



Support Services Terms and Conditions

Point 2 Point Systems LLC (Hereinafter referred to as "P2P") agrees to service the equipment listed in the Support Services Agreement (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, P2P 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 P2P the amount specified in the Support Services Agreement at intervals chosen by the Customer (quarterly, semi-annually, or annually). P2P 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 P2P, 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. P2P, at its option, can refuse to provide services if required payments have not been received.

4. **Maintenance.** P2P will provide remedial maintenance service only between 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding P2P's holidays. P2P will begin remedial maintenance service for major failures (i.e., failures that P2P determines materially affect 50% of the operation of the Customer's System) within four Coverage period hours of notification. P2P 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. P2P 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 P2P of any defects of the System during the term of this Agreement, and P2P, at its option, shall repair or replace the defective equipment. P2P's 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 P2P. Replacement parts may be new, remanufactured or refurbished, at the option of P2P, and become the property of the Customer. The Customer shall permit P2P to inspect the System under normal operating conditions.

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6. WARRANTY SUPPORT LIMITATIONS

6.1. P2P does not warrant uninterrupted or error free operation of the Products. Should Customer modify the Products in any way that prohibits P2P from receiving manufacturer support, then P2P is not required to provide further warranty support of the Products.

6.2. P2P does not warrant that Products will prevent fraudulent intrusion, unauthorized use or loss of proprietary information.

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 P2P inspects and certifies the added equipment at P2Ps' current rates. The additional equipment may incur increased cost of servicing and maintenance. Should P2P, for whatever reason decide not to certify added equipment, the equipment will not become part of the System and P2P will not Service these parts as part of the Agreement.

7.2. **By P2P.** If equipment is purchased by the Customer from P2P and added to the System by P2P, at P2P's 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 P2P's, 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 P2P (i.e., toll fraud, etc.); (c.) Misuse, abuse or negligent acts of persons other than the authorized agents of P2P; (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, including line cords and handset cords, including wireless devices and both in building and out of building wiring; (f.) The liability of P2P 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 P2P 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

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WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL P2P BE LIABLE FOR LOSS OF PROFITS, BENEFITS, INDIRECT, CONSEQUENTIAL OR ANY OTHER DAMAGES, EVEN IF P2P HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL P2P'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 NUTEL.

9. **Assignment.** This Agreement is not assignable by the Customer without P2P's prior written consent, which consent shall not be unreasonably withheld. P2P may assign its rights and delegate its duties under this Agreement. If P2P sub-contracts any work, P2P 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. However, such rate is subject to change by P2P without notice to the Customer.

11. **Performance.** P2P may cancel this Agreement effective at the end of thirty (30) days written notice to the Customer.

12. **Force Majeure.** P2P 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 P2P 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 P2P.