

LIMITED WARRANTY

1. **Definitions.** For purposes of this Warranty, (i) “Buyer” shall mean the individual or entity identified on the applicable purchase order or supply agreement (or, if different, on Seller’s quotation, order acknowledgement, or statement of work), (ii) “Seller” shall mean the Vantiva entity identified on such Buyer’s quotation, order acknowledgement, statement of work, or supply agreement, (iii) “Hardware” means equipment designed and manufactured by or on behalf of Seller, or any third-party manufacturer’s equipment offered for sale by Seller to Buyer, (iv) “Product” shall mean a product manufactured by or on behalf of Seller pursuant to the applicable supply agreement, quotation, or order acknowledgement, and includes any combination of Hardware and Software, (v) “Services” means site engineering, system integration, installation, implementation, training, maintenance and technical support services for Products, or other professional services provided by Seller to Buyer. Services exclude managed services and hosted cloud services provided by Seller, (vi) “Software” means Seller-licensed software, either embedded or standalone, including any updates provided, and any other enhancements, modifications, and bug fixes provided thereto, in object code form only (unless otherwise specified), and any full or partial copies thereof. Software does not include software created or owned by third parties, including but not limited to MediaKind Software, Google’s Android Software or any third party application software, and (vii) “Warranty Period” means (a) for Hardware, one year from date of original shipment to Buyer from Seller’s facility, (b) for Software-only Products, ninety (90) days from the date such Software is first made available to Buyer, or for Software embedded in a Hardware Product, ninety (90) days from date of original shipment of the Product to Buyer from Seller’s facility, and (c) for Services, thirty (30) days from the date the performance of such Services has been rendered to Buyer by Seller.
2. **Limited Warranty.** Seller warrants that, as of the date of delivery, Seller has good title to the Product, free from any lawful security interest or other lien or encumbrance unknown to Buyer. In addition, during the Warranty Period, the Product and Services will be free from defects in materials or workmanship arising under proper and normal use. This Warranty shall apply only to the Products and Services and shall not apply to any other goods or materials, parts or components of a system or any system as a whole. This Warranty does not cover ordinary wear and tear. Seller does not warrant (i) Products not purchased from Seller or its authorized resellers; (ii) that the operation of the Product will be uninterrupted or error-free; (iii) that the Product will operate in combination with other third-party products selected by Buyer; or (iv) any products manufactured by third parties; provided that Seller will, to the extent permitted by the manufacturer, assign third-party warranties to Buyer. Seller gives no warranty for, and shall have no liability with respect to, any defects arising from any software (other than the Software), including, but not limited to MediaKind Software, Android Software, or any third-party application software, downloaded to or otherwise used in conjunction with the Product. Seller further warrants to Buyer that during the Warranty Period, all Services performed by Seller for Buyer will be provided in a workmanlike manner.
3. **Disclaimers.** EXCEPT AS EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY OR IN A SEPARATE, APPLICABLE SOFTWARE LICENSE AGREEMENT, ALL SOFTWARE IS LICENSED ON AN “AS IS” BASIS WITHOUT WARRANTY.
4. **Inspection and Return Authorization.** Buyer must promptly notify Seller of any claimed defect in the Product and/or Services. If Buyer claims that a Product is defective in materials or workmanship, Seller shall have the right to either examine the Product where it is located or, in its sole discretion, issue shipping instructions for return of the Product. Seller’s inspection in response to a warranty claim shall not constitute acceptance or acknowledgment of the claim’s validity. Except as otherwise agreed to in writing, Products may not be returned to Seller without prior authorization. Buyer must contact Seller to obtain an authorization number and return the Products to the location designated by Seller. Any Products returned to Seller without proper authorization will be returned to Buyer at Buyer’s expense. Risk of loss, damage, and insurance responsibilities for the Products shall not pass from Buyer to Seller until delivery of the Products to Seller’s designated location. Buyer shall prepay all transportation charges for such return.
5. **Remedies.** Seller’s sole and exclusive obligation and Buyer’s exclusive remedy under this Warranty is Seller’s repair or replacement of the defective Product or re-performance of Services or issuance of a credit for the net book value of the purchase price of the defective Product. Seller shall have sole discretion as to which of these remedies Seller will provide. Seller is not liable for any repair or maintenance costs incurred by Buyer, unless Seller authorizes such charges in writing in advance of the commencement of the work. If Seller elects to replace or repair the defective Product, the replaced or repaired Product will be warranted for the remainder of the Warranty Period applicable to the originally shipped Product, but the Warranty shall not be extended beyond the original Warranty Period. Replacement Products may be new, refurbished or contain refurbished materials.
6. **Notice and Waiver.** If Buyer discovers any defect in the Product, Buyer must provide prompt (and in no case later than thirty (30) days after discovery) written notice to Seller of the claimed defect. Such notice shall describe, in reasonable detail, the symptoms of such defect. The notice must be received by Seller during the Warranty Period for such Product. Failure to give timely notice of a claim shall result in Buyer’s waiver of such claim.
7. **Transfer of Ownership.** This Warranty is not transferable unless Buyer is expressly authorized by Seller in writing to resell the Product. In addition, Buyer must notify Seller on or before the fifteenth (15th) day after the date on which it transfers ownership of the warranted Product. Any transfers in violation of this Section shall invalidate this Warranty. Notice of the transfer of ownership must be in writing and shall include the name and address of the new owner.
8. **Exclusions from Warranty.** This Warranty shall not apply to problems attributable to, or as a result of:
 - (a) improper installation or misapplication of parts;
 - (b) chain or system failures induced by other products or components;
 - (c) lack of proper inspection or maintenance or failure to provide a suitable operating environment (including without limitation, exposure to acid, chemical, fumes, metallic dust or extreme temperature);
 - (d) any consumables provided with the Product, including but not limited to batteries and other accessories, and any other materials, components or products manufactured by a third party;
 - (e) power surges, fire, unusual mechanical, physical or electrical stress, severe weather conditions or acts of nature, including but not limited to, lightning or floods;
 - (f) usage or operation not in accordance with published ratings, specifications, or instructions, including but not limited to environmental specifications identified by Seller;

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- (g) any adjustment, modification, alteration, removal or repair of any part of the Product, including but not limited to removal or alteration of serial numbers or other identifying marks not expressly authorized by Seller in writing;
- (h) accidental damage, misuse, abuse, neglect, or unauthorized access of the Product or of any system of which the warranted Product is a part;
- (i) any type of aesthetic changes due to oxidation or corrosion occurring on stainless steel or galvanized steel parts installed in unusually corrosive marine and industrial atmospheres (in which case Seller's only obligation shall be to ensure that Product complies with Seller's published material specifications);
- (j) use of the Product for purposes other than that for which it was designed or not in conformity with the license provided; or
- (k) mishandling during shipment of the Product.

This Warranty is for Products installed and used in accordance with Seller's design, installation, and operating parameters. Buyer's failure to ensure conformity with such parameters voids all warranties. Under no circumstance shall Seller have any liability or obligation with respect to expenses, liabilities, or losses associated with the installation or removal of any Product or the installation or removal of any components for inspection, testing, or redesign occasioned by any defect or by any repair or replacement of a Product. In addition, Seller's warranty obligations will not apply to the extent that any Product defect arises from compliance with specifications or other requirements provided by Buyer. Seller is the final arbiter of any presence of facts that support a conclusion that the warranty has been voided.

9. Limitation on Liability. THE WARRANTIES SET FORTH IN SECTION 2 HEREOF ARE EXCLUSIVE AND ARE MADE ONLY TO BUYER. SELLER MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS AND EXCLUDES ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE AND ANY REPRESENTATION OR WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING, OR COURSE OF PERFORMANCE. No person is authorized to give any additional warranties on Seller's behalf or to assume for Seller any other liability, except in a writing and signed by an authorized officer of Seller. SELLER'S TOTAL LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF AND/OR IN CONNECTION WITH THE MANUFACTURE, SALE, DELIVERY, OR USE OF THE PRODUCTS OR SERVICES WILL BE LIMITED TO PROVEN DIRECT DAMAGES, NOT TO EXCEED (I) FOR PRODUCTS, THE DEPRECIATED VALUE OF THE PURCHASE PRICE OF SUCH PRODUCTS OR (II) FOR SERVICES, THE ACTUAL AMOUNT PAID TO SELLER FOR SERVICES DURING THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT (OR SERIES OF EVENTS) GIVING RISE TO THE LIABILITY. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY CLAIM FOR LOSS OF ACTUAL OR ANTICIPATED DATA, USE, REVENUES, OR PROFITS.

The Products are not specifically designed, tested, manufactured, or intended for operation or use in any inherently dangerous, life endangering, or life support applications where any failure of the Products could lead to death, personal injury, or significant physical or environmental damage ("High Risk Activities"). If Buyer uses the Products in High Risk Activities, including but not limited to nuclear facilities or the flight, navigation, or communication of aircraft, Buyer agrees that neither Seller nor its third party licensors are liable, in whole or in part, for any claims or damages arising from such use, and that Buyer shall indemnify and hold Seller and its third party licensors harmless from any and all claims for loss, cost, damage, expense, or liability arising out of or in connection with any use of the Products in High Risk Activities. These limitations on liability will apply regardless of the form of action, whether in contract, tort, strict liability, or otherwise, and whether damages were foreseeable and will survive failure of any exclusive remedies provided in Section 5 hereof.

10. Choice of Law. The terms and conditions contained herein and the rights of the parties to any transaction to which they relate shall be governed by and construed in accordance with the governing laws and jurisdiction set forth in the Vantiva Terms and Conditions of Sale (at <https://www.vantiva.com/terms-vantiva-sale>).