

# AVENTIS SYSTEMS

## onsite hardware support

### SUMMARY

- 24 hour hardware phone support, Monday through Sunday including holidays
- Next day parts replacement and onsite support, Monday through Saturday
- Offered in 1, 3, or 6 year Service Level Agreements (SLA)
- Available on all servers and storage equipment offered by Aventis Systems.

### ADDITIONAL TERMS AND CONDITIONS

Aventis Systems, Inc. ("ASI") provides clients with the best in the business hardware maintenance services ("Services"). The Aventis Systems Onsite Hardware Support program provides our customers ("Customer") the additional assurance and convenience of professional maintenance services.

**Technical Support:** ASI will provide help desk support 24 hours per day, 7 days per week, 365 days per year.

**Onsite Support and Parts Replacement:** ASI will provide next day parts replacement and onsite labor, Monday through Saturday. ASI onsite labor will install replacement parts to maintain the system and equipment in proper operating condition based on problem determination through our Technical Support. Onsite labor will only include support to the hardware purchased from ASI as noted on the Customer invoice. Onsite labor will not include support to software or hardware purchased from vendors other than ASI. The availability of parts onsite will be a consideration of dispatching field engineers to meet the part(s) and provide service.

All field engineers will be under the supervision of ASI during the entire process until completion of the service event. ASI will verify with the Customer the successful completion of the service event.

Following the successful completion of the service event, the Customer will be responsible for shipping the defective part or unit to ASI [ 189 Cobb Parkway North, Suite B7, Marietta GA 30062 ] with the completed [RMA form](#) that includes an ASI authorized RMA number provided by the technical support staff and a prepaid label for customers in the continental US.

**Time and Materials Services:** Any special written request by Customer for Services other than those specified herein shall be subject to written acceptance by ASI, special terms and conditions, and charges for time, materials, and transportation at ASI's prices in effect at the time such Service(s) or material(s) are provided. Provision of such Services shall be in the discretion of ASI and shall be subject to the availability of personnel and parts. All sales, property, excise and other federal, state and local taxes as dictated by law shall be paid by the Customer.

**Site Preparation:** Customer shall, at Customer's expense, prepare and maintain the hardware installation site in accordance with the manufacturer's specifications for operating environments. Customer assumes the full responsibility to back-up and/or otherwise protect its data against loss, damage, or destruction before Services are performed. Customer also agrees to permit prompt access to hardware consistent with Customer's standard security requirements and to provide reasonable access to the facilities so as to expedite the performance of Services. Failure of Customer to comply with the conditions of this paragraph shall allow ASI to terminate any further Services to such Customer site.

**Reconditioning:** If, in ASI's opinion and at ASI's sole discretion, any unit of hardware must be factory reconditioned because normal repair or replacement of parts cannot keep such unit in satisfactory operating condition, ASI shall submit a quotation of the required reconditioning to Customer. In the event Customer declines to authorize such reconditioning, ASI may delete such item of hardware from the Agreement. Normal wear is expected and reconditioning at the cost of the Customer may be required in order for ASI to be able to keep hardware in good working order. It is not in the scope of ASI's Agreement requirements to maintain the Customer's equipment in "new" condition.

**Additional Charges:** Services performed as a result of any of the following conditions shall be subject to additional charges for labor, transportation, and parts: alterations to hardware not specified in initial system build; expendable supply items; damage resulting from improper use, in-transit damage, accident, neglect, power surge or failure, acts of nature, operating environment or the use of supplies or accessories which are not in conformance with the hardware ASI's published specifications; site surveys; maintainability inspections or any damages other than normal wear and tear.

**Notices:** All notices shall be in writing and all notices and payments shall be sent either electronically, by courier, facsimile, U.S. Mail with proper postage attached, Certified Mail return receipt requested, or commercial overnight delivery service to the recipient at its respective address shown on the face of this Agreement. Notice shall be effective upon receipt. Any change of address or other matter required herein shall be effective if delivered in accordance with this paragraph. Change of address or relocation of covered equipment may result in change in service level agreement.

**Exclusive Maintenance and Remedy:** ASI's exclusive maintenance is that Services will be performed in a workmanlike fashion and all parts provided by ASI shall be free of defects in materials and workmanship at the time of installation. In the event ASI breaches this maintenance, ASI's sole obligation, and Customer's exclusive remedy, shall be to have ASI make all necessary adjustments, repairs, or replacements of parts, which were defective at the time of installation. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES CONCERNING ANY SERVICES, PARTS, SUPPLIES, OR EXPENDABLE ITEMS PROVIDED HEREUNDER. ASI does not guarantee that the operation of the equipment will be uninterrupted or error-free. ASI DISCLAIMS THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. FOLLOWING THE EXPIRATION OF ANY EXPRESS MAINTENANCE PERTAINING TO EQUIPMENT, ASI DISCLAIMS THE IMPLIED MAINTENANCE OF MERCHANTABILITY. THE FOREGOING SHALL BE THE SOLE REMEDY OF CUSTOMER FOR BREACH OF MAINTENANCE SERVICES.

**LIMITATION OF LIABILITY:** IN NO EVENT SHALL ASI NOR ITS SUBCONTRACTORS, EMPLOYEES, OR AGENTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, OR FOR LOSS OF PROFITS, REVENUE, DATA, OR USE, BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, IN CONNECTION WITH THIS AGREEMENT, OR ARISING OUT OF THE PRODUCTS, PARTS, OR SERVICES PROVIDED BY ASI, EVEN IF ASI HAS BEEN ADVISED OF SAME. Except as to personal injury, ASI's maximum liability shall be limited in any event to the actual direct damages incurred by Customer which are caused solely by the negligent acts or omissions of ASI subject to a maximum liability of the amount paid for the Services performed under the Agreement, subject to a maximum of twelve (12) months duration. Customer agrees to provide ASI with prompt written notification as to the specifics of any claim for damages and to provide ASI with a reasonable opportunity to investigate.

**Force Majeure:** Neither party shall be liable for any delay or failure to perform its obligations due to any cause beyond its reasonable control. Neither party will be deemed to be in default nor be responsible for delays or failures in performance resulting from acts beyond the reasonable control of such party. Such acts will include, but not limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental action or inaction, trade embargoes, fire, failures of manufacturers, unavailability of power, communication line failures, earthquakes, or other disasters. ASI will not be liable for failure to perform any obligation hereunder in event its prohibited from doing so by virtue of the enforcement of any security measures or other measures restricting access to the equipment.

**Limitation of Actions:** No action, regardless of form or basis, arising out of transactions related to this Agreement may be brought by either party more than two (2) years after the cause of action has accrued except that an action for nonpayment may be brought within two (2) years after the date of last payment.

**Waiver:** Any consent by any party to or waiver of, a breach of any provision of this Agreement by the other, whether expressed or implied, shall not constitute a consent to or waiver of, or excuse for any breach for any other provision or subsequent breach of the same provision of this Agreement. ASI may elect to continue performance notwithstanding such breach by Customer but such performance shall not constitute a waiver of such breach nor otherwise limit ASI's remedies.

**Arbitration of Disputes:** The parties agree that any controversy or claim arising out of or relating to this Agreement or performance hereunder, or any dispute arising out of the interpretation or application, which the parties hereto are unable to resolve, shall be settled by arbitration in Marietta, Georgia by an arbitrator pursuant to the American Arbitration Association's Commercial Arbitration Rules then applying and judgment upon the award rendered by the Arbitrator may be entered in any Court having jurisdiction thereof. The Arbitrator shall be a person knowledgeable in the provision of Services for similar types of equipment and shall be appointed within thirty (30) days of the date the demand for arbitration was sent to the other party.

**Severability:** In the event that any provision(s) of this Agreement is determined (by a Court of competent jurisdiction) to be invalid, void, or unenforceable, the remainder of the provision or the provisions shall remain in full force and effect.

**Law Governing:** This Agreement and any disputes hereunder shall be governed by and interpreted in accordance with the subsequent and procedural laws of the State of Georgia.

**Entire Agreement:** This Agreement accepted and approved by ASI ("Documents"), shall be construed in accordance with the laws of the State of Georgia. These Documents constitute the entire agreement between the parties and may only be modified by a written instrument executed by Customer and a Corporate Officer of ASI. These Documents supersede the printed provisions set forth on any Customer's Purchase Order or similar document. Neither Customer nor ASI shall be bound by any oral agreement or representation irrespective of by whom or when made. Customer may not assign any of these Documents without the prior written consent of ASI, which consent shall not be unreasonably withheld. Either party may terminate this Agreement in writing in accordance with the terms of this Agreement as set forth above. 30 days written notice is required to terminate the agreement. Refunds will not be provided in the event of termination.