



NU-TEL COMMUNICATIONS OF NEW JERSEY, INC. Support Services Terms and Conditions

Nu-TEL Communications of NJ, Inc. (Hereinafter referred to as “Nu-TEL”) agrees to service the telephones and equipment (hereinafter referred to as “the System”), according to the terms and conditions of this Support Services Agreement.

1. **Services.** In return for the payment of the fees detailed in the Support Services Agreement, Nu-TEL will provide the Support Services for the term specified in the Agreement attached hereto. The System includes; (a) hardware and/or software and (b) added additional Products.
2. **Payment.** The Customer agrees to pay Nu-TEL the amount specified in the Support Services Agreement at intervals chosen by the Customer (quarterly, semi-annually, or annually). Nu-Tel will invoice the Customer for said amount based on the chosen interval, and Customer shall pay the invoice within (30) days of receipt.
3. **Term.** The initial/original term of the agreement is detailed on the Support Services Agreement.
 - 3.1. **Renewal.** After the original term of this Agreement, this Agreement shall be automatically renewed for the same term and payment plan, unless the Customer notifies Nu-TEL, with 30 days advanced notification, in writing, of the cancellation of this Agreement. The Customer’s cost for the services provided under this Agreement will not increase for the first year of this Agreement, however, the Support Services pricing for the subsequent year is subject to increases upon automatic renewal. Nu-TEL, at its option, can refuse to provide services if required payments have not been received.
4. **Maintenance.** Nu-TEL will provide remedial maintenance service only between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding Nu-TEL’ holidays. Nu-TEL will begin remedial maintenance service for major failures (i.e., failures that Nu-Tel determines materially affect 50% of the operation of the Customer’s System) within four Coverage period hours of notification. Nu-TEL will provide remedial maintenance service for minor service problems within 24 hours of notification, except that work will be performed only during the coverage period. Nu-TEL will not provide, without additional charge, any remedial maintenance or parts in cases involving damage, malfunction or failures not covered by this Agreement. If the Customer requests that remedial maintenance service be provided outside of the Coverage period, such service will be invoiced to the Customer on a “time and materials” basis at prevailing rates.
5. **Extended Parts Warranty.** If the Customers’ Support Services Agreement includes an extended parts warranty, the Customer shall notify Nu-TEL of any defects of the System during the term of this Agreement, and Nu-TEL, at its option, shall repair or replace the defective equipment. Nu-TEL’ obligations under this Agreement are contingent upon the Customer’s current payment of all amounts due under the terms of this

Agreement. Parts returned or removed during service become the property of Nu-TEL. Replacement parts may be new, remanufactured or refurbished, at the option of Nu-TEL, and become the property of the Customer. The Customer shall permit Nu-TEL to inspect the System under normal operating conditions.

6. WARRANTY SUPPORT LIMITATIONS

6.1. Nu-TEL does not warrant uninterrupted or error free operation of the Products. Should Customer modify the Products in any way that prohibits Nu-TEL from receiving manufacturer support, then Nu-TEL is not required to provide further warranty support of the Products.

6.2. Nu-TEL does not warrant that Products will prevent fraudulent intrusion, unauthorized use or loss of proprietary information. Certain features of the Product such as Call Recording, Monitor Mailbox and Silent Monitoring, could be improperly used and in violation of privacy laws. By purchasing Products with these features, Customer assumes all responsibility for ensuring their proper and lawful use.

6.3. **Voice Over Internet Protocol (VoIP).** Nu-Tel disclaims any express or implied warranty regarding VOIP and its performance based on conditions beyond our control. Nu-Tel can only warranty the equipment that it provides and installs. VOIP utilizes both the client's data network and the public network. Nu-Tel will work with the persons responsible for your information technology with regard to the telephone system to implement the purchased application(s).

6.4. **Toll Fraud.** Nu-Tel disclaims any express or implied warranty regarding security against any unauthorized use of or access to all intrastate, interstate or international long distance services or such access, for the use of voice mail, direct inward system access (DISA), auto- attendant or 800 and 900 services by any users of this equipment.

6.5. **Emergency 911.** It is understood that some equipment connected to the telephone system may be located at another location other than the location where the main telephone system is installed. The remote users may have access to originating calls from the main location. The purchaser understands and accepts responsibility that emergency calls to a 911 operator need to be routed over telephone lines that are located where the emergency is occurring. However remote telephone users need to use a phone line that is specific to the location where they are, when calling the emergency 911 operator. The purchaser assumes the responsibility to inform its remote users of the condition described above.

7. Added/Removed Products.

7.1. **By Customer.** If Customer purchases any additional products and adds them to the existing System during the term of this Agreement, they will become part of the System for the balance of the term only if Nu-TEL inspects and certifies the added equipment at Nu-TELs' current rates. The additional equipment may incur increased cost of servicing and maintenance. Should Nu-TEL, for whatever reason decide *not* to certify added equipment, the equipment will not become part of the System and Nu-TEL will not Service these parts as part of the Agreement.

7.2. **By Nu-TEL.** If equipment is purchased by the Customer from Nu-TEL and added to the System by Nu-TEL, at Nu-TEL' option, an additional charge may be billed to the Customer under this Agreement to take into account the increased cost of servicing and maintaining the additional equipment.

8. **General Limitations.** This Agreement does not cover damages, defects, malfunctions or System failures caused in whole or in part by any of the following: (a.) Failure to follow Nu-TEL', the sellers and/or the manufacturer's installation, operation or maintenance instructions; (b.) Unauthorized use of common carrier communication services accessed through the products of Nu-TEL (i.e., toll fraud, etc.); (c.) Misuse, abuse or negligent acts of persons other than the authorized agents of Nu-TEL; (d.) The acts of third parties and acts of God (power surges, lightening, etc.); (e.) Equipment not specifically a part of the System, including computer hardware and software (i.e., voicemail computer and software or call accounting computer and software), including line cords and handset cords, including wireless devices and both in building and out of building wiring; (f.) The liability of Nu-TEL for any claims, losses, damages or expenses, regardless of the form of the action – whether in contract, tort or otherwise – shall not exceed the lesser of (1) any direct damages proven; or (2) the repair or replacement cost of the Systems defective equipment that directly gives rise to the claim. In no event shall Nu-TEL be liable for any incidental, special, reliance, consequential, or indirect loss or damage arising out of this Agreement. The limitation of liability specifically includes, but is not limited to, lost profits or lost revenues. Regardless of the form of claim, demand, action or suit, indirect, special, reliance, incidental or consequential loss or damage, including but not limited to lost profits or opportunities, lost revenues, and losses arising out of unauthorized use (or charges for such use) of common carrier telecommunications services, facilities and equipment (“toll fraud”), arising out of or resulting from performance or non-performance of a party under the Agreement.

CUSTOMER ACKNOWLEDGES THAT IT IS AWARE OF THESE EXCLUSIONS AND RISKS AND HAS DETERMINED THEY ARE ACCEPTABLE FOR ITS APPLICATION OF THE PRODUCT.

THE ABOVE WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS OR LIMITED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL NU-TEL BE LIABLE FOR LOSS OF PROFITS, BENEFITS, INDIRECT, CONSEQUENTIAL OR ANY OTHER DAMAGES, EVEN IF NU-TEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL NU-TEL'S LIABILITY EXCEED THE TOTAL PURCHASE PRICE FOR THE EQUIPMENT IN QUESTION REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION OR CLAIM MAY BE BROUGHT AGAINST NU-TEL.

9. **Assignment.** This Agreement is not assignable by the Customer without Nu-TEL' prior written consent, which consent shall not be unreasonably withheld. Nu-TEL may assign its rights and delegate its duties under this Agreement. If Nu-TEL sub-contracts any work, Nu-TEL shall retain responsibility for such work.
10. **Labor Rate.** Under this Agreement, the Customer will be billed at an hourly rate for labor for work outside the scope of this Agreement. Nu-TEL' current rate for labor is detailed on the last page of this document. However, such rate is subject to change by Nu-TEL without notice to the Customer.
11. **Performance.** Nu-TEL may cancel this Agreement effective at the end of thirty (30) days written notice to the Customer.
12. **Force Majeure.** Nu-TEL shall have no liability for damages due to: fire, explosion, power failures, strikes or other labor disputes, water, acts of God, or the engagement by the United States in hostilities, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials or

transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, or unauthorized use (or charges for such use) of common carrier telecommunications services.

13. **Choice of Law.** The construction, interpretation, and performance of this Agreement shall be governed by the local laws of the State of New Jersey.

14. **Entire Agreement.** THIS AGREEMENT, INCLUDING ANY NU-TEL PURCHASE AGREEMENT OF WHICH THIS MAY BE A PART, IS THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCTS AND SERVICES PROVIDED HEREUNDER AND SUPERSEDES ALL PRIOR AGREEMENTS, PROPOSALS OR UNDERSTANDINGS, WHETHER WRITTEN OR ORAL. THIS AGREEMENT MAY NOT BE AMENDED EXCEPT BY A SUBSEQUENT WRITTEN AGREEMENT SIGNED BY THE AUTHORIZED REPRESENTATIVE OF NU-TEL.