

Nex-Tech, LLC, High-Speed Internet & Email Service

Acceptable Use Policy

Updated: July 9, 2020

Terms and Conditions

You (the “User”) are accessing the Internet and/or Nex-Tech, LLC, email service through a broadband connection marketed as “Nex-Tech, LLC, High-Speed Internet” (the “Service”), provided by Nex-Tech, LLC, a Kansas limited liability company (“Nex-Tech”). Authorized use of this Service is contingent upon User’s agreement to abide by Nex-Tech’s Acceptable Use Policy (“AUP”) each and every time this Service is accessed. Nex-Tech retains the right to revise this AUP from time to time, at Nex-Tech’s discretion and without notice to User. Such changes will become effective when posted to Nex-Tech’s website at <https://www.nex-tech.com/>. Use of the Service shall constitute User’s acceptance of this AUP. User expressly acknowledges having read this AUP in its entirety and expressly consents to abide by the terms and conditions contained herein. This AUP should be read in conjunction with Nex-Tech’s Communication Services Terms and Conditions.

Access to Service

User’s access to this Service is at the sole discretion of Nex-Tech and may be blocked, speed downgraded, suspended or terminated at any time and for any reason including, but not limited to, violations of this AUP, actions that may place increased liability on Nex-Tech and/or their employees safety and welfare, disruption of access to other users or networks, and/or violation of applicable rules, laws, statutes, codes, ordinances or regulations (collectively, “Laws”).

Acceptable Use of Service

Nex-Tech supports the free flow of information and ideas via the Internet. While Nex-Tech has no obligation to, and accepts no responsibility or liability for, monitoring usage of the Service or editing or censoring content transmitted via email, download, upload, post or otherwise through the Service, User’s access to the Service is contingent upon User’s legal and appropriate use of the Service. Use of the Service and any activities conducted online through the Service shall be in accordance with all applicable laws and the rights of Nex-Tech and any third party.

Prohibited Use of Service

The following uses of Service are expressly prohibited and are individually and collectively considered a material breach of this AUP. Engaging in any such acts could result in suspension and/or termination of Service. User is prohibited from using the Service:

1. to infringe or misappropriate, or store any material produced as a result of an infringement or misappropriation of, any Intellectual Property Rights of any person including, but not limited to, patents, copyrights, trademarks, service marks, trade secrets or any other proprietary rights of any third party;
2. to circumvent, or store any material produced as a result of the circumvention of, any technological protection measure or equivalent term in any relevant jurisdiction;
3. in a manner which in any way breaches the law relating to any Intellectual Property Rights and/or copyright of published material;

4. to gain access to any device including, but not limited to, computers, accounts, equipment or networks belonging to another party, or attempt to penetrate security measures of another system through port scans, stealth scans or other similar information gathering activity, without authorization or in an illegal manner (“Hacking”);
5. in a manner which in any way violates any laws of any relevant jurisdiction, whether civil or criminal, including laws related to child pornography, pedophilia, solicitation of minors, human trafficking, fraud, theft, Ponzi schemes, pyramid schemes, software piracy, cybercrime, sedition, harassment, sexual harassment, abuse, defamation, threats, stalking, nuisance, property destruction, assault and bodily harm; Nex-Tech, will notify law enforcement and fully cooperate with any investigation(s) should Nex-Tech suspect or become aware of any use of the Service in connection with illegal activity;
6. to store or disseminate any material in breach of any law relating to censorship, Copyright or content regulation in any relevant jurisdiction;
7. to initiate, advertise, transmit, create, distribute or otherwise make available any software, product or service designed to violate this AUP including, but not limited to, unsolicited bulk and/or commercial messages via the Internet (collectively, “Spam”), Internet viruses, Trojan horses, spyware, malware pinging, flooding, mail bombing, denial of service attacks, or other activities that destruct, disrupt or interfere with the ability of others to effectively use the Internet or any connected network, system, service or equipment;
8. in a manner intended or likely to create an unusual workload on any of the equipment used in the course of providing the Service, or adversely affect the provision of any service (including services similar to the Service) to any person;
9. for any activity that in any way invades another’s privacy to any extent whatsoever;
10. to sell, transfer or rent this Service to customers, clients or other third parties, either directly or as part of a service or product created for resale; and
11. to forge or misrepresent headers, or otherwise mask the originator of the message, whether in whole or in part.
12. to violate any federal, state, local, international or governmental law, regulation or requirement.

Obligations

By using the Service, User agrees to comply with the obligations hereunder. Failure to do any of the following will be considered a material breach of this AUP and will result in suspension and/or termination of Service. User must:

1. keep each username and password used to access the Service confidential;
2. take full responsibility for his/her conduct with regard to use of the Service and indemnify and hold harmless Nex-Tech from and against any and all claims, liabilities, damages, costs and attorney’s fees resulting from each breach of this AUP by User or any third party that uses User’s Service;
3. take full responsibility for the content of any material posted, hosted, downloaded/uploaded, created, accessed or transmitted using the Service;

ensure that each person who uses this Service through User's account complies with this AUP;

Unlawful Activities

Nex-Tech's Service may not be used in connection with any criminal, civil or administrative violation of any applicable local, state, federal, national or international law, treaty, court order, ordinance, regulation or administrative rule.

Offensive or Threatening Material or Content

Nex-Tech's Service shall not be used to host, post, transmit, or re-transmit any content or material that is threatening, harassing, obscene, indecent, hateful, malicious, racist, fraudulent, deceptive, invasive of privacy or publicity rights, abusive, inflammatory, or otherwise harmful or offensive to third parties, treasonous, excessively violent or promotes the use of violence, or provides instruction, information or assistance in causing or carrying out violence against any government, organization, group or individual, or provides guidance, information or assistance with respect to causing damage or security breaches to Nex-Tech's network or to the network of any other Internet Service provider. User shall not create or attempt to utilize a domain name that is fraudulent, indecent, offensive, deceptive, threatening, abusive or harassing.

Interaction with Minors

Nex-Tech has a zero tolerance policy regarding use of its Service to engage in inappropriate conduct with a minor (anyone under 18 years of age). User shall not knowingly collect or solicit personal information from a minor without the express consent of the parent or guardian of the minor, nor shall User use the Service to harm or intimidate a minor. Nex-Tech complies with all federal and state laws pertaining to the protection of minors and Nex-Tech will report any case of child exploitation to the National Center for Missing and Exploited Children.

Child Pornography:

Nex-Tech's Service may not be used to submit or receive, upload or download, post, use, copy or transmit, distribute or store child pornography. Should you suspect violations of this prohibition, you should report it to Nex-Tech immediately. Nex-Tech will report any such violation to the National Center for Missing and Exploited Children.

Spam/E-Mail Abuse:

Violation of the CAN-SPAM Act of 2003, or any other state or federal law regulating e-mail services, constitutes an automatic violation of this AUP and Nex-Tech reserves the right to seek damages and other available relief against User, as applicable. Spam/E-mail Abuse is prohibited. Examples of Spam/E-mail Abuse include, but are not limited to, the following activities:

1. Sending unsolicited electronic mail messages and "mail-bombing" (sending mass unsolicited e-mail messages to a single user, or group of users, commercial or otherwise, or deliberately sending very large attachments to one recipient) using the Services is prohibited.
2. Using another site's mail server to relay mail without the express permission of the site;
3. Using another computer, without authorization, to send multiple e-mail messages or to retransmit e-mail messages for the purpose of misleading recipients as to the origin;
4. Using IP addresses that the User does not have a right to use;

5. Collecting the responses from unsolicited electronic messages;
6. Maintaining a site that is advertised via unsolicited electronic messages, regardless of the origin of the unsolicited electronic messages;
7. Spamming, or sending unsolicited commercial e-mail, sending unsolicited electronic messages with petitions for signatures, or any chain mail related materials, or requests for charitable donations;
8. Sending messages that are harassing or malicious, or otherwise could reasonably be predicted to interfere with another party's quiet enjoyment of Nex-Tech's Service or the Internet (e.g., through language, frequency, size or otherwise);
9. Sending bulk (i.e., twenty-five or more recipients) electronic messages without identifying, within the message, a reasonable means of opting out from receiving additional messages from the sender;
10. Using distribution lists containing addresses that include those who have opted out;
11. Sending electronic messages that do not accurately identify the sender, the sender's return address, the e-mail address of origin, or other information contained in the subject line or header;
12. Forging headers or identifiers in order to disguise the origin of e-mail;
13. Using redirect links in unsolicited commercial e-mail to advertise a website or Services;
14. Posting a single message, or messages to online forums or newsgroups, that could reasonably be expected to provoke complaints;
15. Posting messages to or canceling or superseding messages on an online forum or newsgroup in a manner that violates the rules of the forum or newsgroup or that contain forged header information;
16. Sending bulk electronic messages in quantities that exceed standard industry norms, or that create the potential for disruption of Nex-Tech's Service;
17. Intercepting, redirecting or otherwise interfering or attempting to interfere with e-mail intended for other parties;
18. Knowingly deleting any author attributions, legal notices or proprietary designations or labels in a file that the User mails or sends;
19. Using, distributing, advertising, transmitting, or otherwise making available any software program, product, or service that is designed to violate this AUP or the AUP of any other Internet Service Provider, including, but not limited to, the facilitation of the means to spam.

Commercial Use

User may not resell or otherwise charge others to use Nex-Tech's Service. User agrees not to use the Services for operation as an Internet Services provider, or for any other business enterprise, including, without limitation, IP address translation or similar facilities intended to provide additional access.

Devices

User is solely responsible for the operation, maintenance, use, and compatibility of User's computer system, device, or related equipment, and software. In the event that any of your equipment or software impairs your use of Nex-Tech's Service, you shall nonetheless be liable for payment of Service. User understands that the installation, use, inspection, maintenance, repair, and removal of broadband equipment may result in service outage and/or damage to your computer or device. User is solely responsible for backing-up all existing computer files prior to installation of broadband equipment, and

prior to any inspection, maintenance, repair, or removal of the broadband equipment. Nex-Tech does not represent, warrant, or covenant, that installation of third-party equipment will enable you to successfully access, operate, or use the Nex-Tech's Service.

Security Violations

User is solely responsible for the security of any device connected to the Service including any data stored on that device. Nex-Tech recommends that User take appropriate security precautions for any systems connected to the Service. User is ultimately responsible for securing any wireless (WiFi) networks connected to Nex-Tech's Service. Any wireless network installed by the User, that is unsecured or "open" and connected to the Nex-Tech's Service, will be deemed to be operating as an ISP and subject to the prohibition on Commercial Use set forth above. Nex-Tech's Service may not be used to interfere with, to gain unauthorized access to, or otherwise violate the security of users or another party's server, network, personal computer, network access or control devices, software or data, or other system, or to attempt to do any of the foregoing. Examples of violations of system or network security include, but are not limited to:

1. Intercepting, interfering with or redirecting e-mail intended for third parties, or any form of network monitoring, scanning or probing, or other action for the unauthorized interception of data or harvesting of e-mail addresses;
2. Using the Services to breach or attempt to breach the security of another user or attempt to gain access to any organization or person's computer, software, or data without the knowledge and consent of such person ("Hacking"). The equipment and the Service may not be used in any attempt to circumvent the user authentication or security of any host, network or account. This includes, but is not limited to, accessing data not intended for the User, logging into or making use of a server or account User is not expressly authorized to access, or probing the security of other networks or computers for any reason. Use or distribution of tools designed for compromising security, such as password guessing programs, cracking tools, packet sniffers or network probing tools, is strictly prohibited;
3. Impersonating others in order to obtain another user's account password or other personal information;
4. Using the Services to deliver Spyware, Adware, or secretly or deceptively obtain the personal information of third parties (phishing, etc.), or engage in modem hi-jacking;
5. Using any program, file, script, command or the transmission of any message or content of any kind, designed to interfere with a terminal session or the access or use of the Internet or any other means of communication;
6. Distributing or using tools designed to compromise security, including cracking tools, password guessing programs, packet sniffers or network probing tools (except in the case of authorized legitimate network security operations);
7. Unauthorized monitoring of data or traffic on any network or system without express authorization of the owner of the system or network; this would include use of sniffers or SNMP tools;
8. Knowingly uploading or distributing files that contain viruses, Trojan horses, worms, time bombs, Cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another;
9. Engaging in the transmission of pirated software, or otherwise exporting illegal software, or violating U.S. laws concerning the transmission of technical data and other regulated materials via the Service;
10. Using manual or electronic means to avoid any use limitations placed on the Services;
11. Gaining unauthorized access to private networks,

12. Violating rules, regulations, and policies applicable to any network, server, computer database, or web site that you access through the Service.

Intellectual Property:

User is prohibited from infringing, publishing, submitting, copying, uploading, downloading, posting, transmitting, reproducing, or distributing software, video or audio content, or any other material that is protected by copyright, trademark, patent, trade secret, any other type of intellectual property rights, trademark laws (by rights of privacy or publicity) or other proprietary right of any party unless you own or control the rights thereto or have received all necessary consent to do the same. This prohibition includes the use of any material or information including images or photographs that are made available through Nex-Tech's Service.

Copyright Infringement/Repeat Infringer Policy/Digital Millennium Copyright Act Policy

Nex-Tech respects the intellectual property rights of third parties. Accordingly, you may not store any material or use Nex-Tech's Service, network, systems or servers in any manner that constitutes an infringement of third-party intellectual property rights, including under US copyright law.

In accordance with the Digital Millennium Copyright Act (DMCA) (17 U.S.C. § 512) and other applicable laws, it is the policy of Nex-Tech to suspend or terminate, in appropriate circumstances, the Service provided to any User who is deemed to infringe third party intellectual property rights, including repeat infringers of copyrights. The DMCA is a federal law that protects copyrighted material (music, books, movies, computer programs, etc.). Violations of the DMCA carry strict penalties and could subject you to both civil lawsuits and criminal charges.

Nex-Tech, as an Internet Service Provider, has certain responsibilities under the DMCA. We are required to notify Users when Nex-Tech receives a notification from a copyright owner of an alleged infringement. Nex-Tech is also required by federal law to adopt and implement a policy of terminating the accounts of users who are repeat infringers, in appropriate circumstances.

Accordingly, Nex-Tech expressly reserves the right to suspend, terminate or take other interim action regarding the Service of any User if Nex-Tech, in its sole judgment, believes that circumstances relating to an infringement of third party intellectual property rights warrant such action. These policies are in addition to and do not affect or modify any other rights Nex-Tech may have under law or contract.

DMCA Notifications

Nex-Tech provides transitory digital network communications services, pursuant to 17 U.S.C. § 512(a); if you believe that copyrighted material has been used in violation of this policy or otherwise been made available through the Service in a manner that is not authorized by the copyright owner, its agent or the law, you may submit a notification in writing to Nex-Tech's Designated Agent:

Address: 145 North Main, Lenora, KS 67645
Attn: Product and Culture Department
Phone: 785-625-7070
Email: abuse@ruraltel.net

Nex-Tech will process notifications of claimed infringement under the DMCA. Notifications must comply with the requirements of the DMCA and be in writing, provided to the Designated Agent, and include substantially the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity that you seek to remove or disable.
- Information sufficient to permit us to contact you, such as an address, telephone number, and, if available, an electronic mail address.
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your DMCA Notice may not be effective. Please be aware that if you knowingly materially misrepresent that material or activity is infringing your copyright, you may be held liable for damages (including costs and attorneys' fees) under Section 512(f) of the DMCA.

DMCA Counter Notifications

If a notification of claimed infringement has been filed against you, the User, Nex-Tech will notify you in writing, sent to your address of record, either by email or postal service. User is responsible to promptly provide notification to Nex-Tech of any change in contact information.

In response, you may file a written counter notification with Nex-Tech's Designated Agent (listed above). All counter notifications must comply with the requirements of the DMCA and include substantially the following information:

- Your physical or electronic signature.
- Identification of the material and the location at which the material appeared.
- A statement under penalty of perjury that you have a good faith belief that the claimed infringement is a result of mistake or misidentification of the material.
- Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if your address is outside of the United States, for any judicial district in which Nex-Tech may be found, and that you will accept service of process from the person who provided the notification under the DMCA.

Upon receipt of an appropriate written counter notification, Nex-Tech will provide the person who provided the notification under DMCA with a copy of the counter notification.

Nex-Tech encourages Users to resolve the notices with the sender. While Nex-Tech will notify a User of a complaint, the DMCA complaint is between you and the copyright owner. Nex-Tech is unable to provide advice about how to respond to the complaint or whether you should seek legal counsel.

Notice of Violations of the AUP

While Nex-Tech may, it is not required to monitor your compliance, or the compliance of other users, with the Terms and Conditions of Service, or this AUP.

Nex-Tech requests that information pertaining to violations of this AUP be directed to: abuse@ruraltel.net.

Disclaimer

Nex-Tech provides this Service on the basis of the limited warranty, disclaimer and limitation of liability specified herein. User acknowledges that Nex-Tech would be forced to require a substantial fee for the Service if any of these provisions were unenforceable. Nex-Tech does not guarantee, whether express or implied, that the Service will be uninterrupted, error-free, secure or free of viruses or other harmful applications. The Service and any products or services provided on or in connection with the Service are provided on an “as is” and “as available” basis without warranties of any kind. All warranties, conditions, representations, indemnities and guarantees with respect to the content or service and the operation, capacity, speed, functionality, qualifications or capabilities of the service, goods or personnel resources provided hereunder, whether express or implied, arising by law, custom, prior oral or written statements by Nex-Tech, or otherwise, including, but not limited to, any warranty of satisfactory quality, merchantability, fitness for particular purpose, title and non-infringement, are hereby overridden, excluded and disclaimed, provided that some jurisdictions do not allow the exclusion of certain warranties.

No Consequential Damages

Under no circumstances will Nex-Tech, or its suppliers, licensors, officers, directors, employees, agents, affiliates, successors or assigns (collectively, its “Affiliates”), be liable for consequential, indirect, special, punitive or incidental damages, or lost profits, whether foreseen or unforeseen, based on claims of User, its appointees or its customers, including, but not limited to, unauthorized access, damage or theft of User’s system or data, claims for loss of goodwill, claims for loss of data, use of or reliance on the Service, stoppage of other work or impairment of other assets, or damage caused to equipment or programs from any virus or other harmful application, arising out of breach or failure of express or implied warranty, breach of contract, misrepresentation, negligence, strict liability in tort or otherwise. In no event will the aggregate liability that Nex-Tech may incur in any action or proceeding exceed One Hundred Dollars (\$100). The limitations, exclusions and disclaimers set forth herein will not be applicable only if and to the extent that the law or a court of competent jurisdiction requires liability under applicable law beyond and despite these limitations, exclusions and disclaimers.

Indemnity

User agrees to indemnify and hold harmless Nex-Tech and its affiliates from any claim, liability, loss, damage, cost or expense including, without limitation, reasonable attorney’s fees arising out of or related to use of the Service, any materials downloaded or uploaded through the Service, any actions taken in connection with use of the Service, any violation of any third party’s rights, any violation of any law or any breach of this AUP. This section shall not be construed to limit or exclude any other claims or remedies that Nex-Tech may assert under this AUP or by law.

Governing Law

This AUP shall be governed by and interpreted in accordance with Kansas law, excluding its conflict of law principles.

Jurisdiction and Venue

Any legal suit, action, or proceeding arising out of this AUP, or the Terms and Conditions of Service, or the transactions contemplated hereby shall be instituted in the federal courts of the United States of America or the courts of the State of Kansas in each case and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. The parties irrevocably and unconditionally waive any objection to venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

Interpretation

This AUP shall not be construed as creating a partnership, joint venture, agency relationship or franchise between the parties. If any provision of this AUP is held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other provisions herein.

Nex-Tech's performance related to this AUP shall be subject to existing laws and legal processes, and nothing contained herein shall waive or impede Nex-Tech's right to comply with law enforcement requests or requirements relating to use of this Service or information provided to or gathered by Nex-Tech with respect to such use.

This AUP should be read in conjunction with Nex-Tech's Communication Services Terms and Conditions.

Nex-Tech Contacts

If you have any questions or complaints about any of the policies outlined above, how they pertain to you, or specific Service questions relating to your account, you can contact our offices at:

Helpdesk number: 888-565-3200

Nex-Tech will make all attempts to resolve any questions, problems, or complaints received, however, some items may not be within the company's control to solve.

For any complaints or questions concerning any third-party applications or services that you subscribe to, please contact those vendors directly for support. Nex-Tech is not responsible or liable for any problems resulting from the use of third-party vendors, and generally will not be able to answer questions or provide support for these applications.

Revisions to AUP

Nex-Tech reserves the right to modify this AUP at any time, and such modifications become effective when posted to Nex-Tech's web site at <http://www.nex-tech.com>.