

## MOUNTAIN STATES TELECOM WARRANTY AND SERVICE LISTING

### 1. Scope

These warranty options cover complete system purchases and/or leases as defined by Mountain States Telecom (MST). These Listings are inclusive of the manufacturer's warranty; do not replace the manufacturer's warranty, but provide certain additional benefits during the term of the manufacturer's warranty. In this fixed-price service, the Customer has the option to receive from MST one of the following: MST "Basic" Warranty, MST "Silver" Warranty, MST "Gold" Warranty, and MST "Platinum" Warranty. The terms of the different warranty levels are as follows:

#### Warranty Levels

<u>Coverage</u>	<b>Basic</b>	<b>Silver</b>	<b>Gold</b>	<b>Platinum</b>
One-Year Parts Replacement Warranty <sup>1</sup>	X	X	-	-
Mountain States Telecom Installation Kit <sup>2</sup>	X	X	-	-
One-Year Onsite Parts & Labor Warranty <sup>3</sup>	-	-	X	-
Two-Year Onsite Parts & Labor Warranty	-	-	-	X
Remote Programming <sup>4</sup>	-	X	X	X
Onsite Installation and Training <sup>5</sup>	-	-	X	X
Unlimited Telephone & Email Support <sup>6</sup>	-	X	X	X

Note for all service levels: Customer may only down grade warranty levels at the expiration of the term of this agreement. MST will not perform an in-depth review as part of this Service. Should Customer want to make any addition or change that is set forth in this warranty, the MST Project Manager will follow standard change control procedures described in Section 3 below. MST will complete all work authorized under change control on a time-and-materials basis at MST's then current rates.

### 2. Customer Obligations.

The delivery of services is conditioned upon Customer's fulfillment of all applicable Customer requirements. In addition to those requirements specified elsewhere in this Warranty and Service List, Customer will provide MST personnel with reasonable access to all systems as required by MST to perform purchased services. Should Customer fail to comply with any of the Customer Obligations set forth in this Service Listing, MST reserves the right to modify or terminate the price, scope, or schedule of the Services. Customer's obligations continue as follows:

A. Customer must assign a project manager ("Project Manager") to:

1. Provide direction and guidance to Customer's personnel as required by MST to maintain project momentum;
2. Provide information and resources in a timely manner as needed by MST to enable MST to complete the tasks described in this SERVICE LISTING;
3. Be readily available when required by MST for the duration of the Service.

Customer shall provide MST with the following:

<sup>1</sup> Next-day advance replacement is available. Please refer to our Exchange Policies for complete details.

<sup>2</sup> CD-ROM containing our basic setup guide for IP Office Manager and VoiceMail Pro, as well as a compilation of Job Aids.

<sup>3</sup> Onsite service is provided by authorized Avaya service professionals and is available in most major metropolitan areas.

<sup>4</sup> Includes initial setup of extensions and voice mailboxes and up to two levels of VoiceMail Pro automated attendant. Programming is performed at Mountain States Telecom's labs and the configuration file is emailed to Customer.

<sup>5</sup> Includes hardware installation, as well as administrative and employee training.

<sup>6</sup> Technical support is available Monday-Friday from 8:00 a.m. to 5:00 p.m. Mountain Time.

4. Internet access and access to relevant internal and external systems with any applicable passwords and related information as needed.

B. A MST representative will be assigned to this engagement and will coordinate project management activities with Customer's project manager. Customer agrees that the MST representative will have primary responsibility for coordinating all activities for this service including scheduling resources and confirming project activities, as well as being the point of contact at MST for this service.

C. Customer staff (Contact) assigned to support MST staff must be properly trained in their area of responsibility (e.g. such as Administrator access to the server).

D. Customer will have valid licenses for all software covered by the service at Customer's Site, which licenses must cover MST's use of the software as well.

E. Customer must be performing backups on a regular basis at the proposed site prior to MST providing the service. It is presumed that a proper cycle of testing was done during the implementation. This service will not include end-to-end testing.

F. The Services described in this Service Listing will be deemed accepted by Customer upon delivery.

G. Customer agrees that it shall have the sole responsibility for protecting its data used in connection with the services.

H. The services or products or supplemental materials and documents may contain MST confidential and proprietary information that is subject to the limitations of use as set out by manufacturer. Customer agrees to be bound by these limitations.

### **3. Changes.**

If Customer requests a material change in the scope of this Service Listing, as determined by MST in its sole discretion ("Change"), MST and Customer will review the change through the change control process set forth as follows:

When MST determines a change is material, MST will reduce the Change to writing and provide the completed written change to Customer. Both MST and Customer will have to provide written approval of the Change as detailed in the written description of the change, including the impact of the Change on the schedule, resources, and the price of the Service, before MST will make the Change. When Customer accepts the Change, Customer will modify its P.O. or other forms for payment as requested by MST. If Customer does not accept the Change (including the impact on the schedule, resources, or price), the parties will complete their obligations with respect to this Service as set forth in this Service Listing.

### **4. Term.**

This agreement is effective for one year from the original product purchase or lease date (except the Platinum Warranty is effective for two years). The Customer has the option to renew this agreement for one-year terms if Customer provides written notice to MST of its intention to renew this Agreement at least thirty (30) days prior to the expiration of the then-current term. Renewal of this agreement is conditioned upon MST's inspection and re-certification of the equipment to insure that it can be reasonably warranted.

### **5. Service Limitations and Terms.**

A. MST shall have no obligation under this Agreement to correct any bugs, defects or errors in any software or hardware inherent in Avaya software or hardware. MST will provide patches or repairs as they become available. Replacement parts will be new, rebuilt or non-original manufacturer's parts that perform to the factory specifications of the product at our option.

B. This service will be conducted during MST's normal local business hours, excluding public holidays.

C. Service schedule estimates represent MST's best technical judgment based on information available. Actual service duration may vary.

D. MST reserves the right to use subcontractors in those roles it deems appropriate. MST will not perform service on any backup server and client systems where the server and client are separated by a firewall.

E. MST will not review any media that contain backup information to validate that the backups were done accurately.

F. MST will not design or implement backup and restore policies and schedules under this service nor will MST review existing backup and restore Customer policies and schedules.

**G. If Customer installs RFAs, licenses, and/or additional hardware that are acquired from a source other than MST, all express and implied warranties shall be void.**

### **6. Remote Services.**

A. Customer agrees that MST may access products remotely at Customer's site in order to monitor, manage and service them.

B. If Customer purchases any services that are delivered remotely, Customer will:

(1) procure and maintain a gateway allowing MST access which is appropriate to the systems or networks involved, at

Customer's expense; and

(2) assume responsibility for all telecommunications and Internet access charges related to the remote Services.

C. If Customer fails to permit or facilitate remote services, MST may decline to deliver such services and assess additional charges or other conditions for the delivery of services which would otherwise be provided remotely, or revoke applicable warranties. Customer is required to maintain valid email contact information and Customer (Contact) must be on site to communicate with MST in any reasonable manner so that the remote service can be performed in a timely manner.

#### **7. Software Support.**

A. Customer Sites. Services will be delivered to the sites ("Customer Sites.") Customer will give MST at least thirty (30) days written notice prior to relocating Customer Site to a new host, which notice must specify the new host. Support of relocated systems is subject to availability and may be subject to additional fees.

B. Qualified Personnel. Support must be given by MST, or if MST directs, by other personnel who (1) possess the necessary expertise and training (as from time to time defined by MST) to diagnose and resolve software issues with direction by MST, and (2) are designated as "Contacts" in accordance with the applicable Service Listing.

C. Exclusions. Support Services do not include support required due to the following events ("Excluded Events"):

(1) improper use, abuse, accident, or neglect;

(2) alterations, modifications, or attempts not authorized by MST to repair Covered Systems;

(3) causes external to a Covered System, such as failure to maintain environmental conditions within the operating range specified by the manufacturer;

(4) attachment of a Covered System to equipment, software, or other items not listed on MST's then current Enterprise Services price list;

(5) relocations or attempts to relocate Covered Systems; or

(6) failure to maintain software and/or Covered Systems at MST-specified minimum release levels or configurations necessary to keep a Covered System within the terms of MST's then-current end of life support policy, or to properly install remedial replacement parts, patches, software updates or subsequent releases as directed by MST. Services that MST delivers as a result of an Excluded Event will be invoiced separately at MST's applicable time and materials rates, and are subject to the terms and conditions of this Agreement.

D. Eligible Products. Systems and support are available only for Products that are covered by a valid software license and are in good working condition.

#### **8. Contract Requirements.**

MST is not obligated to perform the Services described in this Service Listing unless Customer has an existing services Agreement with MST and has received an order confirmation from MST accepting Customer's purchase order or electronic order for the Services. This Service Listing does not constitute an offer by or invitation to contract with MST. The Services described above are subject to availability and unless otherwise stated, are only available within the U.S.A. Service Listings will be voided if Customer account is delinquent more than 30 days.

#### **9. Complete Agreement.**

The terms set out in this warranty shall be the entire agreement and extrinsic evidence shall not be considered to dispute the terms of this agreement unless it is for the purpose of clarifying a patent or latent ambiguity.

#### **10. Savings Clause**

If any term of this agreement is held to be unlawful by a Court of proper jurisdiction, the remainder of the agreement will still be deemed by MST and Customer to be valid and enforceable.