER is responsible for providing remote access to the system via a mutually agreed upon technology.

If any provisions of this Agreement are in conflict with any statute or rule of law of any state or territory wherein it may be sought to be enforced, then such provisions shall be deemed null and void to the extent that they may conflict therewith, but without invalidating the remaining provisions hereof.

Mutual Waiver of COVID-19 Claims. This provision addresses issues regarding the novel coronavirus ("COVID-19") with regards to Nex-Tech's Service Agreements. All Parties to any Nex-Tech Service Agreement, or other Nex-Tech contracts, acknowledge their respective understanding of the hazards of COVID-19, including, but not limited to, its highly contagious nature and the corresponding health risks associated with being exposed to or infected by COVID-19. Each Party agrees to hold harmless and indemnify each other and waives, releases, discharges and covenants not to sue, or take any other action against, the other Party or its affiliates and its and their respective officers, directors, partners, principals, employees, agents or subcontractors from any and all claims, damages, expenses, liabilities, illnesses or losses that may occur from exposure to or infection by COVID-19 arising out of, related to, or in any way connected with the professional services provided to you by Nex-Tech.

CUSTOMER shall not sell, assign or transfer this Agreement or any part thereof without the prior written consent of NEX-TECH; however, NEX-TECH may, without the consent of CUSTOMER assign any or all of its rights and obligations under this Agreement to its parent, any subsidiary (of NEX-TECH or its parent), or any affiliate (of NEX-TECH or its parent) or to any successor in interest pursuant to a sale of stock or assets, merger, acquisition, or reorganization.

This Agreement in conjunction with these terms and conditions contains the entire agreement of the Parties relating to the subject matter hereof, and no agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by the Parties that are not expressly set forth in this Agreement. The Agreement may be modified or amended only through a written Addendum or new Agreement with equal or greater terms signed by an authorized representative of each Party and attached hereto and incorporated herein.

This Agreement may be executed in counterparts, each of which shall be deemed originals, regardless of whether such execution is made electronically or in hard copy, but all of which together shall constitute one and the same instrument.

This Agreement shall be governed in accordance with the laws of the State of Kansas.

EQUIPMENT

A Sales Order or Service Agreement may substitute for the Equipment List.

Any exceptions will be noted upon executing the Agreement.

***Includes Installation, Programming, Testing and On-Site Training*

Updated: 11/20/20