

## Communication Services Terms and Conditions

### Description

Nex-Tech, LLC and its subsidiaries (“Nex-Tech”) hereby agree to provide TV Service, Internet Service, and/or Telephone Service to Customer under the Communication Services Terms and Conditions (“Terms and Conditions”).

By submitting a service order or request for Nex-Tech Phone, Internet and/or TV Service(s), Customer hereby authorizes Nex-Tech to install a copper or fiber drop, Network Interface Device (NID), power supply and new inside wiring (“Equipment”), as necessary, on Customer’s property for which the service order or request for services was placed. Nex-Tech or Agents will contact Customer to coordinate the placement and installation. Customer certifies that he/she is the owner of such property, or if not the owner, that Customer has disclosed such tenancy to Nex-Tech and has had a Rental Release signed by the property owner authorizing the placement of the copper or fiber drop, NID, power supply and inside wiring.

### 1. Independent Contractor

Nex-Tech shall, at all times and for all purposes under the Terms and Conditions, be considered an independent contractor and shall be solely responsible for the supervision and payment of its Agents for the Services performed hereunder. As such, Nex-Tech shall provide, at its sole expense and decision, all tools, materials, training, hiring, supervision, hours of work, scheduling, work policies and procedures, work rules, compensation, payment for expenses, and discipline and termination of its Agents. Nex-Tech shall have reasonable control over all methods and details of performing the Services in compliance with the Terms and Conditions, subject to Customer’s inspection, and shall ensure that its Agents are performing the Services in accordance with the Terms and Conditions. Nex-Tech shall not have, nor represent itself as having, any authority under the Terms and Conditions to make agreements of any kind in the name of or binding upon Customer.

### 2. Term; Termination

- 2.1. These Terms and Conditions shall remain in effect until notice of Service cancellation is given by either party.
- 2.2. Nex-Tech may, without incurring any liability, temporarily discontinue Services or terminate these Terms and Conditions, subject to any applicable tariffs, if Customer fails to submit timely payment for Services.
- 2.3. Service may be refused or terminated under the Terms and Conditions immediately if: i) a Service violates any applicable federal or state tariffs, statutes or regulations; ii) Customer provides false or inaccurate information in the course of obtaining Service; or iii) the Service is used in a manner that is unethical, illegal, or interferes unreasonably with the rights of other persons.

### 3. Rates; Payment

- 3.1. All customers who are suspended for non-pay will be required to sign up for electronic invoice delivery and automatic electronic payment effective January 1, 2023.
- 3.2. Customer shall be billed monthly for the Services and Equipment, together with all applicable sales, use or similar taxes and mandated fees in accordance with an executed service order.
- 3.3. Terms of payment shall be Net 20 days. Customer shall pay all costs of collection of delinquent accounts, including reasonable attorney’s fees, as permitted by law.

- 3.4. Rates for Services are subject to change at Nex-Tech's sole discretion, provided that Nex-Tech must provide written notice of rate changes to Customer at least thirty (30) days before the changes take effect.
- 3.5. If Customer terminates a Service that was part of a bundle, the rates for the remaining Services will be adjusted to the respective retail rates as appropriate.
- 3.6. If Customer cancels a Service that was offered at a special rate in exchange for a minimum term commitment, and the minimum term commitment has not been fulfilled at the time of Service cancellation, Customer could be assessed an Early Termination Fee ("ETF").

Under no circumstances shall early termination of Service under the Terms and Conditions, by either party for any reason whatsoever, result in the waiver of Customer's obligation to pay any Service Fees and/or Late Fees due and owed to Nex-Tech up to and through the date of termination.

In the event Service under the Terms and Conditions are terminated prior to the expiration of the Initial Term or any then-current Renewal Term, Nex-Tech shall bill Customer, and Customer shall be obligated to pay, an ETF equal to: a) any outstanding Service Fees and/or Late Fees owed to Nex-Tech up to and through the date of termination, *plus* b) a monthly Service Fee calculated at one hundred percent (100%) of Customer's average monthly billing under the Terms and Conditions – using the three (3) most recent monthly invoices from Nex-Tech – for each month remaining in the then-current Term. Such payment shall be made to Nex-Tech within thirty (30) days of termination, using funds immediately available to Nex-Tech.

#### **4. License**

- 4.1. During the Term of Service, under the Terms and Conditions, Nex-Tech shall provide Customer with nonexclusive, nontransferable, limited license to access and use the Services and Equipment for personal and private use only at such times as the Services are generally available.
- 4.2. All rights, title and interest in the Services and Equipment belong to Nex-Tech, except to the extent that the Services are provided through Nex-Tech by third parties that possess copyright or proprietary interest therein. Customer shall not, by virtue of these Terms and Conditions, acquire any proprietary interest in the Services, Equipment or any records, materials or information accessed through the Services.
- 4.3. Nex-Tech reserves the right to revoke this license if Customer breaches any of the Terms or Conditions.

#### **5. Resale of Service**

- 5.1. Customer may not resell, rename, package or otherwise distribute any Service provided by Nex-Tech without the express written consent of Nex-Tech.

#### **6. Use of Services – Restrictions**

- 6.1. Customer agrees to use the Services provided by Nex-Tech in compliance with all applicable laws. Transmission of any material in violation of any domestic law or regulation, including (without limitation) threatening or obscene materials, is prohibited.

- 6.2. Some materials available on the Service may be subject to laws and treaties relating to copyrights and intellectual property laws. In addition, Nex-Tech does not control the content of information available throughout its network and cannot be responsible for the accuracy or quality of information obtained through its Services. Accordingly, Customer is solely responsible for determination of all suitability and propriety of its use of all materials available through the Service, and assumes all risks related to use of information or data.
- 6.3. Any use of Nex-Tech's network or system resources which materially disrupts or interferes with normal operations or with other customers, or which uses Nex-Tech's network to make unauthorized attempts to access the systems and networks of others, is prohibited. Customer is solely responsible for compliance with all rules applicable to Customer's access to any other networks. Any customer engaging in such practices, or otherwise in violation of the Terms and Conditions, will be subject to termination of services.

## **7. Disclaimers, Limitations, Indemnification**

- 7.1. Nex-Tech makes no warranties of any kind, whether express or implied, regarding the Services it provides to Customer, or relating to the quality, accuracy, or validity of data and/or information residing on or passing through Nex-Tech's network. Nex-Tech expressly disclaims any and all warranties relating to its services, including any warranty of merchantability or fitness for a particular purpose.
- 7.2. Nex-Tech shall not be liable, either in contract or in tort, for unauthorized access to Customer's transmission facilities or Customer premises equipment; or for unauthorized access to or on, theft or destruction of Customer's data files, programs, procedures or information through accident, fraudulent means or devices, or any other method.
- 7.3. Customer agrees that Nex-Tech will not be liable for any consequential, incidental or specific damages, including harm to business, lost revenues, lost savings, or lost profits suffered by Customer, regardless of the form of action, whether in contract, warranty, strict liability, or tort, or for any claim by any third party, even if Nex-Tech has been advised of the possibility of such damages. Nex-Tech's entire liability for any claim, loss, damage or expense from any cause whatsoever will in no event exceed sums actually paid to Nex-Tech by Customer in the last twelve (12) months for the specific Service giving rise to the claim. No action or proceeding against Nex-Tech will be commenced more than one (1) year after service is rendered.
- 7.4. Customer agrees to indemnify and hold Nex-Tech harmless from any claims or damages, including attorney's fees, resulting from Customer's use of Nex-Tech Services or breach of the Terms and Conditions, including (without limitation) Customer's causation of damages or injury, directly or indirectly, to any other party.
- 7.5. Nex-Tech's liability under the Terms and Conditions or in connection with the Services shall be limited, to the extent permitted by law, to the allowance of a credit in the form of an adjustment for no more than the charges billed to Customer by Nex-Tech for Services in the period during which the event(s) giving rise to such claims occurred; provided, however, that no credit shall be given for event(s) spanning less than forty-eight (48) hours in duration. Customer's right to a credit adjustment shall be in lieu of all other remedies which Customer may have against Nex-Tech, any third party providing Services to or on behalf of Nex-Tech, or any of Nex-Tech's Agents.

## **8. Force Majeure**

8.1. Nex-Tech will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, terrorism, acts of God, acts of third parties, fires, floods, strikes, pandemic, quarantine, civil commotion, work slow-downs or other labor-related activity, or an inability to obtain necessary equipment or Services. Customer understands and agrees that temporary interruptions of the Service may occur as normal events in the provision of Service and that Nex-Tech is not liable for such interruptions. Customer further understands and agrees that Nex-Tech has no control over third-party networks the Customer may access in the course of using the Service, and therefore, delays and disruptions of other network transmissions are beyond Nex-Tech's control.

## **9. Mutual Waiver of COVID-19 Claims**

9.1. 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.

## **10. Notices**

10.1. All notices required under the Terms and Conditions shall be considered given if delivered personally or mailed to Customer's address of record, including electronic mail, or such other address provided by Customer. Customer shall be responsible for notifying Nex-Tech of any address or name changes associated with the Service within thirty (30) days of such changes taking effect.

## **11. Entire Agreement**

11.1. Except as expressly stated herein, the Terms and Conditions, together with an executed service order, and the applicable Service specific Terms and Conditions listed below, constitute the entire agreement between Customer and Nex-Tech with respect to the Services, and supersede any prior agreements, discussions, proposals, or written or oral statements. The Terms and Conditions shall be governed by all applicable laws, regulations, statutes and tariffs, and are subject to change or termination. If the terms of any applicable tariff conflict with the Terms and Conditions, the Terms and Conditions shall control except when prohibited by law.

## **12. Severability**

12.1. The invalidity or unenforceability of any provision of the Terms and Conditions shall not affect the validity or enforceability of any other provision of the Terms and Conditions.

## **13. No Waiver**

13.1. No waiver of any of the provisions of the Terms and Conditions shall constitute a waiver of any other provision, nor shall any waiver as to one event constitute a waiver as to any other event. Any failure by Nex-Tech to enforce or exercise any provision of the Terms and Conditions or related rights, shall not constitute a waiver of that provision or right.

#### 14. Costs, Expenses and Legal Fees

14.1. In the event of any dispute or litigation concerning any controversy or claim between the Parties hereto arising out of or relating to this Agreement, or the breach hereof, either Party may request that in addition to determining the respective rights and obligations of the Parties, the finder of fact determines which Party is the “prevailing Party,” and the prevailing Party will be entitled to recover from the other Party its reasonable expenses, attorneys’ fees and costs incurred in connection with the investigation, prosecution and defense thereof, or the enforcement or collection of any judgment or award rendered therein.

#### 15. Governing Law

15.1. The Terms and Conditions shall be governed in accordance with the laws of the State of Kansas without regard to conflicts of law principles thereof.

#### 16. Jurisdiction and Venue

16.1. Any legal suit, action, or proceeding arising out of the Terms and Conditions 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.

**The following additional Service-specific Terms and Conditions are made a part of, and incorporated into, the Terms and Conditions for Customers who receive Nex-Tech’s TV, Internet and/or Phone Service(s), as set forth below:**

#### **TV Terms and Conditions**

Customer further agrees to be bound by Nex-Tech’s Terms and Conditions, and the Service-specific TV Terms and Conditions, as posted below. Nex-Tech has the right to amend or update the Terms and Conditions from time to time without notice to Customer.

Nex-Tech’s Terms and Conditions and TV Terms and Conditions, together with an executed service order, constitute the entire agreement between Customer and Nex-Tech with respect to TV Services.

#### **TV Services**

##### **1. Definitions**

- 1.1. “Terms and Conditions” shall mean the Terms and Conditions and the Service-specific TV Terms and Conditions.
- 1.2. “Customer” shall mean the person or business whose name is on the Service account, along with any authorized employees, agents or other parties acting by or through Customer.
- 1.3. “Equipment” shall mean any and all electronic equipment necessary for Customer to receive Services including, but not limited to, digital receivers and remote controls.

- 1.4. “Fiber Drop” shall mean a buried or aerial fiber line that connects Customer’s home or business with Nex-Tech’s FTTP infrastructure.
- 1.5. “FTTP” shall mean Fiber-To-The-Premise infrastructure.
- 1.6. “NID” shall mean the Network Interface Device that connects Customer’s Fiber Drop with Customer’s telephone, Internet and television jacks.
- 1.7. “Related Party(ies)” shall mean officers, directors, employees, subcontractors, agents, affiliates, successors or assigns of Nex-Tech.
- 1.8. “Service(s)” shall mean Nex-Tech’s Digital TV Services.
- 1.9. “Term” shall mean the entire time that Customer subscribes to Nex-Tech’s Services.

## 2. Services

- 2.1 Nex-Tech shall provide Customer with access to Services pursuant to the Terms and Conditions and the Digital Equipment Terms of Use provided to Customer upon installation of Services and Equipment.
- 2.2 Nex-Tech reserves the right to withdraw or alter any Service offering and shall have no liability whatsoever to Customer in connection therewith.
- 2.3 The hours of operation are Monday - Friday, excluding holidays of New Year’s Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day or outside of the Service Hours (8 a.m. – 5 p.m. CT). Please note that if a holiday falls on Saturday, Nex-Tech is closed and observes the holiday on the Friday before. If the holiday falls on Sunday, Nex-Tech is closed and observes the holiday on the Monday after.

## 3. Use of Services; Restrictions

- 3.1. Customer may authorize its employees, agents or other parties acting by or through Customer to access the Services pursuant to the Terms and Conditions. Customer is liable for all service charges associated with such use.
- 3.2. Under no circumstance shall Customer use the Services, Equipment or information obtained through the Services in violation of any applicable laws, statutes or regulations.
- 3.3. Customer agrees not to tamper with, alter or change any Services or Equipment made available to Customer by Nex-Tech.
- 3.4. Customer may not publish or sell information retrieved through the Services or use any such information in a manner that infringes any copyright or proprietary interest of Nex-Tech or any third party. Customer specifically agrees that it will not use the trade name “Nex-Tech” unless expressly authorized to do so in advance, in writing, by Nex-Tech.

## Internet Terms and Conditions

Customer agrees to be bound by Nex-Tech’s Terms and Conditions, the Service-specific Internet Terms and Conditions as posted below, and Nex-Tech’s Internet Acceptable Use Policy (AUP) posted at [Acceptable Use Policy.pdf \(nex-tech.com\)](#). Nex-Tech has the right to amend or update the Terms and Conditions and AUP from time to time without notice to Customer.

Nex-Tech's Terms and Conditions, Internet Terms and Conditions, and AUP, together with an executed service order, constitute the entire agreement between Customer and Nex-Tech with respect to Internet Services.

## Internet Services

### 1. Definitions

- 1.1 "Terms and Conditions" shall mean the Terms and Conditions and the Service-specific Internet Terms and Conditions.
- 1.2 "AUP" shall mean Nex-Tech's Internet Acceptable Use Policy posted online at [Acceptable Use Policy.pdf \(nex-tech.com\)](#).
- 1.3 "Customer" shall mean the person or business whose name is on the Service account, along with any authorized employees, agents or other parties acting by or through Customer.
- 1.4 "Fiber Drop" shall mean a buried or aerial fiber line that connects Customer's home or business with Nex-Tech's FTTP infrastructure.
- 1.5 "FTTP" shall mean Fiber-To-The-Premise infrastructure.
- 1.6 "NID" shall mean the Network Interface Device that connects Customer's Fiber Drop with Customer's telephone, Internet and television jacks.
- 1.7 "Related Party(ies)" shall mean officers, directors, employees, subcontractors, agents, affiliates, successors or assigns of Nex-Tech.
- 1.8 "Service(s)" shall mean Nex-Tech's Internet Service and TV Now Service and related equipment.
- 1.9 "Term" shall mean the entire time that Customer subscribes to Nex-Tech's Services.

### 2. Services

- 2.1. Nex-Tech shall provide Customer with access to Services pursuant to the Terms and Conditions and Nex-Tech's AUP.
- 2.2. Nex-Tech reserves the right to withdraw or alter any Service offering without prior notice to Customer and shall have no liability whatsoever to Customer in connection therewith.
- 2.3. Customer understands that Service may be interrupted for several reasons, including but not limited to, malfunctions, maintenance, improvement or as required to protect network resources in the event of malfunctions or misuse. Customer also understands that Customer may not receive advance notification of any such interruption of Services.

### 3. Use of Services; Restrictions

- 3.1. By submitting a service order or request for Services, or by using Nex-Tech's Services, Customer hereby agrees to be bound by the Terms and Conditions and Internet AUP. Nex-Tech has the right to amend or update the AUP from time to time without notice to Customer.
- 3.2. Customer may authorize its employees, agents or other parties acting by or through Customer to access the Services pursuant to this Agreement; however, Customer remains responsible for the use of the Service by any other party. Nex-Tech shall provide unique identification numbers, which it reserves the

right to change at any time, to Customer for use by Customer in accessing the Services. Customer is liable for all service charges associated with such identification numbers.

- 3.3. Customer understands that Customer must use the Service in accordance with the Terms and Conditions and AUP. Customer may not use or permit other users to use the Service in a manner that is unlawful, infringes the rights of others, interferes with users of Nex-Tech's Service or other networks, infringes upon the copyrights, trademarks or other intellectual property rights of others, or otherwise violates the policies referenced in this Agreement and AUP.
- 3.4. Under no circumstance shall Customer or Customer's identification numbers, use the Services, equipment or information obtained through the Services in violation of any applicable laws, statutes or regulations.
- 3.5. Customer agrees not to tamper with, alter or change any Services, equipment, records, materials, information or programs made available to Customer by Nex-Tech.
- 3.6. Customer may not publish or sell information retrieved through the Services, or use any such information in a manner that infringes any copyright or proprietary interest of Nex-Tech or any third party. Customer specifically agrees that it will not use the trade name "Nex-Tech" unless expressly authorized to do so in advance, in writing, by Nex-Tech.
- 3.7. Customer's use of the Service is conditioned on acceptance of, and compliance with, the [Emergency Services Terms and Conditions](#).

#### 4. Security

- 4.1. Customer understands that Internet communications are not secure and may be subject to interception or loss. Customer understands that Nex-Tech makes no warranties of any kind, whether expressed, implied, or statutory, concerning either the security of data and/or information or its accuracy available through Nex-Tech's Service, or other interconnecting networks. Customer is responsible for safeguarding their computer/device through appropriate means (e.g., using commercially available software or hardware) from theft, unauthorized use, or system corruption.
- 4.2. If Customer fails to secure their system properly and that causes any detriment to the Service, Nex-Tech may immediately terminate Customer's Service. Nex-Tech recommends Customer purchase and install a commercial firewall package and anti-virus package. Nex-Tech shall have no liability whatsoever for any claims, losses, actions, damages, suits, or proceedings resulting from or arising out of or otherwise relating to Customer's failure to safeguard the security of their system, software, and data, or for a third party's firewall package and/or anti-virus package that fails to prevent theft, unauthorized use or system corruption.

#### 5. Monitoring

- 5.1. Nex-Tech neither endorses nor assumes any liability for any material uploaded or submitted by users of the Service. Customer understands that Nex-Tech may, but is not required to, monitor Customer's compliance or the compliance of other customers, with these Terms and Conditions and/or the AUP.

#### 6. Third Party Transactions

- 6.1. Customer understands that through the use of the Service, Customer may have the opportunity to engage in commercial transactions with other users and vendors. Customer acknowledges that all transactions



relating to any products or offerings provided by a third party, including but not limited to the purchase terms, warranties, or guarantees relating to such transactions, are agreed to solely between the third-party seller and Customer.

### **Phone Terms and Conditions**

Customer agrees to be bound by Nex-Tech's Terms and Conditions and the Service-specific Phone Terms and Conditions as posted below. Nex-Tech has the right to amend or update the Terms and Conditions from time to time without notice to Customer. Nex-Tech's Terms and Conditions, Phone Terms and Conditions, together with an executed service order, constitute the entire agreement between Customer and Nex-Tech with respect to the Phone Services.

### **Phone Services**

#### **1. Definitions**

- 1.1 "Terms and Conditions" shall mean the Terms and Conditions and the Service-specific Phone Services Terms and Conditions.
- 1.2 "Customer" shall mean the person or business whose name is on the Service account, along with any authorized employees, agents or other parties acting by or through Customer.
- 1.3 "ETF" shall mean Early Termination Fee.
- 1.4 "Fiber Drop" shall mean a buried or aerial fiber line that connects Customer's home or business with Nex-Tech's FTTP infrastructure.
- 1.5 "FTTP" shall mean Fiber-To-The-Premise infrastructure.
- 1.6 "NID" shall mean the Network Interface Device that connects Customer's Fiber Drop with Customer's telephone, Internet and television jacks.
- 1.7 "Related Party(ies)" shall mean officers, directors, employees, subcontractors, agents, affiliates, successors or assigns of Nex-Tech.
- 1.8 "Service(s)" shall mean Nex-Tech's phone services including, but not limited to, local phone service, long distance, Voice over Internet Protocol (VoIP) and calling features.
- 1.9 "Term" shall mean the entire time that Customer subscribes to Nex-Tech's Services.

#### **2. Services**

- 2.1 Nex-Tech shall provide Customer with access to Services pursuant to the Terms and Conditions and applicable tariffs.
- 2.2 Nex-Tech reserves the right to withdraw or alter any Service offering and shall have no liability whatsoever to Customer in connection therewith. Nex-Tech must provide written notice of such changes to Customer at least thirty (30) days before the changes take effect.

#### **3. Use of Services; Restrictions**

- 3.1 Customer may authorize its employees, agents or other parties acting by or through Customer to access the Services pursuant to these Terms and Conditions. Customer is liable for all service charges associated with such use.

- 3.2 Under no circumstance shall Customer use the Services in violation of any applicable laws, statutes, regulations or tariffs.
- 3.3 Customer agrees not to tamper with, alter or change any Services made available to Customer by Nex-Tech.
- 3.4 Customer may not publish or sell information retrieved through the Services, or use any such information in a manner that infringes any copyright or proprietary interest of Nex-Tech or any third party. Customer specifically agrees that it will not use the trade name “Nex-Tech” unless expressly authorized to do so in advance, in writing, by Nex-Tech.
- 3.5 Customers subscribing to Nex-Tech’s “No Limits Plan” for long distance, where available, must maintain this Service Plan for at least twelve (12) months or be subject to an ETF of One Hundred Twenty Dollars (\$120.00). This Service Plan includes direct-dialed calls placed within the continental U.S. only and expressly excludes international calls, calling card calls, collect calls, directory assistance calls and 800/900 number calls. This Service Plan is intended for residential voice applications only, not for commercial or data applications. If it is determined that Customer’s use is not consistent with residential voice applications, Customer may be assessed an additional monthly charge, disconnected or moved to a different Service plan at Nex-Tech’s sole discretion. Customers subscribing to the No Limits Plan will be assessed a Five Dollar (\$5.00) monthly fee for exceeding seventy-five (75) hours per month on the Internet.

Residential Phone Customers served by Nex-Tech’s fiber optic network have two options for backup power for home phone service: 1) purchase Protection Plus which includes installation and maintenance of battery backup with an estimated twenty-four (24) hours of backup; or 2) purchase a battery backup power supply directly from Nex-Tech and pay an installation fee for Nex-Tech to install. There is no maintenance included with this option and the Customer accepts full responsibility.