Quantum Sales and Support Terms and Conditions

These Quantum Sales and Support Terms and Conditions ("Terms and Conditions") set forth the terms governing the purchase of Quantum hardware and software (collectively "Products") from Quantum, the limited warranty provided thereon, and the provision of services (including Support Services and Other Services as defined herein) ("Services") by Quantum. Previously executed reseller, distributor, master purchase, master services agreement, or a similar document setting forth terms of purchase and/or services from Quantum by Customer in effect at the time of purchase will take precedence over these Terms and Conditions. Otherwise, Quantum's assent to any agreement between Quantum and the purchaser ("Customer") for any sale of Products or Services in connection with a Quantum Sales Quote ("Quote") is expressly conditioned on Customer's assent to these Terms and Conditions. Customer's assent will be conclusively presumed if Customer responds by issuance of a purchasing document. Any different, conflicting, or additional terms in Customer's purchasing document are objected to and deemed rejected unless expressly approved by an officer of Quantum in writing.

1. Quote

The accuracy of a Quote is dependent largely upon factors at Customer's site and the particulars of Customer's specific network and hardware configuration. Quantum does not warrant the accuracy of its Quotes in terms of configuration, cabling, porting, and other details specific to Customer's network. Pricing may differ based upon configuration at the installation site. Service pricing may change based upon changes in configuration or site location.

2. Delivery

Delivery of Products will be FCA Quantum's manufacturing facility (INCOTERMS 2010). Title and risk of loss or damage to the Products shall shift to Customer upon release to the initial carrier for holding or shipment. Customer hereby grants Quantum a purchase-money security interest in all Products to secure payment of the purchase price and any other charges due to Quantum. If delivery of the Products to the initial carrier is delayed in excess of twenty Business Days, Customer may cancel the order involved upon notice to Quantum prior to shipment. Such cancellation right is Customer's sole remedy for any delay or failure in delivery by Quantum.

3. Prices and Payment

3.1 Generally

Pricing will be valid for thirty days unless a different term is set forth in writing. Customer agrees to pay to Quantum the purchase price for the Products and/or the Services set forth in the Sales Quote. The price is exclusive of, and Customer agrees to pay, any applicable federal, state, local or foreign sales or use taxes, tariffs, customs, duties and other governmental charges, and shipping charges.

3.2 Fees for Other Services

Quantum will invoice Customer at Quantum's standard published hourly rates for performance of Other Services as defined herein. All such charges will include actual travel time and travel expenses, as well as costs incurred due to waiting, rescheduling, or other accommodations made as a result of lack of availability or preparation by the Customer for services scheduled. Quantum will provide an estimate of total costs prior to performance of Other Services. This estimate shall be non-binding unless otherwise specified in writing.

3.3 Service Re-Enrollment Fee

To the extent that Customer fails to maintain a current and continuous Support Contract with Quantum or a Quantum Authorized Service Provider, Quantum may assess a reasonable re-enrollment fee in addition to the fees for the upcoming Support Term.

3.4 Payment

For purchases made directly to Quantum, Customer shall either prepay or complete a credit application (www.quantum.com/credit) requesting payment terms. Qualified Customers shall make payment in full within thirty days from the date of the invoice in the currency quoted. Payment terms are not guaranteed and are subject to approval and ongoing credit history. Any amount not paid by the due date will be subject to a finance charge at the rate equal to the lesser of 1.5% per month or the maximum rate allowed by law. However, payment of such finance charge will not cure Customer's default for late payment. For purchases made through a Quantum Authorized Reseller, Customer shall pay the Reseller pursuant to the terms between the Customer and the Reseller.

4. Cancellation

Subject to Quantum's prior written approval, Customer may cancel an order, or any portion thereof, for standard Products at any time prior to thirty days before shipment when shipment is not delayed. This cancellation right is subject to a cancellation charge of fifteen percent of the purchase price.

5. Third Party Product

Product sold to Customer by Quantum that is the branded product of a third party (“Third Party Product”), regardless of whether it is identified as Third Party Product on the sales quote issued by Vendor, shall be warranted directly to Customer by the third party. Notwithstanding any provision herein, Quantum makes no representations or warranties regarding Third Party Product, and shall have no ongoing obligations to Customer for the support or maintenance of Third Party Product unless expressly agreed to in writing.

6. Limited Product Warranty

SUBJECT TO THE LIMITATIONS SET FORTH BELOW, QUANTUM WARRANTS THAT PRODUCTS WILL PERFORM IN ACCORDANCE WITH PRODUCT SPECIFICATIONS FOR THE APPLICABLE PRODUCT WARRANTY PERIOD PUBLISHED BY QUANTUM. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHOULD PRODUCT FAIL TO PERFORM ACCORDING TO PRODUCT SPECIFICATIONS, IS REPAIR, REPLACEMENT, OR ACCEPTANCE OF RETURN OF THE DEFECTIVE PRODUCT, AT QUANTUM'S SOLE DISCRETION.

7. Limited Services Warranty

SUBJECT TO THE LIMITATIONS SET FORTH BELOW, QUANTUM WARRANTS THAT THE SERVICES PROVIDED UNDER THESE TERMS AND CONDITIONS WILL BE FREE FROM DEFECTS IN MATERIALS OR WORKMANSHIP FOR THIRTY DAYS FROM THE DATE SUCH SERVICES ARE RENDERED, OR THE REMAINING TERM OF THE THEN CURRENT AND PAID FOR SUPPORT SERVICE PERIOD, WHICHEVER IS LONGER, AND WILL BE PERFORMED BY FULLY TRAINED AND COMPETENT PERSONNEL IN ACCORDANCE WITH INDUSTRY STANDARD TECHNICAL AND PROFESSIONAL PRACTICES AND PROCEDURES. THE FOREGOING WARRANTY SHALL BE VOIDED IF THE PRODUCT IS NOT PROPERLY INSTALLED, USED, OR MODIFIED BY A PERSON OTHER THAN QUANTUM OR QUANTUM AUTHORIZED SERVICE PROVIDER AFTER SERVICES ARE PROVIDED. IF A DEFECT COVERED UNDER THIS WARRANTY IS FOUND AND REPORTED TO QUANTUM, QUANTUM WILL, AS ITS SOLE RESPONSIBILITY AND LIABILITY AND AS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, USE COMMERCIALLY REASONABLE MEANS TO CORRECT SUCH DEFECT OR REFUND TO CUSTOMER THE SUMS PAID BY CUSTOMER FOR THE DEFECTIVE SERVICES.

8. Disclaimers, and Limitations on Liability

THE WARRANTIES EXPRESSED HEREIN ARE THE ONLY WARRANTIES MADE BY QUANTUM WITH RESPECT TO THE PRODUCTS AND SERVICES. QUANTUM DOES NOT WARRANT THAT THE PRODUCTS OR SERVICES WILL MEET ALL CUSTOMER REQUIREMENTS, OR THAT THEY WILL BE UNINTERRUPTED OR ERROR FREE. QUANTUM EXPRESSLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, OBLIGATIONS, LIABILITIES, CUSTOMER'S RIGHTS AND REMEDIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, ARISING BY LAW OR OTHERWISE INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING AND USAGE OF TRADE. IN NO EVENT SHALL QUANTUM BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES INCLUDING WITHOUT LIMITATION, LOSS OF USE, LOSS OR ALTERATION OF DATA, DELAYS OR LOST PROFITS OR SAVINGS RELATED TO THE PRODUCTS, THE USE OR LOSS OF USE THEREOF, EVEN IF QUANTUM IS AWARE OF THE POSSIBILITY OF SUCH

DAMAGES, AND EVEN IF THE EXCLUSIVE REMEDIES STATED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE. CUSTOMER'S RIGHTS AS STATED HEREIN ARE ITS EXCLUSIVE REMEDIES. EXCEPT FOR QUANTUM'S LIABILITY BASED UPON GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR A VIOLATION OF LAW, QUANTUM'S CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING IN CONNECTION WITH THESE TERMS AND CONDITIONS MAY NOT EXCEED THE MOST RECENT ANNUAL FEE OR THE PRICE PAID FOR THE PRODUCT. Quantum and their subsidiaries, directors, officers, employees and providers shall in no way be liable for any and all actions, causes of action, liability, claims, suits, judgments, liens, awards or damages of any kind and nature whatsoever (hereinafter referred to as “Claims”) for property damage, personal injury or death (including without limitation claims brought by and liabilities to employees of Customer or Quantum or to any other persons) and expenses, costs of litigation and reasonable attorneys fees related thereto, to the extent such claims arise from any negligent act or omission or willful misconduct of Customer or any of Customer's employees, agents, buyers or contractors (except for Quantum) arising out of or in any way relating to Quantum's presence on Customer's designated premises for the purposes of providing Services hereunder. No action, whether based on contract, strict liability, or tort, including any action based on negligence, arising out of the performance of services under these Terms and Conditions, may be brought by either party more than one (1) year after such cause of action accrued.

9. Proprietary Information

Pursuant to these Terms and Conditions, each party (the “disclosing party”) may occasionally provide the other (the “receiving party”) with its confidential and/or proprietary information (e.g., equipment, services, components, instruction manuals or installation information, trade secrets, know how, ideas, concepts and methodologies, customers, prices, operations and plans and data, etc.) (“Proprietary Information”). The receiving party acknowledges that use or disclosure of Proprietary Information of the disclosing party in any unauthorized manner will destroy its value to the disclosing party. Unless the disclosing party agrees otherwise in writing, the receiving party (including its employees, agents and contractors) (i) will not sell, disclose, copy or reproduce any Proprietary Information of the disclosing party; (ii) will only permit or allow access to Proprietary Information of the disclosing party to those employees or third parties who require such access in order to perform work on the disclosing party's behalf pursuant to these Terms and Conditions; (iii) agrees to protect the Proprietary Information of the disclosing party as carefully as it would protect its own proprietary information but never less than a reasonable standard of care; (iv) agrees to be responsible for any unauthorized use or disclosure of Proprietary Information of the disclosing party by any of its employees, agents or contractors; and (v) agrees to leave intact all copyright patent, trademark and similar notices in connection with the Proprietary Information of the disclosing party. The parties agree to return all Proprietary Information to the disclosing party upon the termination of these Terms and Conditions.

10. Intellectual Property

Customer agrees and acknowledges that Quantum, its suppliers and its licensors are the owners of all right, title and interest in and to Quantum-provided hardware and/or software, and all intellectual property therein, and that Customer shall not obtain or claim any ownership interest in any Quantum-provided hardware and/or software, and all intellectual property therein. Customer agrees and acknowledges that any Quantum hardware and/or software contains the valuable trade secrets and confidential information of Quantum, its suppliers and its licensors, which have been developed at great expense. Customer shall not (i) obscure, alter or remove any patent, copyright, trademark, or service mark marking or legend contained on or in any Quantum-provided hardware or software, (ii) use any Quantum-provided hardware or software except as licensed, or permit or enable any third party to make such use, unless Quantum provides its prior written consent to such use, (iii) copy, distribute or transmit all or any portion of any Quantum-provided hardware or software, (iv) have any other rights or licenses with respect to any Quantum-provided hardware or software, or any intellectual property therein, (v) cause or permit the disclosure, copying, renting, licensing, sublicensing, leasing, dissemination, transfer or other distribution of any Quantum-provided hardware or software by any means or in any form, without the prior written consent of Quantum. Customer shall not reverse engineer, decompile or disassemble any Quantum-provided hardware and/or software or otherwise reduce any Quantum-provided software to human readable form. Customer must provide access to Quantum to allow Quantum to remove any Quantum-provided hardware or software, when and if requested by Quantum.

11. Infringement Indemnification

Quantum will indemnify Customer for any damages and costs finally awarded against Customer on the grounds that the Products, in the form and condition delivered by Quantum to Customer hereunder, infringe any valid United States patents or copyrights of any third party, provided that Customer notifies Quantum in writing of any such claim within ten days after learning thereof and that Customer gives Quantum full control over the defense and settlement of the claim and fully cooperates with Quantum with respect thereto. If any such claim is brought or appears to Quantum likely to be brought, Quantum may at its option replace or modify the Products to make them non-infringing, obtain rights for Customer to continue using Products, or refund to Customer, upon the return of the Products at issue and termination of any licenses, the price paid there for, less twenty percent for each year which has passed since the date of delivery hereunder. Customer shall discontinue all use of any portion of the Products that has been replaced or modified or for which such a refund has been tendered. Quantum's obligations hereunder shall not apply to any claim based on Quantum's following Customer's specifications or requests, the use of the Products to practice a process not recommended by Quantum or in conjunction with items not supplied by Quantum, and Customer shall similarly indemnify Quantum with respect to any such claims. THE FOREGOING STATES QUANTUM'S SOLE RESPONSIBILITY, AND CUSTOMER'S SOLE REMEDY, FOR ANY INFRINGEMENTS OF ANY PROPRIETARY RIGHTS.

12. Indemnification by Customer

Customer shall defend (with counsel approved in advance in writing by Quantum), indemnify and hold Quantum, and its employees, agents, owners, affiliates and customers harmless from and against any and all actions, claims, damages, liabilities, and losses arising from (i) the use, sale, or manufacture by Quantum, Customer or any third party of any of the Products produced, in whole or in part, to Customer's specifications; or (ii) any breach hereof by, or any actions or omissions of Customer or its agents or contractors in connection with the Products or Services.

13. Import/Export/ Re-Export Compliance

Customer shall not unless otherwise authorized by the U.S. Government, supply Products to entities identified on restricted lists (such as Denied Parties List, Debarred Parties, Specially Designated Nationals, Terrorists, Narcotics Traffickers, Blocked Persons and Vessels, or Entity List). Customer shall not ship or transfer Product, either directly or indirectly, to the countries identified as restricted in the U.S. Export Administration Regulations, without written approval from the United States Bureau of Industry and Security. Customer will comply with the export and re-export restrictions set forth in any export license (if applicable) or license exception used to ship Products. Terms of sale or other specific agreement will denote the Importer of Record. Importer of Record shall not violate any import laws, rules, or regulations of the United States and/or any other applicable country. Importer of Record is responsible for all Customs duties and other Customs related fees. Importer of Record is eligible for duty drawback rights to the Products. Quantum shall mark each Product with the country of origin in compliance with the marking requirements of the United States.

14. Excluded Uses

Customer acknowledges that Products are not designed, manufactured or intended for use in connection with the design, construction, maintenance or operation of any nuclear facility, life support system, aircraft, or aircraft communication, control or ground support system. Quantum will have no liability for any claims or damages arising from such use, and Customer will indemnify, defend (with counsel approved in advance in writing by Quantum) and hold harmless Quantum against any and all claims, costs, damages, expenses and liabilities arising out of or in connection with any such use.

15. Software License

Any software Products acquired hereunder are licensed, not sold, to Customer by Quantum and/or its licensors under the terms of the license agreement included within the software or the software package for use solely on the Designated System. Use of Software beyond the Designated System (i.e. exceeding the number of clients or capacity designated at the time of sale) shall constitute violation of the License. If used or acquired by the U.S. government, then the U.S. government acknowledges that (a) the software constitutes “commercial computer software” and accompanying documentation constitutes “commercial computer software documentation” for purposes of 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-3, as applicable, and (b) the U.S. government's rights are limited to those specifically granted to Customer pursuant to said license agreement. The contractor/manufacturer is Quantum, 1650 Technology Drive, San Jose, CA 95110.

16. Services

16.1 Definitions

In addition to terms defined elsewhere in these Terms and Conditions, the following terms will have the following specified meanings when used throughout these Terms and Conditions: "Business Day" means any day except a weekend day or a holiday observed by Quantum; "Business Hours" means hours between 8:00 a.m. and 5:00 p.m. local time on a Business Day; "Critical Error" means any Software Error that is an emergency condition and that causes the Software to completely fail to function in accordance with its applicable Documentation and where there is no work-around to temporarily resolve or lessen the problem; "Designated System" means the specific capacity, hardware, workstations, servers, and/or devices enabled by one instance or copy of Software that is specified by Quantum at the time the Software is licensed; "Documentation" means technical manuals describing the operation and use of Software; "Error" means any reproducible failure of the Software to substantially comply with its specifications as set forth in the applicable Documentation; "Feature Upgrades" means Software changes resulting in new functionality or features and for which Quantum separately charges its customers in the normal course of its business. "Firmware" means software that resides in or is embedded in hardware, such as programmable read-only memory, and is not separately licensed by Quantum; "Major Error" means any Software Error that causes one or more material components of the Software to fail to function as specified in its applicable Documentation; "Minor Error" means any Software Error that is not a Major Error that causes one or more components of the Software to fail to function as specified in its applicable Documentation; "Other Services" means services requested by Customer that are excluded or not provided by these Terms and Conditions as part of Support Services; "Release" means changes to Software that Quantum designates as bug fixes, or as minor or incremental updates; "Support Contract" means an agreement governed by these Terms and Conditions for Quantum to provide Support Services on designated Product. "Support Services" means repair, adjustments, and part replacements for the covered Quantum Product to bring Product in compliance with Product warranty, or as Quantum deems necessary due to normal Product usage during the Support Term. Support Services do not include services identified as Other Services; "Software" means the Quantum branded software designated at the time of sale and sold and licensed separately for a Designated System. Software does not include any third party software; and "Support Term" means the period of the fully paid Support Contract.

16.2 Selection of Provider

Quantum shall determine, in its sole and absolute discretion, whether Quantum will provide the Support Services to Customer or whether Quantum will select a third party subcontractor to perform the Support Services. All requests for Support Services or communication regarding status or maintenance of the Product shall be made to Quantum.

16.3 Support Contract Term and Termination

Support Contracts will commence upon issuance of a purchase order by Customer, and will continue for the duration of the purchased Support Term unless and until terminated in accordance with the terms herein. With the exception of warranty service provided hereunder, either party may terminate the Support Contract at any time for convenience by giving the other party ninety days written notice of termination. If Customer terminates the Support Term for convenience, it shall pay Quantum for all services performed and expenses incurred through the date of termination, and Quantum will refund to Customer that portion of the fee paid by Customer for the balance of the then-current Support Term. If a multi-year discount was given, the prepay discount shall be added back into the contract price and then a credit will be derived based on the list price. Quantum will not be obligated to provide any Support Services, Releases, or other support after the end of the Support Contract. If either party commits a material breach of or default, then the other party must give the other party a reasonable opportunity to cure the breach or default. If the other party fails to timely cure the specified breach or default, then the Support Term will terminate upon receipt of notice of termination.

16.4 Hardware Support Services

The level of service provided during the warranty period for each hardware Product can be found at www.Quantum.com. Uplifted and/or extended Support Services shall be available for purchase, and provided on an on-call basis in accordance with the level of Support purchased by the Customer. Support for hardware Products may be purchased at the following levels subject to regional availability and Product applicability (more details available at www.Quantum.com or from your Quantum service sales representative):

Rapid Exchange	Advance replacement of Product once problem has been diagnosed. Product is shipped within two Business Days after diagnosis.
CRU/FRU	5x9 telephone support (Monday-Friday, 8AM-5PM local time). Next Business Day CRU delivery. CRU replacement by Customer. Next Business Day onsite FRU replacement by Quantum.
Bronze	5x9 telephone support (Monday-Friday, 8AM-5PM local time). Next Business Day response for on-site support. CRU/FRU replacement by Quantum.

Silver	5x9 telephone support (Monday-Friday, 8AM-5PM local time). On-site support Monday through Friday with a four-hour target response time after remote problem diagnosis. CRU/FRU replacement by Quantum.
NBD Gold	7x24 telephone support (Monday to Sunday, 24 hrs). Next Business Day on-site support. CRU/FRU replacement by Quantum.
Gold	7x24 telephone support (Monday-Sunday, 24 hours). On-site support provided 7x24 with a four-hour target response time after remote problem diagnosis. CRU/FRU replacement by Quantum.
Platinum	Customized support plan. Provides for 7x24 telephone support (Monday-Sunday, 24 hours). On-site support provided 24x365 with a two-hour target response time after remote problem diagnosis. CRU/FRU replacement by Quantum.

During the term of the applicable Product warranty and/or Support Term, Quantum will provide Support Services to Customer. The Support Services shall include unscheduled, on-call Support Services during the hours specified above for the level of Support purchased (“Designated Working Hours”), provided after receipt of notice from Customer that Product is malfunctioning or otherwise appears to require support and after Quantum technical support has determined that an on-site visit is necessary. Support on additional equipment is not covered by these Terms and Conditions. Service on a Quantum recognized holiday will be deferred to the next Quantum Business Day unless 7x24 support is purchased. Recognition of holidays is per custom in each country. A list of Quantum holidays is available upon request from your local service representative. The above reference time frames shall not apply to delivery of non-critical spare parts to remote locations.

16.4.1 Part Replacement

Replaceable parts (as determined by Quantum) shall be designated as either a Customer Replaceable Unit (“CRU”) or a Field Replaceable Unit (“FRU”). CRU's shall be replaced by Customer unless CRU replacement by Quantum is purchased pursuant to a Support Contract. FRU's shall be replaced by Quantum. Replacement parts shall be either new or reconditioned, and shipped or replaced in accordance with the terms of the level of service purchased. The Product or parts of Product that are removed or replaced, either by Customer or Quantum will become property of Quantum and returned to Quantum. All replacement parts shipped to Customer shall be shipped DAP Customer site in accordance with INCOTERMS 2010. All replaced parts returned to Quantum by Customer shall be shipped DAP designated Quantum return facility in accordance with INCOTERMS 2010. Risk of loss while parts are in the care, custody, and control of Customer shall be with Customer. Damage to or loss of parts shall be valued at Quantum's replacement cost. IN ORDER TO HAVE ACCESS TO SPARE PARTS, PRODUCT MUST BE COVERED UNDER WARRANTY OR A THEN-CURRENT SUPPORT CONTRACT.

16.4.2 Exclusions

Hardware Support Services do not include: (a) installation or maintenance of any device not quoted by Quantum, including but not limited to wiring, electrical conduits, peripherals, or accessories; (b) replacement of parts and/or services to repair damage resulting from accident, neglect or misuse on the part of a party other than Quantum, or modification of Product not approved, authorized or directed by Quantum; (c) replacement of parts and/or services to repair damage resulting from any act of God, including but not limited to storms, fires, floods, and earthquakes; (d) replacement of parts and/or services to repair damage caused by failure to provide or maintain adequate or appropriate electrical power, air conditioning, humidity controls, electrical surge protection, or other facilities or environmental conditions unless such failure is caused by the negligent act or omission of Quantum; (e) replacement or reconditioning of Product which Quantum reasonably believes cannot be reliably maintained or repaired because of excessive wear or deterioration not resulting from any negligent act or omission on the part of Quantum; (f) replacement of parts or repair required because Customer or third parties (excluding Quantum), without the approval, authorization, or direction of Quantum, performed services on, modified, adjusted, or moved Product; (g) services in connection with removal, relocation or reinstallation of Product; (h) furnishing or replacing expendable supplies, including media such as cassettes, unless damaged by Quantum; (i) services on Product which Customer has moved without notifying Quantum pursuant to Section 1.5; (j) services performed outside of Designated Working Hours or after the term of these Terms and Conditions; provided, however, that if Quantum begins to perform services which would otherwise be covered Support Services less than two hours before the end of Designated Working Hours, the first two hours immediately following Designated Working Hours are considered covered by these Terms and Conditions; (k) services requested after unauthorized resale, transfer, or other assignment (actual or constructive) of Product to an entity other than Customer; and (l) services required as a result of use of the Product beyond its rated capacity or not in accordance with specifications. WITH THE EXCEPTION OF EVENTS SPECIFIED IN (A), (G), (H), AND (J) ABOVE, THE OCCURRENCE OF ANY OF THESE EVENTS SHALL RENDER THE WARRANTY VOID AND/OR SUBJECT AN EXTENDED SUPPORT CONTRACT TO TERMINATION.

16.4.3 Movement of Product

If Customer plans to move the Product, or delete any part of the Product from a Support Services contract, Customer must provide Quantum with 30 days prior written notice. If Customer requests that Quantum dismantle, supervise, inspect, remove or reinstall the Product as part of any move, Quantum will invoice Customer at Quantum's standard published daily rate for such services. Whether Product is moved by Customer or Quantum, Customer shall be responsible for shipment of Product to new location. Considering the new location of the Product, Quantum may, in its sole discretion: (i) continue performance of Support Services with the condition that Customer is responsible for any additional mileage charges; (ii) terminate the Support Services contract; or (iii) designate a different provider. Movement of Product that is designated non-customer installable as designated by Quantum without notifying Quantum prior to the move, shall void the Product warranty and/or any then current Support Contract.

16.4.4 Customer Responsibilities

In addition to responsibilities for fees hereunder, Customer will be responsible for: (a) properly using and controlling access to the Product; (b) permitting Quantum's access to Customer's facilities consistent with Customer's security and operational requirements; (c) promptly notifying Quantum if Customer becomes aware of any unsafe conditions or hazardous materials to which Quantum's personnel may be exposed at any of Customer's facilities; (d) complying with all applicable government laws and regulations; (e) providing prompt notice to Quantum of any malfunction or request for services for the Product; and (f) providing full and accurate Product and service installation descriptions as necessary to allow Quantum to fulfill its duties hereunder.

16.4.5 Firmware

Changes to Firmware which Quantum designates as bug fixes, improvements, or incremental updates are covered under the terms of these Terms and Conditions. The Customer is required to maintain the product at no more than one Firmware revision removed from current production Firmware level to ensure proper operation and servicing for the product. The Customer may be required to upgrade Firmware to latest released level prior to making any CRU or FRU replacements. Quantum will provide Customer with access to non-billable library updates and bug fixes through Quantum's web site for Product under warranty or current Support Contract. Firmware changes that Quantum designates as upgrades, and for which Quantum normally charges its customers, will be provided to Customer for the applicable fee. Quantum will provide Customer with information on any upgrade charges prior to installation of the upgrade. Quantum will also be willing to perform the Firmware upgrade when allowed remote access to the customer's system through the Remote Management Utility (“RMU”). At Quantum's discretion and upon prior notice to Customer, an additional fee may be levied for Firmware upgrades requiring an onsite visit, either as a result of a library not having an RMU, or as a result of Customer's request.

16.5 Software Support Services

The level of service provided during the warranty period for each Product can be found at www.Quantum.com. Uplifted and/or extended Support Services shall be available for purchase, and provided on an on-call basis in accordance with the level of Support purchased by the Customer. Support for Software Products may be purchased at the following levels subject to regional availability and Product applicability (more details available at www.Quantum.com or from your Quantum service sales representative):

Silver	5x9 telephone support (Monday-Friday, 8AM-5PM local time).
Gold	7x24 telephone support (Monday-Sunday, 24 hours).
Platinum	Customized support plan. Provides for 7x24 telephone support (Monday-Sunday, 24 hours).

16.5.1 Telephone Support

Quantum will provide telephone support to assist Customer in the use of the Software during regular Business Hours. Telephone support will include the following: (i) assistance in identifying and verifying causes of suspected Errors; (ii) work-arounds for identified Errors; (iii) assistance related to questions regarding Software installation and configuration; and, (iv) assistance related to questions regarding differences between Software versions. Upon purchase of upgraded 7x24 Support Services, Quantum will also provide telephone support during non-Business Hours on Critical Errors only, including holidays.

16.5.2 Error Corrections

Quantum will use commercially reasonable efforts to correct any Errors reported by Customer (e.g., by providing a workaround or correction in a Release). If Customer encounters an Error with the Software, Customer must sufficiently define the Error to Quantum so that Quantum can reproduce the reported Error. After receipt of any such written notice of an Error from Customer, Quantum will promptly notify Customer if Quantum cannot reproduce the Error. If Quantum cannot reproduce the Error, Customer will provide such additional information regarding the Error as Quantum may request in order to assist Quantum with reproducing the Error. Customer will provide a separate written notice for each Error encountered by Customer. In its notice of an Error, Customer will reasonably classify for Quantum the initial priority of the Error. Customer will use the nature of the Error and Customer's business circumstances to initially classify each Error. Customer will classify each Error as a Critical Error, Major Error or Minor Error. To the extent that Quantum disagrees with any Error classification provided by Customer, Quantum will promptly advise Customer of the revised classification of any Error.

16.5.3 New Releases and Feature Upgrades

During such periods that Customer purchases Support Services hereunder and pays all fees in connection therewith, Quantum will make available to Customer any and all new Releases at no additional charge to Customer. Customer will install any and all new Releases within a reasonable time after receipt of such new Release. Support is available only for the Release that is currently shipping and the immediately prior Release. Support for the immediate prior Release shall be available for no longer than 12 months after a new Release is generally available. Any new Release delivered to Customer under these Terms and Conditions will assume the Support Term of designated Software. Quantum will provide Customer with access to new Releases through Quantum's Web site (www.Quantum.com). These new Releases and/or patches will be customer installable, with technical assistance available from Quantum's Technical Assistance Center. New Releases containing Feature Upgrades will be available without cost under this section, but will not contain the functionality of the Feature Upgrade unless the Feature Upgrade is purchased at Quantum's then-current list price. Quantum will provide Customer with information on any Feature Upgrade charges prior to installation or activation of the Feature Upgrade. Quantum on-site installation services for new Releases and/or Feature Upgrades shall be available to Customer for a fee, and shall be considered Other Services.

16.5.4 Exclusions

Software Support Services do not include: (i) physical installation or removal of the Software at or from any Customer site; (ii) visits to any Customer site; (iii) any electrical, mechanical or other work with hardware, accessories or other devices associated with the use of the Software; or, (iv) any work with any third party equipment or software. Quantum has no obligation to correct any Error resulting from: (i) use not in accordance with these Terms and Conditions or the Documentation; (ii) modification, damage, misuse or other action of Customer or any third party; (iii) combination of the Software with any goods, services or items provided by Customer or any third party; or (iv) any failure of Customer to comply with these Terms and Conditions or Documentation. Quantum will not be responsible for correcting Errors if Customer fails to implement any Error correction or Releases made available by Quantum.

16.5.5 Customer's Responsibilities

Upon Quantum's request, Customer will provide Quantum remote access to Customer's computer systems as reasonably required for Quantum to perform the Support Services and its other obligations hereunder. Except as otherwise set forth in these Terms and Conditions, Customer will provide all hardware, software, services and other items necessary to operate the Software.

17. Notices

All notices, demands, and other communications called for or required by these Terms and Conditions shall be in writing and shall be addressed to the parties at their respective corporate headquarter addresses or to such other address as a party may subsequently designate by ten days' advance written notice to the other party except as otherwise provided in these Terms and Conditions.

18. Integration and Modifications

Each party acknowledges that it has read these Terms and Conditions, understands it, and agrees to be bound by it. The parties further agree that these Terms and Conditions are the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof, and that it supersedes and merges all prior proposals, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof. Any provisions or conditions of any purchase order or other document submitted by Customer which are in any way inconsistent with or in addition to the terms and conditions set forth in these Terms and Conditions rejected and shall not be binding upon Quantum. No waiver or modification of these Terms and Conditions or of any provision contained herein shall be valid unless in writing and duly executed by Quantum and Customer.

19. Choice of Law

These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of California, USA without regard to any conflict of laws rules thereof. In the event of any dispute arising under these Terms and Conditions, the parties agree to the exclusive jurisdiction of the courts located in Santa Clara County, California. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

20. Severability and Waiver

In the event that any provision of these Terms and Conditions is held to be invalid, illegal, or unenforceable, such provision shall be enforced to the maximum extent permitted by applicable law and the remaining provisions shall continue in full force and effect. Failure or delay on the part of any party in exercising any rights, power, or privileges under these Terms and Conditions shall not be deemed a waiver of any exercise of any right, power or privilege.

21. Force Majeure

Neither party will be liable hereunder for, or be considered to be in breach of or default under these Terms and Conditions on account of, any delay or failures to perform as required by these Terms and Conditions if such delay or failure is due in whole or substantial part to causes or conditions beyond such party's reasonable control which render timely performance hereunder commercially impracticable, including without limitation strikes, riots, wars, government regulations or acts, acts of God or the elements, fire, flood, material shortages or other causes. The existence of such causes of delay shall justify extension of the time of performance to the extent reasonably necessary to enable such party to satisfy its obligation hereunder after the cause of delay has been removed.

22. Assignment

Neither party may assign its benefits or delegate its obligations under these Terms and Conditions without the advance written consent of the other party unless in the context of a sale of all or substantially all of the assigning parties' assets to another entity who is not a competitor to the non-assigning party and who has a reasonably acceptable credit rating.

Made in the USA. Quantum Corporation provides this publication “as is” without warranty of any kind, either express or implied, including but not limited to the implied warranties of merchantability or fitness for a particular purpose. Quantum Corporation may revise this publication from time to time without notice.

COPYRIGHT STATEMENT

© 2011 Quantum Corporation. All rights reserved. Your right to copy this manual is limited by copyright law. Making copies or adaptations without prior written authorization of Quantum Corporation is prohibited by law and constitutes a punishable violation of the law.

TRADEMARK STATEMENT

Quantum, the Quantum logo, DLT, DLTtape, the DLTtape logo, SuperLoader, Scalar, StorNext, and DXi are registered trademarks of Quantum Corporation, registered in the U.S. and other countries. Preserving the World's Most Important Data. Yours., Backup. Recovery. Archive. It’s What We Do., the DLT logo, DLTSage, Dynamic Powerdown, FastSense, FlexLink, GoVault, MediaShield, Optyon, Pocket-sized. Well-armored, SDLT, SiteCare, SmartVerify, StorageCare, Super DLTtape, and Vision are trademarks of Quantum. LTO and Ultrium are trademarks of HP, IBM, and Quantum in the U.S. and other countries. All other trademarks are the property of their respective companies. Specifications are subject to change without notice.