



## Sales and Support Terms and Conditions

These Quantum Sales and Support Terms and Conditions ("Terms and Conditions") set forth the terms governing the business transactions that Quantum Corporation (referred to in these Terms and Conditions as "we", "us" and "Quantum") may do with the entity listed on the applicable quote (referred to in these Terms and Conditions as "you" and "Customer"), including any of the following:

- (1) sale of hardware products or use of Quantum's Storage as a Service offering
- (2) licensing of software products
- (3) use of Software as a Service ("SaaS")
- (4) provision of professional services
- (5) provision of support services for Quantum's products

The agreement between the parties ("Agreement") is made up of these Terms and Conditions together with the applicable sales quotation referring to these Terms and Conditions and/or the applicable statement of work referring to these Terms and Conditions, and any Attachments (as defined herein) provided by Quantum that are applicable to any activities, services and/or software provided by Quantum to you.

### Part 1: General

The terms and conditions set forth in this Part 1 are applicable to all Products and Services provided by Quantum to Customer.

#### 1.1 Quote

We will issue a description of the Products and Services including the corresponding charges either on a Quote or as a "Statement of Work" defining the Products and Services to be delivered. To indicate your acceptance of the description of the Product or Services contained in the Quote or Statement of Work, you will issue a purchase order for the Services, within the validity period referred to above. You agree that your purchase order will not contain any additional or conflicting terms and conditions or modify the terms of these Terms and Conditions in respect of the Products and Services, and to the extent that terms and conditions are attached to your purchase order such terms will be deemed void. In consideration of payment by you of the charges, Quantum agrees to provide the Product and Services subject to these Terms and Conditions. Quantum does not warrant the accuracy of its Quotes in terms of sizing, configuration, cabling, porting, and other details specific to Customer's network.

## 1.2 Pricing Generally

Quotes and/or Statements of Works are valid for 30 days unless otherwise stated in the Quote or Statement of Work. After 30 days a new Quote and/or Statement of Work will be required, which may have increased charges. Customer will pay the charges for a particular Product or Service as specified in the applicable Quote or Statement of Work without the right to set-off. The Quote or Statement of Work will also set out the basis for the charges (e.g., one-time, or recurring fees). Customer is responsible to pay any federal, state, local or foreign sales or use taxes (including VAT), tariffs, customs, duties and other governmental charges, and shipping charges applicable to any Products and Services, and Quantum's pricing is exclusive of any such fees.

## 1.3 Price Increases

We may increase recurring charges for Products provided to you under these Terms and Conditions by giving you 3 months' prior written notice, unless otherwise agreed to in a Quote or a Statement of Work. Price increases in recurring charges may occur under any given Quote no more than once per calendar year. If the recurring charges arise under Quote or Statement of Work whose term has less than one year remaining, no price increases will be permitted. An increase applies on the first day of the applicable invoice period on or after the effective date we specify in the notice, but in no event will such increase be effective prior to the date that is 3 months after your receipt of the notice.

We may increase one-time charges and hourly rates by giving you 3 months' prior written notice, unless otherwise agreed to in a Quote or Statement of Work. However, an increase to one-time charges does not apply to you if we receive your order before the effective date of the increase specified in such notice.

If you disagree with any proposed increase in charges, you may terminate the affected Quote or Statement of Work upon written notice to us and pay us only for the Services used up to and including the date of such termination, unless we agree not to increase the charges.

Quantum reserves the right to charge a surcharge for certain Products and/or Services included in a Quote or Statement of Work. Such surcharge will be clearly identified on the Quote or Statement of Work and will not be deemed a price increase under this Agreement.

## 1.4 Payment

For purchases made directly to Quantum, Customer will either prepay or complete a credit application requesting payment terms. Customer must make payment in full within 30 days from the date of the invoice in US dollars. Payment terms are not guaranteed and are subject to approval and ongoing credit history and timely receipt of payment. Customer purchases from a Quantum Authorized Reseller must be paid by the Customer pursuant to the payment terms between the Customer and the Reseller. Quantum reserves the right to charge interest on overdue amounts at the statutory rate. Quantum reserves the right to provide time limited access to any Products and / or suspend any remaining Services until charges are received.

## 1.5 Excluded Uses

Customer acknowledges that Products and Services are not absolutely fault-tolerant, and are not designed for use in or resale into hazardous environments requiring fail-safe performance in which the failure of the products could lead directly to death, personal injury or severe physical or environmental damage such as, but not limited to, the operation of nuclear facilities, aircraft navigation or communication systems, direct life support systems, critical safety systems, medical devices, weapons systems or satellite equipment ("high-risk activities"). Quantum disclaims any express or implied warranty of fitness for high-risk activities. Quantum will have no liability for any claims or damages arising from high-risk activities, 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.

## 1.6 Classified Environments

Purchases of Products or Services (of any kind) to be located, utilized or performed in US federally classified environments, and requiring response or services by cleared personnel, must be supported by a DD254 which must be generated by the prime contractor or the appropriate US Government Agency and issued to Quantum before Products or Services can be provided. Failure to do so may result in a delay of or inability to provide service for which Quantum will not and does not assume liability. You will, at or before the time of purchase, (1) confirm to Quantum whether classified environments are involved, (2) if so, that a DD254 will be issued, and (3) provide the name and contact information for the responsible prime contractor contracting Officer.

## 1.7 Limited Product Warranty

Subject to the limitations set forth below, Quantum warrants to the Customer that Products (excluding media) will perform in accordance with Quantum's published Product specifications, commencing at the time of shipment and for the duration published by Quantum and specified in the Product warranty information table in the Attachment available at [www.Quantum.com](http://www.Quantum.com), and as updated from time to time. Quantum warrants that media Products will be free from defects in material and manufacture at the time of purchase. Subject to any non-excludable rights that you may have under the laws in your country, Customer's sole and exclusive remedy should a Product fail to perform according to specifications, is repair, replacement, or acceptance of return of the defective Product at Quantum's sole discretion.

## 1.8 Disclaimer of Warranty

Quantum will use commercially reasonable efforts to deliver the Services and Products on a timely basis (subject to availability of personnel and the size and complexity of the Services), but with respect to the delivery of the Products and Services, time will not be of the essence and Quantum will not be liable for any failure to perform the Services or deliver the Products according to estimated timeframes. Any warranties provided by Quantum under these Terms and Conditions will be voided if the Product is not properly installed, used, or modified by a person other than Quantum or a Quantum authorized service provider. This clause is subject to any non-excludable rights that you may have under the laws in your country. The warranties expressed in these Terms and Conditions 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.

## 1.9 Limitations on Liability

Quantum (including its subsidiaries, directors, officers, employees and providers) is not 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, revenue or savings, 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 Claims arising from acts of gross negligence or willful misconduct and Quantum's obligation to indemnify Customer for third-party infringement Claims as set forth in Section 1.12, Quantum's cumulative liability for any Losses arising from Claims in connection with the Products or Services may not exceed an amount equal to the charges paid by Customer in the prior twelve (12) months for the Product or Service giving rise to the claim of liability. Quantum and its subsidiaries, directors, officers, employees and providers will not be liable for any and all Losses arising from any Claims for property damage, personal injury or death arising out of or in any way relating to Quantum's presence on Customer's designated premises for the purposes of providing Services to the extent such Claims arise due to any negligent act or omission or willful misconduct of Customer or any of Customer's employees, agents, buyers or contractors (except for Quantum). No action, whether based on contract, strict liability, or tort, including any action based on negligence, arising out of the performance of Services or the Products, may be brought by either party more than one (1) year after such cause of action accrued.

### 1.10 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, product roadmaps, 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, confidentiality and similar notices in connection with the Proprietary Information of the disclosing party. The receiving party agrees to return all Proprietary Information to the disclosing party upon the termination of these Terms and Conditions. Without limitation, Quantum’s prices to Customer are its Proprietary Information. Proprietary Information excludes information that: (A) is or becomes generally known to the public; (B) was known to the receiving party prior to its disclosure by the disclosing party without breach of any obligation to the disclosing party; (C) is received from a third party without breach of any obligation to the disclosing party; (D) was independently developed by the receiving party, subject to Quantum’s Intellectual Property Rights set forth in this Agreement; or (E) is usage metrics regarding the Services in an aggregate form and not attributable to the disclosing party.

### 1.11 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 Products and Services, and all Intellectual Property Rights therein, and that Customer will not obtain or claim any ownership interest in any IP in any the Products or Services. Any Intellectual Property Rights created in connection with the Products and Services will belong to and vest in Quantum. Customer will not (i) obscure, alter or remove any patent, copyright, trademark, or service mark marking or legend contained on or in any Products or Services, (ii) use any Products or Services except as permitted under these Terms and Conditions or an Attachment, (iii) permit or enable any third party to use Products or Services, unless Quantum provides its prior written consent to such use, (iv) copy, distribute, or transmit all or any portion of any Products or Services except as expressly permitted, (v) cause or permit the disclosure, copying, renting, licensing, sublicensing, leasing, dissemination, transfer or other distribution of any Products or Services by any means or in any form, without the prior written consent of Quantum.

### 1.12 Infringement Indemnification

Quantum will indemnify Customer for any damages and costs finally awarded against Customer as a result of any third-party Claims that the Products or Services, in the form and condition delivered by Quantum to Customer hereunder, infringe any valid patents or copyrights of any third party, provided that Customer notifies Quantum in writing of any such third-party Claim within ten (10) days after receiving notice of the commencement or threatened commencement of a claim 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 (1) replace or modify the Products or Services to make them non-infringing, (2) obtain the necessary rights for Customer to continue using Products or Services. If Quantum notifies Customer that is not able to achieve either sub-clause (1) or (2) using commercially reasonable efforts, then Quantum may (A) with respect to Software Products, terminate the license for affected Software Product refund to Customer any prepaid and unused support fees paid by Customer, or (B) with respect to Hardware Products only, obtain a refund from Quantum, upon the return of the Hardware Products at issue, in an amount equal to the price paid for such Hardware Product, less 20% for each year which has passed since the date of delivery hereunder. Customer must immediately discontinue all use of any portion of the Products or Services that has been replaced or modified or for which such a refund has been tendered. Quantum’s obligations hereunder will not apply to any Claim based on (I) Quantum’s following Customer’s specifications or requests, (II) Customer’s use of the Products or Services to practice a process not recommended by Quantum, (III) Customer’s use of Products or Services in a way that is illegal, unethical, or immoral, or (IV) in conjunction

with items not supplied by Quantum, and Customer will 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.

### 1.13 General Compliance with Laws

Each party will comply, and will cause each of its employees, agents and subcontractors to comply, with the laws of all governmental authorities and all governmental regulations to the extent such laws are applicable. Each party will also obtain all required regulatory approvals, licenses and permits. Quantum's privacy policy can be found at [www.quantum.com](http://www.quantum.com).

To the extent Customer or any of its users of the Services or Products transfers or otherwise makes available "personal information" (as defined in the Quantum Data Processing Addendum) to Quantum for the performance of Quantum's obligations under this Agreement, the Quantum Data Processing Addendum, which is available at [www.quantum.com](http://www.quantum.com), is incorporated by reference in and forms an integral part of this Agreement.

### 1.14 Import/Export/Re-Export

You will not, unless otherwise authorized by the U.S. Government, supply Products or enable use of Services 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 will not ship or transfer Product or enable use of Services, either directly or indirectly, to the countries identified as restricted in the U.S. Export Administration Regulations, without written approval from the U.S. Government 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 or enable use of Services. Terms of sale or other specific agreement will denote the Importer of Record. Importer of Record will 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 or Services. Quantum will mark each Product with the country of origin in compliance with the marking requirements of the United States.

### 1.15 Third-Party Product

Any Products sold to Customer by Quantum that are the branded product of a third party ("Third-Party Products") will be identified under the third-party brand on the Quote, and will be warranted directly to Customer by the third party. Any Third-Party Products will be subject to the terms of use accompanying the product or otherwise distributed by the third party. Certain Third-Party Product documentation is available at [www.Quantum.com](http://www.Quantum.com). Notwithstanding any provision herein, subject to any non-excluded rights that you may have under the laws in your country, Quantum makes no representations or warranties regarding Third-Party Product, and has no ongoing obligations to Customer for the support or maintenance of Third-Party Product. Third-party software licensed by Quantum and embedded in Quantum branded Products and not separately licensed will not be considered Third-Party Products.

If you require Quantum to use any third-party software (including audio or video codecs) in connection with the Services, you warrant and represent that it you are authorized and licensed to use the software, and that you have obtained all authorization(s), licenses and consents required for Quantum to use it on your behalf. You will be solely responsible for the operation and integration of such third-party software and will ensure any third-party software does not harm your devices or their operation. You will indemnify Quantum for any damages and costs finally awarded against Quantum as a result of any claims from a third-party software provider that the third-party software, in the form and condition delivered by Customer to Quantum hereunder, infringes any valid patents or copyrights of any third party, provided that Quantum notifies Customer in writing of any such third-party claim within 10 days after receiving notice of the commencement or threatened commencement of a claim and that Quantum gives Customer full control over the defense and settlement of the claim and fully cooperates with Customer with respect thereto.

### 1.16 Reseller Provisions

If Customer has been authorized to resell Product and/or Services through Quantum's channel partner program ("Reseller"), and has not otherwise executed an agreement with Quantum to do so, the terms specified in this Section 1.16 will also apply, as well as any terms and conditions associated with Quantum's channel partner registration process.

### 1.16.1 Order Process

Reseller must follow Quantum's designated order process and provide buyer, end-user, Customer, and/or licensee information as required by Quantum.

### 1.16.2 Export Controls

Reseller agrees to comply with all applicable export and reexport control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce and trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC"). Reseller will not -- directly or indirectly -- sell, export, reexport, transfer, divert, or otherwise dispose of Products to any destination, entity, or person prohibited by the laws or regulations of the United States or any other applicable jurisdiction, without obtaining prior authorization from the competent government authorities as required by those laws and regulations. Without limiting the foregoing, Reseller agrees to comply with the following:

- a) Reseller will not sell, export, reexport, transfer, divert, or otherwise dispose of Products to prohibited End-Users (as listed on a government maintained list, such as the list of Specially Designated Nationals, the Entity List, Denied Parties Lists, and the List of Debarred Parties) or prohibited destinations (including Cuba, Iran, North Korea, Sudan, Syria, and the Crimea region of the Ukraine).
- b) Regardless of any disclosure made by Reseller to Quantum of an ultimate destination of Products, Reseller will not directly or indirectly export or re-export Product without first obtaining, at the Reseller's sole risk and expense, any and all required licenses from the Bureau of Industry and Security ("BIS") at the U.S. Department of Commerce (or its successor), OFAC and any other governmental agency having jurisdiction.
- c) Reseller will inform Customers or any third party to whom Reseller ships Products that such Products are subject to export laws and regulations of the U.S. and applicable foreign countries.
- d) Terms of sale or other specific agreement will denote the Importer of Record. Importer of Record will comply with all applicable import laws, rules, and 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 Product.
- e) Reseller agrees to indemnify, to the fullest extent permitted by law, Quantum from and against any and all fines, penalties, liabilities or other costs incurred for any reason arising from or connected with any such violation. This export control clause will survive termination or cancellation of this Agreement.

### 1.16.3 Ethical and Lawful Behavior

Reseller will:

- a) At all times comply with all applicable laws and regulations.
- b) Fully comply with any and all applicable laws or regulations regarding the prevention of bribery and corruption, including but not limited to the United States Foreign Corrupt Practices Act of 1977, as amended, the United Kingdom Bribery Act, the United Nations Convention Against Corruption, the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and any similar local, regional, national, or international requirements (collectively "Anticorruption Requirements"). Reseller will not provide anything of value to any government official or employee, directly or indirectly, in connection with its relationship with Quantum without the prior written consent of the Company. Reseller represents that it is in compliance, and warrants that it will at all times comply, with Anticorruption Requirements, and will make no unlawful payment, bribe, payoff, rebate, or other illegal provision to any person. Reseller agrees to permit reasonable inspection of its books and records for audit purposes. If Reseller commits, or if Quantum in good faith believes that Reseller has committed, an action that may result in any violation of Anticorruption Requirements, Quantum will have

the right to immediately terminate this agreement as a termination for cause, and Reseller will indemnify Quantum for any and all costs Quantum incurs in relation to such action. Reseller acknowledges and agrees that it has no authority to obligate Quantum to third parties except as approved in writing by Quantum.

- c) Refrain from (1) paying or giving any salaries, commissions, fees, payments or rebates, to any employee or officer of Quantum, or to any designee of any such person; or (2) favoring any employee or officer of Quantum, or any designee of any such person, with gifts or entertainment of significant cost or value or with service or goods sold at less than full market value.

#### 1.16.4 Licensing and Terms of Sale

Reseller will:

- a) Fully comply with all End-User License Agreements accompanying Software and ensure that Product is distributed only to persons or entities that have reviewed and agree upon the applicable End-User License Agreement available at [www.Quantum.com](http://www.Quantum.com).
- b) Ensure that Product is distributed only to persons or entities that have received and agree upon the Quantum Sales and Support Terms and Conditions contained herein and available at [www.Quantum.com](http://www.Quantum.com). Reseller will not, under any circumstances, make any representations or warranties to any End-User or other person or entity that are inconsistent with or in addition to the warranties and representations contained in the Quantum Sales and Support Terms and Conditions.
- c) Ensure that prior to or at the time of sale, the Designated System for which Software is licensed is described with the specificity designated by Quantum to the End-User and/or purchaser. Reseller will ensure that end-users comply with the terms of applicable End-User License Agreements and use of the Software on only the Designated System within the capacity purchased. Reseller will not enable unauthorized use of Software and will report any unauthorized use to Quantum immediately.
- d) Ensure compliance with Open Source Software (“OSS”) Licenses. Reseller acknowledges that Software may contain OSS and OSS is licensed separately pursuant to the applicable Open Source License. Reseller’s use, resale, and distribution of Software containing OSS will be subject to and Reseller agrees to comply with the applicable restrictions and other terms and conditions of the applicable Open Source License.

#### 1.16.5 WEEE Directive

Reseller will be considered a “producer” within the meaning of the Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (the “WEEE Directive”) and will assume all responsibilities that the WEEE Directive as well as any law or regulations of any member state of the European Union, enacted in connection with such directive, impose on a producer including but not limited to the responsibility to finance and provide for the collection, treatment, and environmentally sound disposal of equipment subject to the WEEE Directive. If Reseller fails to comply with such responsibilities, Reseller agrees to, and does hereby, indemnify and hold Quantum harmless from and against any and all loss, cost, expense, or liability of any kind or nature whatsoever, including without limitation reasonable attorneys’ fees, that Quantum may suffer or incur as a result of or in connection with any claim which is based on a producer’s obligations and responsibilities under the WEEE Directive.

#### 1.17 Notices

All notices, demands, and other communications called for or required by these Terms and Conditions will be in writing and will be addressed to the parties at their respective corporate headquarter addresses or to such other address as a party may subsequently designate by 10 days’ advance written notice to the other party except as otherwise provided in these Terms and Conditions.



### 1.18 Integration and Notification

If you have previously negotiated and executed a reseller, distributor, master purchase, master services, or a similar agreement setting forth terms of purchase of Products and/or Services from Quantum by Customer which is in effect at the time of this purchase, that agreement will take precedence over these Terms and Conditions; provided that the agreement addresses substantially similar Products and Services as these Terms and Conditions. The parties 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 they supersede and merge all prior proposals, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof. Any Attachments applicable to Products and Services ordered by Customer are hereby incorporated by reference and to the extent the terms of the Attachments conflict with these Terms and Conditions, the terms of the Attachments prevail.

No waiver or modification of these Terms and Conditions or of any provision contained herein will be valid unless in writing and duly executed by Quantum and Customer.

### 1.19 Choice of Law

These Terms and Conditions are 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 will not apply.

### 1.20 Severability and Waiver

If any provision of these Terms and Conditions is held to be invalid, illegal, or unenforceable, such provision will be enforced to the maximum extent permitted by applicable law and the remaining provisions will 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 will not be deemed a waiver of such right, power or privilege.

### 1.21 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, pandemics government regulations or acts, acts of God or the elements, fire, flood, material shortages or other causes. The existence of such causes of delay will 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.

### 1.22 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.

## Part 2: Hardware Products

The terms and conditions in this Part 2 are only applicable to Hardware Products. If Customer receives a Quote for "Storage as a Service" or "StaaS", then Customer's right to use the StaaS provided to you by Quantum will be subject to and conditioned upon your acceptance of the terms and conditions of the StaaS-specific attachment ("StaaS Attachment"), available at [www.quantum.com](http://www.quantum.com). To the extent that any terms in the StaaS Attachment conflict with the terms of these Terms and Conditions, the terms of the StaaS Attachment take precedent.



Delivery of purchased Hardware Products will be FCA Quantum's manufacturing facility (INCOTERMS 2010). Title and risk of loss or damage to the Hardware Products will shift to you upon release to the initial carrier for holding or shipment. Customer grants Quantum a purchase-money security interest in all Hardware Products to secure payment of the purchase price and any other charges due to Quantum.

If delivery of the Hardware Products to the initial carrier is delayed in excess of 20 Business Days from the designated delivery date, you may cancel the order involved upon notice to Quantum prior to shipment. This cancellation right is your sole remedy for any delay or failure in delivery by Quantum. Any purchase you make of Hardware Products from a Quantum Authorized Reseller will be shipped pursuant to the terms between the you and the Quantum Authorized Reseller.

Other than cancellations due to delay in delivery, you may cancel an order, or any portion of any order, for standard Hardware Products at any time if you provide the cancellation notice at least 30 days before the scheduled shipment date, subject to Quantum's prior written approval. Any orders cancelled due to reasons other than delay are subject to a cancellation charge equal to 15% of the purchase price of the cancelled Hardware Product.

## Part 3: Software Products

Any right to use the Software Products provided to you by Quantum will be subject to and conditioned upon your acceptance of the terms and conditions of the End User License Agreement ("EULA"), available at [www.quantum.com/terms](http://www.quantum.com/terms). To the extent that any terms in the EULA conflict with the terms of these Terms and Conditions, the terms of the EULA take precedent.

## Part 4: Software as a Service (SaaS)

The terms and conditions in this Part 4 are only applicable to SaaS provided by Quantum to you. Any right to use the SaaS provided to you by Quantum will be subject to and conditioned upon your acceptance of the terms and conditions of the Software as a Service Terms of Service ("SaaS TOS") and other Attachments (e.g., terms of service, use policies, and other documents) accompanying the download and available at [www.quantum.com](http://www.quantum.com) by Product. To the extent that any terms in Attachments (including the SaaS TOS) conflict with the terms of these Terms and Conditions, the terms of the SaaS TOS take precedent.

## Part 5: Professional Services

The terms and conditions in this Part 5 are only applicable to Professional Services.

### 5.1 Fees for Training, Managed Services and Professional Services

Customer may purchase training, Managed Services and Professional Services at the rates provided in the applicable Quote and/or Statement of Work. Any charges paid by Customer are non-refundable. After receiving a Quote or Statement of Work, Customer must initiate its use of the Services with the time period specified in the Quote, or schedule the commencement of such Services within one year if no time period is specified in the Quote or Statement of Work.

Quantum may charge you additional fees if Quantum incurs costs as a result of any change of scope, delays or rescheduling requested by Customer, or other accommodations made as a result of lack of Customer availability, or lack of preparation by Customer for Services scheduled. You agree to pay reasonable travel and subsistence costs that may be incurred in the performance of the Services.

You may cancel Professional Services prior to the confirmed dates for scheduled Professional Services, but you will be charged for non-recoverable costs already incurred by Quantum at the time you provide notice of cancellation to Quantum. If you cancel Professional Services, Quantum will work with you to reschedule such Professional Services, but any rescheduled dates will be subject to resource availability as determined by Quantum.

Our Professional Services are provided on a full-time basis during Business Hours, and we cannot accommodate breaks, pauses or delays requested by Customer unless otherwise stated in the applicable Quote or Statement of Work. We will decide the most appropriate method and personnel to perform the Services, and we may substitute personnel at any time.

## 5.2 Hours for Professional Services

We will provide Professional Services during Business Hours, unless otherwise stated in your Quote or Statement of Work.

If we provide Professional Services during hours outside of the Business Hours, we will charge additional fees. We will schedule any onsite Professional Services at least 14 days in advance. If Customer requests Professional Services with less than 14 days' advanced notice, we will work to accommodate your request as soon as reasonably possible based on the availability of our resources.

We are unable to provide Professional Services unless the Customer has a valid Support Contract.

## 5.3 Professional Services Warranty

Subject to the limitations set forth below, Quantum warrants to the end-user customer that the Professional Services provided under these Terms and Conditions will be performed by fully trained and competent personnel in accordance with industry standard technical and professional practices and procedures.

# Part 6: Support Services

The terms and conditions in this Part 6 are only applicable to Support Services. The scope of the Support Services is dependent on the support plan purchased by Customer as set out in the Quote.

## 6.1 Support Contract Term and Termination

Support Contracts will commence upon issuance of a purchase order for a Quote by Customer and will continue for the duration of the purchased Support Term. Unless Customer notifies Quantum at least 60 days prior to the expiration of the Support Term of Customer's decision not to renew, the Support Contract will **automatically renew** for successive one-year periods under the terms of the then-current Quantum Sales and Support Terms and Conditions, and Customer will be invoiced for the then current list price. Quantum will not be obligated to provide any Support Services, Updates, or other support after the end of the Support Contract. Services will be deemed to be completed on the date of delivery which may be notified to you by Quantum in writing.

## 6.2 Lapse of Support Contract

If you do not maintain a current and continuous Support Contract with Quantum or a Quantum Authorized Service Provider, and you seek to reenroll into a current Support Contract, such reenrollment may require a reenrollment fee in addition to the fees for the upcoming Support Term. Quantum does not guarantee a level of support immediately following purchase of the renewal contract. Service calls received during this time will be addressed on a best effort basis.

## 6.3 Hours for Product Support Services

Our Support Services include unscheduled services during the hours specified for the level of Support you purchased ("Designated Working Hours"), provided that you must first notify us that Product is malfunctioning (or otherwise appears to require support), and after we have determined that an on-site visit is necessary. Service on a Quantum recognized holiday will be deferred to the next Business Day unless 7x24 support is purchased by Customer.

Recognition of holidays is per custom in each country. A list of Quantum holidays is available at [www.quantum.com](http://www.quantum.com). The above reference time frames will not apply to delivery of non-critical spare parts to remote locations.

Support Services are provided in English only. Support Services are provided remotely, using email, telephone and screen sharing tools (where permitted) to resolve issues. Quantum, its resellers and distributors may be able to provide on-site support by separate agreement. On-site support is not provided as part of the Support Services.

#### 6.4 Support Services Warranty

Quantum warrants to the end-user customer that the Support Services provided under these Terms and Conditions will be free from defects in materials or workmanship for 30 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. If a defect covered under this warranty is found and reported to Quantum, subject to any non-excludable rights that you may have under the laws in your country, Quantum will, at its discretion and as its sole responsibility and liability, and as Customer's sole and exclusive remedy, use commercially reasonable means to correct such defect.

#### 6.5 Uplifted/Extended Support

You may purchase uplifted and/or extended Support Services subject to regional availability and Product applicability. Any uplifted/extended support will be provided in accordance with the level of Support Services you purchased.

#### 6.6 Parts Replacement

Quantum will designate replaceable parts as either a Customer Replaceable Unit ("CRU") or a Field Replaceable Unit ("FRU"). CRU's will be replaced by Customer at Customer's expense. FRU's will be replaced by Quantum at Customer's expense. Our replacement parts may be new or reconditioned parts and will be shipped to you or replaced in accordance the level of support you purchased.

The Product or parts of Product that are removed or replaced, either by Customer or Quantum will become property of Quantum and must be return shipped to Quantum within 10 business days. All replacement parts shipped to Customer must be shipped DAP Customer site in accordance with INCOTERMS 2010. All replaced parts returned to Quantum by Customer must 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 will be with Customer. Damage to, loss of, or failure to return ship replaced parts within 10 business days will be charged to the Customer and may result in withholding of support until resolution.

In order to have access to spare parts, Product must be covered under warranty or a then-current Support Contract.

#### 6.7 Exclusions

Support Services do not include: (a) replacement of parts and/or services to repair damage or errors 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; (b) 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; (c) 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; (d) 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; (e) services on Product which Customer has moved or relocated without notifying Quantum; (f) services requested after unauthorized resale, transfer, or other assignment (actual or constructive) of Product; (g) services required as a result of use of Product beyond its rated capacity, not in accordance with manufacturer published specifications, or not in compliance with these Terms and Conditions or Documentation; (h) 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; (i) on-site Software or Firmware Support; (j) services required for correcting Errors if Customer fails to implement any Error correction or Update made available by Quantum; (k) services in connection with removal, relocation or reinstallation of Product; (l) furnishing or replacing

expendable supplies, including media such as cassettes, unless damaged by Quantum; (m) installation or maintenance on third-party equipment or software, or on product not quoted by Quantum; (n) production of written reports related to service performed; (o) workflow design or consulting (e.g. advice and guidance about how to use Products to solve an end-to-end business problem including products from third-party vendors (cameras, networking equipment, servers, storage, archive systems, play-out systems etc.); (p) storage design and policies (e.g. advice and guidance about where and in what format(s) to store media and for how long); (q) training for end users or system administrators; (r) installation, deployment and configuration (e.g. assisting with a Software Product's installation and/or configuration including project management, status reporting, deployment planning and deployment itself); (s) hardware design, selection or configuration for example servers, networks and storage; (t) integration with third-party products (unless those integrations are also Software Products licensed from Quantum to you under a separate license agreement which Quantum have agreed in advance may be integrated); (u) writing or debugging scripts or other computer programs intended to work with a Software Product; (v) recovery following a disaster (for example hardware failure) if backups are not available; and (w) software development advice for customers using the APIs to extend the capabilities of the Software Product(s). Service requested for any of the above exclusions will be considered Professional Services for which Quantum will charge an additional fee.

The occurrence of events (a)-(g) above will render the warranty void and/or subject a support contract to termination.

If a Product is not being operated in accordance with Quantum's recommendations (for example for minimum specifications etc.) we will determine the level of support provided at our discretion.

If the Support Services relate to products sold by Quantum, but produced by a third-party manufacturer, responsibility for maintenance support remains with the manufacturer. Quantum may accept and investigate support cases but if unable to resolve the issue, will pass the details to the manufacturer for resolution. This is the full extent of Quantum obligations in respect of such products.

## 6.8 Installation

Certain Products or upgrades may not be installed by you and require that you purchase Professional Services in order for Quantum to install the Product. If Quantum does not install such Products or upgrades, then the applicable warranty and/or Support Contract will be voided. Whether a Product or upgrade may be installed by you (or must be installed by us) will be stated on the applicable Quote.

### 6.8.1 Movement of Product

If Customer plans to move, relocate, 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 provide a quote for such services. Whether Product is moved by Customer or Quantum, Customer will 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 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 will void the Product warranty and/or any then current Support Contract. Manufacturer supplied packaging is required to move all or partial units to a new location to ensure safe transit and can be purchased from Quantum if not retained by Customer. Inadequate packaging may void the warranty, subject a support contract to termination and/or require Customer to recertify unit at Customer's cost.

## 6.9 Selection of Provider

Quantum will determine, in its sole and absolute discretion, whether to use a third-party subcontractor to perform the Support Services. All requests for Support Services or communication regarding status or maintenance of the Product will be made to Quantum. We will decide the most appropriate method and personnel to perform the Services and may substitute personnel at any time.

## 6.10 Customer Responsibilities

In addition to responsibilities for paying fees and complying with these Terms and Conditions (including any Attachments), Customer is 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 (provided that additional fees will apply if Quantum must access facilities that have limited accessibility); (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; (f) providing full and accurate Product description of the issue (including descriptions of the installation), and promptly respond to other reasonable requests for information from Quantum as necessary to allow Quantum to fulfill its duties hereunder; (g) performing visual inspection of Product; (h) performing standard operational activities; (i) providing escalation paths for management of Customer system including any outsourced party hired by the Customer; (j) preventing any other person than Quantum from altering, modifying, reverse-engineering, translating the Products or integrating the Products with any third-party products; and (k) taking appropriate anti-malware and other security precautions according to generally accepted, industry good practice for IT and IT security. Upon Quantum's request, Customer will provide Quantum remote access to Quantum Product system as reasonably required for Quantum to perform the Support Services and its other obligations hereunder. Customer is responsible for making adequate and appropriate provision to avoid and to manage disasters (e.g., hardware failures, malicious damage) including, but not limited to, maintenance and testing of regular Product's backups and data security. Obligations of Customer which must be fulfilled prior to Quantum performing any on-site services will be communicated to Customer at the time services are scheduled. If Customer obligations are not complete upon arrival of the Quantum engineer, Quantum will have the right to withdraw the engineer and reschedule once Customer obligations are fulfilled, and charge customer the standard rate plus expenses for any time spent on-site while waiting for obligations to be fulfilled. Customer will advise Quantum of any non-business hour or Saturday/Sunday requirements at the time of scheduling on-site services and may be charged up to a 50% rate increase.

## 6.11 Firmware

Customer is required to maintain the Product at no more than one major Firmware revision removed from current production Firmware level to ensure proper operation and servicing of the product. If you are more than one major release from the then-current Firmware, then we may not provide support for the applicable Product at our discretion (e.g., if 6.4.x is current, then the 6.3.x release will still be supported, but the 6.1.x release will not be). Customer may be required to install the latest Firmware Update prior to making any CRU or FRU replacements. Quantum will provide Customer with information on any upgrade charges prior to installation of the upgrade. Firmware upgrades may be available for download and able to be installed by Customer. At Quantum's discretion and upon prior notice to Customer, an additional fee may be levied for Firmware upgrades requiring an onsite visit.

## 6.12 Telephone Support

If telephone support is support included with a Support Contract, then such telephone support provides the following activities: (i) assistance in identifying and verifying causes of suspected Errors; (ii) work-around for identified Errors; and (iii) answering questions during local business hours, regarding differences between Software versions.

## 6.13 Error Corrections

Quantum will use commercially reasonable efforts to correct any Errors reported by Customer (e.g., by providing a workaround or correction in an Update). If Customer encounters an Error with the Software, Customer must sufficiently define the Error to Quantum so that Quantum can reproduce the reported Error. Non-reproducible Errors may require dispatch of an engineer on-site, which will be charged on a time and materials basis. 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.

#### 6.14 Updates and Upgrades

During the Support Term, Quantum will make available to Customer any and all Updates at no additional charge to Customer. Customer will install any and all Updates deemed Customer installable, within a reasonable time after receipt of such Update or notice of availability. Support Services are available only for the Update that is currently shipping and the immediately prior Update. Support Services for the immediate prior Update will be available for no longer than 12 months after a new Update is generally available. Quantum will provide Customer with access to Updates through Quantum's web site ([www.Quantum.com](http://www.Quantum.com)). These Updates and/or patches may be Customer installable, with technical assistance available from Quantum's Technical Assistance Center during local Business Hours. Changes to Software designated by Quantum as Upgrades are sold separately and not included in the Support Services. Quantum on-site/remote installation or after hour services for Updates and/or Upgrades are available to Customer for a fee as Professional Services.

#### 6.15 Fair Use

You agree that you will use the Support Services fairly and reasonably. If, in Quantum's sole discretion it considers that you are raising an excessive number of, and/or excluded or complex support requests (e.g., training workflow, design or consulting requests) we reserve the right to reduce the level of support provided or recommend that you purchase training or consultancy services.

## Part 7: General Definitions

**"Attachment"** or **"Attachments"** means terms applicable to certain Products and Services in addition to those specified in these terms and conditions (e.g., EULA, StaaS), which are accessible through [www.quantum.com](http://www.quantum.com).

**"Business Day"** means any day except a Saturday, Sunday, 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, unless a Statement of Work or Quote provides for alternative times.

**"Claims"** means any actions, causes of action, liability, claims, suits, judgments, liens, awards or damages of any kind and nature whatsoever.

**"Critical Error"** means any Software or Firmware Error that is an emergency condition and that causes the Software or Firmware 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 the manufacturer's published specifications accompanying the Product or made generally available online at Quantum's website, (as applicable) and any updates thereto, in any form or media provided.

**"Error"** means any reproducible failure of the Software or Firmware to substantially comply with its specifications as set forth in the applicable Documentation.

**"Firmware"** means software that resides in or is embedded in hardware, such as programmable read-only memory, and is not separately licensed by Quantum.

**"Hardware Product"** means Quantum branded hardware and any software integrated as part of the hardware.



**“Intellectual Property Rights”** means the legal rights held by the owner of a copyright, patent, trademark, or trade secret, including (i) the rights to copy, publicly perform, publicly display, distribute, adapt, translate, modify and create derivative works of copyrighted subject matter; (ii) the rights to exclude others from using, making, having made, selling, offering to sell, and importing patented subject matter and to practice patented methods, (iii) the rights to use and display any marks in association with businesses, products or services as an indication of ownership, origin, affiliation, or sponsorship; and (iv) the rights to apply for any of the foregoing rights, and all rights in those applications. Intellectual Property Rights also include any and all rights associated with particular information that are granted by law and that give the owner, independent of contract, exclusive authority to control use or disclosure of the information, including privacy rights and any rights in databases recognized by applicable law.

**“Limited Support Services”** means that the standard Support Services are no longer offered for Product. Limited Support contracts are offered by Quantum for the prices and duration quoted. Limited Support consists of support for errors which can be remedied utilizing the bug fixes and updates then known to Quantum and does not include support for resolution of novel errors or bugs.

**“Losses”** means, in connection with a Claim all reasonable attorneys’ fees, reasonable costs of investigation, discovery, litigation and settlement, and any resulting liabilities, damages, settlements, judgments and awards, including associated taxes, interest and penalties.

**“Managed Services”** means Services that are provided by Quantum for an additional fee and that are excluded as part of Support Services or are specifically identified as Managed Services on the Quote. Managed Services are described on the Quote and will be supplemented by a Statement of Work detailing the Deliverables of the Managed Services purchased.

**“Major Error”** means any Software or Firmware Error that causes one or more material components to fail to function as specified in its applicable Documentation.

**“Minor Error”** means any Software or Firmware 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.

**“Products”** means Hardware Products and Software Products.

**“Professional Services”** means services requested by Customer and provided by Quantum for an additional fee, and that are excluded as part of Support Services or are specifically identified as Professional Services herein. Professional Services are quoted on the Sales Quote and may be supplemented by a statement of work detailing the deliverables of the Services purchased.

**“Quote”** or **“Sales Quote”** means the Quantum issued quote to which these terms and condition apply, and against which Customer issues an order purchasing the items quoted.

**“Software”** or **“Software Products”** means the current version of Quantum proprietary software components or software features identified on, or the license to which is identified by type on, the Sales Quote and/or accompanying this EULA, and any updates thereto in executable/object code format and/or accessed by remote means. Software, as the defined term is used herein, does not include open source software, although some of the Software components may work together with, rely on, or be relicensed as open source software components by Quantum, such open source software components are subject to their respective separate licenses as specified in the software documentation and will not be deemed as part of the Software and thus not subject to the EULA, provided that by accepting the EULA, the Customer agrees to be bound by such separate licenses as are identified in the applicable documentation.

**“Support Services”** means any repair, hardware adjustments, and/or part replacements for the covered Product as Quantum deems necessary to bring Product in compliance with Product warranty or pursuant to the support plan purchased due to normal Product usage during the Support Term. Support Services do not include Professional Services or Limited Support Services.

**“Services”** means StaaS, SaaS, Support Services and Professional Services.



**“Software as a Service”** or **“SaaS”** means Software, delivered, and managed remotely by Quantum or a Quantum authorized provider, and received as a service by customers on a pay-for-use or subscription basis.

**“Storage as a Service”** or **“StaaS”** means Services that are provided by Quantum to provide customers with hardware and solutions that provide “storage as a service”. These services are provided on Quantum owned equipment which is managed and maintained by Quantum. “Storage as a Service” are quoted on the Quantum Sales Quote and will be supplemented by a statement of work detailing the deliverables of the service purchased, the hardware and software that is included in the service. Quantum retains ownership of the equipment throughout the contract and there is no option at the end of the contract for the customer to purchase the equipment.

**“Support Contract”** means an agreement governed by these Terms and Conditions for Quantum to provide Support Services on designated Product.

**“Support Term”** means the period of the fully paid Support Contract, available for purchase on a one year or multi-year basis, as may be extended under the terms of a renewal.

**“Update”** means changes to Software or Firmware that Quantum designates as bug fixes, or as minor or incremental updates, and designated by a change in the number to the right of the decimal point of the version number such as 1.1, 1.2, 1.3, etc.

**“Upgrade”** means changes to Software resulting in new functionality or features for which Quantum separately charges its customers in the normal course of its business, and designated by a change in the number to the left of the decimal point of the version number such as 1.0, 2.0, 3.0, etc.