

# **WESTEC SERVICES WARRANTIES**

**1. Limited Manufacture's Hardware/Equipment Warranty.** Most equipment and parts sold by Provider carry a manufacturer's warranty for labor and/or parts. Client agrees to look solely to such manufactures for their warranty. Provider will handle such warranty claims for Client (except for computers purchased from third parties) if Client will: a.) contact Provider during the warranty period to request warranty service; b.) return the equipment and or part(s) to Provider, if requested to do so by Provider, along with all the documentation needed to process Client's warranty claim. Client will be responsible for: a.) any diagnostic fees or other charges made by manufacture; b.) any shipping cost; c.) any labor charges not covered by manufacture to remove or re-install the equipment and or part(s).

If the equipment and or part(s) are found not to be defective, the client is responsible to pay a \$150.00 diagnostic fee to Provider. Any additional work done to repair the equipment or part(s) due to damage caused outside of the warranty will be charged under client's applicable per hour rates.

**2. Service Warranty Repairs.** If Provider agrees to provide a limited service warranty for a period of time ("Service Warranty Period"), then it will be set forth in its Service Agreement, Sales Agreement, Invoice, or Quote/Estimate. Such warranty covers the services and equipment it provides under such Agreements. This warranty is made only to the Client and Provider shall have no liability to any third party as a result of such warranty.

**a.) Provider's Obligations.** Provider's sole obligation is to repair under this limited warranty. Provider shall use commercially reasonable efforts to provide parts, equipment and services to correct the performance of the equipment or service in response to written reports of failure or malfunction of such equipment or service which are received by Provider prior to the expiration of the relevant Service Warranty Period. Provider uses new and reconditioned parts made by various manufacturers in performing such warranty repairs.

**b.) Client's Obligations.** When providing written notice of such failure or malfunction, the Client shall use commercially reasonable efforts to provide to Provider a documented example of such failure or malfunction. Should the Client desire to receive any parts, equipment or service after the expiration of the applicable Warranty Period, such parts, equipment, services shall be provided under a separate support and service agreement to be negotiated between the parties.

**c.) No Obligation to Repair.** Provider shall have no obligation to the Client under this warranty, or otherwise, if the failure or malfunction claimed by Client under this limited service warranty is caused by any of the following:

- (1) Client misuse or neglect: or
- (2) Failure by Client to follow installation or operation instructions; or
- (3) Failure to permit Provider remote access, if requested, to review, analyze, or repair the failure or malfunction; or
- (4) The failure or malfunction is attributable to causes that are not the responsibility of Provider.

**3. LIMITED WARRANTY: PROVIDER PROVIDES AN EXPRESS LIMITED WARRANTY FOR THE SERVICES AND EQUIPMENT IT PROVIDES. THIS WARRANTY AND REMEDY ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, AND CONDITIONS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, WITH RESPECT TO THESE SERVICES AND EQUIPMENT, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**PROVIDER SHALL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE SERVICES PERFORMED OR EQUIPMENT SOLD BY IT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA OR FOR ANY DAMAGES OR SUMS PAID BY CLIENT TO THIRD PARTIES, EVEN IF WES-TEC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLE OR IDEMNITY OR CONTRIBUTION, THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE OR OTHERWISE.**

**PROVIDER SHALL IN NO EVENT BE LIABLE FOR BREACH OF ITS LIMITED WARRANTY IN AN AMOUNT EXCEEDING THE AMOUNT PAID PROVIDER, FOR THEIR MONTHLY SERVICES FOR THE PREVIOUS SIX MONTHS OR EQUIPMENT, OR \$100.00 WHICHEVER IS GREATER. THE FOREGOING PROVISION IS NOT A PENALTY.**

**PROVIDER SHALL BE RESPONSIBLE ONLY FOR THE DEPRECIATED VALUE OF EQUIPMENT AND OR SOFTWARE (NOT CLIENT DATA) THAT IS DAMAGED**

**OR DESTROYED WHILE IN ITS CUSTODY, EXCEPT IT SHALL HAVE NO RESPONSIBILITY IF SUCH DAMAGE IS CAUSED BY ACTS OF GOD, FIRE, WATER INTRUSION OR POWER SURGE.**

**REGARDLESS OF THE OUTCOME OF ANY LITIGATION OR OTHERWISE APPLICABLE LAW, IT IS AGREED EACH PARTY SHALL PAY THEIR OWN COSTS AND ATTORNEYS FEES IN ANY LITIGATION OR ANY ALTERNATIVE DISPUTE RESOLUTION.**

**4. SOFTWARE: ANY AND ALL SOFTWARE PROVIDED BY PROVIDER IS SUBJECT TO THE LICENSE AGREEMENT THAT IS PART OF THE PACKAGE. CLIENT AGREES THAT IT WILL BE BOUND BY THE LICENSE AGREEMENT ONCE THE PACKAGE IS OPENED OR ITS SEAL IS BROKEN. PROVIDER DOES NOT WARRANT ANY SOFTWARE UNDER THIS AGREEMENT. WARRANTIES, IF ANY, FOR THE SOFTWARE ARE BETWEEN THE CLIENT AND THE MANUFACTURER OF THE SOFTWARE AND ARE CONTAINED IN THE LICENSE AGREEMENT THAT GOVERNS ITS PURCHASE AND USE.**

**5. Installation of Software.** Provider agrees to provide a limited service warranty for any software configuration it performs for a period of ten (10) days from the date of its invoice for such work. Provider shall use commercially reasonable efforts to correct the performance of the software in response to written reports of failure or malfunction of such software which are received by Provider prior to the expiration of the limited service warranty. During the warranty period, Provider will repair or reconfigure any software that it installed that is not functioning as intended at no charge to the Client. If however the software is found to working correctly, or is found to have been altered since Provider's original work was performed, the Client shall be responsible to pay a \$150.00 diagnostic fee. In this case, any additional work done to repair the issue will be charged under Client's applicable per hour rates.

**6. Non-Warranty Service During the Warranty Period.** In the event Client requires, and Provider agrees to provide, parts, equipment or services for problems encountered by the Client that are outside of the scope of the limited warranty, Provider shall invoice the Client for Provider's time, materials used, travel expenses, and any other reasonable expenses incurred by Provider in providing such parts, equipment and services, and the Client shall pay Provider the full amount of any such invoice.