



SUPPORT SERVICES TERMS

These Support Services Terms (“**Support Services Terms**”), together with the General Terms, set forth the terms and conditions under which NetApp will provide Support Services to Customer for Products, whether acquired directly from NetApp or indirectly from a NetApp Partner or, where applicable, a NetApp Cloud Provider. These Support Services Terms (and the General Terms) exclusively govern NetApp’s delivery of Support Services unless Customer has a separate written agreement with NetApp that specifically governs Support Services.

1. DEFINITIONS

Capitalized terms not specifically defined herein have the same meaning as in the General Terms. In addition, the following definitions apply to these Support Services Terms:

- 1.1 Business Day.** Monday through Friday, 8:00 a.m. to 5:00 p.m. Customer local time, except: (a) in Japan, Business Day means Monday through Friday, 9:00 a.m. to 6:00 p.m.; and (b) in the Middle East and Israel, Business Day means Sunday through Thursday, 8:00 a.m. to 5:00 p.m. Designated local holidays are not considered Business Days.
- 1.2 Customer Replaceable Unit (CRU).** Any FRU that can be replaced by Customer following guidelines and documentation provided by NetApp.
- 1.3 Field Replaceable Unit (FRU).** A component of, or disk in, the Hardware that can be replaced at a Customer location without pre-configuration by NetApp. FRUs will be new or equivalent to new, at NetApp’s reasonable discretion.
- 1.4 NetApp Support Site.** <http://mysupport.netapp.com>.
- 1.5 Remote Technical Support.** Support that is provided away from a Customer location, and which may include telephone and web-based support.
- 1.6 Software Updates.** Updates to Software, which include: (a) enhancements made generally available at no charge by NetApp to existing Software versions; (b) Software releases made generally available by NetApp to address known issues with existing versions of Software; and (c) temporary software modifications developed for individual, known Software issues as part of the applicable Support Services.
- 1.7 Support Services Period.** The period of time specified in the applicable NetApp quotation during which NetApp will provide Support Services.
- 1.8 Target Response Objective (TRO).** The goal for response times to Customer issues based on the Support Services level purchased by Customer.

2. SUPPORT SERVICES

- 2.1 Scope of Support Services.** NetApp agrees to provide the Support Services described in the applicable NetApp quotation during the Support Services Period. On a case-by-case basis, and as expressly agreed to by NetApp, NetApp may also offer Support Services for Third-Party Branded Products, as described on the NetApp Support Site. In such cases, references to Hardware and Software in these Support Services Terms will also be deemed



to include such Third-Party Branded Products for which Support Services are provided. Support Services are non-transferable without NetApp's prior written authorization.

- 2.2 Acceptance.** Acceptance of Support Services by Customer occurs when such Support Services are rendered.
- 2.3 Support Services Commencement.**
- 2.3.1 Software Support Services Commencement.** Support Services for Software begin on the date that such Software is made available electronically to Customer or, for Software embedded in or included with Hardware, on the date of Hardware delivery, and expire in accordance with the Support Services Period dates on the applicable quotation.
- 2.3.2 Hardware Support Services Commencement.** Support Services for Hardware begin upon delivery of such Hardware and expire in accordance with the Support Services Period. Support Services for upgrades installed into Hardware are coterminous with the Support Services that are then in effect for the Hardware into which such upgrades are installed.
- 2.4 Combined Use.** Customer must purchase the same level of Support Services for all components and controllers in a NetApp system. Customer will notify NetApp before combining Hardware and Software that was initially purchased for use in separate systems and will upgrade to and pay for (in accordance with the Price List) the highest level of Support Services existing in the newly combined NetApp system.
- 2.5 Out-of-Scope Services.** The following services are not included in the scope of Support Services: (a) Unless otherwise agreed by NetApp, services related to any third-party products of Customer, including Third-Party Branded Products; (b) transit or relocation of Hardware and related services, including services to remediate any associated damage; (c) provision of accessories, supplies or replacement of disposable parts, including rack mounting kits and cables; (d) Customer education, training and consulting services; (e) implementation or installation assistance for hardware and software not procured from a NetApp-authorized source; (f) services related to any work performed at Customer's site, except as specified in an applicable quotation and corresponding Order; (g) services relating to issues arising from Customer or third-party modifications, customizations, or enhancements to Software; (h) services relating to issues arising from a change in Customer's system configuration that is not in conformance with the "NetApp Interoperability Matrix" located on the NetApp Support Site at: <https://imt.netapp.com/matrix/#welcome>; or (i) services relating to issues arising from Customer or third party error or use of software other than Software.
- 2.6 End of Availability and End of Support.** The NetApp Service and Support Product Programs End of Availability Index, which is located on the NetApp Support Site, details information related to the last date on which Hardware or Software will be available for quoting from NetApp ("End of Availability" or "EOA"), and the last date on which Hardware or Software will be supported by NetApp ("End of Support" or "EOS"). NetApp will not provide Support Services for any Hardware or components thereof or Software after the applicable published EOS date. In relation to Hardware running Software which has passed its EOS date, NetApp may require Customer to update to a supported version of Software as a prerequisite to NetApp continuing to provide Hardware Support Services.
- 2.7 Replacement of Hardware Components and Return Material Authorization.** In the event the resolution of a support case initiated with the NetApp Technical Support Center ("TSC") is a Hardware failure and the



Customer is eligible for a replacement, NetApp will provide a part with the expectation that Customer will return such Hardware within fifteen (15) calendar days of the support case resolution and follow the return guidelines that are provided to Customer. Failure to return the Hardware components within the fifteen (15) day period or their return in a condition rendering them unsupportable under Section 2.6 (End of Availability and End of Support) will result in Customer being responsible for the cost of the replacement Hardware components supplied, calculated in accordance with the Price List. Customer will ensure that the failed Hardware is free of any legal obligations or restrictions that could prevent its replacement and will return each CRU and FRU individually by separate shipment.

- 2.8 Support Included in Hardware Warranty.** Support Services included in the Hardware Warranty Period (and any extended hardware warranty period purchased by Customer where available) are set forth in the Hardware Terms.
- 2.9 Next Business Day Schedule.** If Customer has purchased Support Services with next Business Day delivery TRO, the cutoff time for next Business Day delivery of FRUs or CRUs and/or arrival of a NetApp Authorized Service Engineer is 3:00 p.m. local Customer time. Remote diagnosis completion and/or CRU/FRU ordering that occurs after 3:00 p.m. local Customer time will be deemed completed on the following Business Day, and shipment and/or arrival will be scheduled accordingly (e.g., if diagnosis occurs after 3:00 p.m. on Monday, CRU/FRU ships Tuesday to arrive on Wednesday).
- 2.10 Onsite Support Services.** If Customer has purchased onsite Support Services, it will receive such services as follows: First, when Customer initiates a technical support case with the TSC, a Technical Support Engineer (“TSE”) will commence issue identification and resolve as necessary. If the issue cannot be resolved remotely, and where the TSE and Customer jointly agree that onsite Support Services are necessary and appropriate, the TSE will dispatch an Authorized Support Engineer (“ASE”) to the Customer site. The ASE will, at the direction of the TSC, work to diagnose and isolate the issue, make necessary changes and restore the normal operation of the systems. The TRO for onsite Support Services may differ as that specified for replacement Hardware components in the Documentation. Subject to Section 2.13 (Installation of Remedial Software Updates) below, in relation to onsite Software Support Services, NetApp reserves the right to define the most appropriate onsite resources to resolve the case and restore normal operation. In such cases, NetApp will communicate with Customer the estimated time of arrival for the ASE, which may or may not fall within the TRO specified above.
- 2.11 Non-Returnable Disk.** If Customer has purchased the Non-Returnable Disk (“NRD”) option, it will not return defective or failed disks, solid state drives and other non-volatile memory components as defined on the NetApp Support Site that are part of the Hardware. Customer will retain such non-volatile components and remain solely responsible for their disposal. Customer agrees that if components covered by the NRD option are returned to NetApp, NetApp will have no obligation or liability whatsoever associated with any data remaining on such components. NetApp will treat such components like other returned parts and convey them into the NetApp supply chain for repair and/or destruction.
- 2.12 Software Support Services.** If Customer has purchased Support Services, it is entitled to Software Support Services during the applicable Support Services Period. Software Support Services consists of Remote Technical Support and access to all Software Updates made generally available by NetApp. Customer will be responsible for installing and implementing Software and Software Updates unless it has purchased a Support



Services offering that includes assistance with installation of remedial Software Updates by NetApp, as described in Section 2.14 (Software Support Services Prerequisites) below. NetApp may require Customer to implement specific Software upgrades to resolve current or prospective issues. Customer may be required to purchase additional Hardware at its own expense to make use of Software Updates and/or Software upgrades.

- 2.13 Installation of Remedial Software Updates.** If Customer has purchased services for installation of remedial Software Updates, NetApp will assist with installation of remedial Software Updates while providing Support Services during the Support Services Period. This feature is limited to system Software for which Software is identified as the remedy for a material issue on the system. The TSE will determine the method and timing of installation, with Customer's agreement and participation. NetApp may choose to dispatch an ASE to the Customer site to participate in Software Update activities.
- 2.14 Software Support Services Prerequisites.** Provision of Software Support Services is conditioned upon Customer having: (a) installed and operated the Software in accordance with the applicable Documentation; (b) described with sufficient specificity the nature of the Software issues Customer is experiencing and the circumstances in which they occur; (c) reproduced the Software issue such that it can be confirmed and evaluated by NetApp; (d) made no changes, additions, or modifications to the Software, directly or indirectly; and (e) installed the Software in an infrastructure/environment that adheres to the published NetApp Interoperability Matrix.
- 2.15 Exclusions.** NetApp's obligation to provide Support Service and all warranties related to Hardware and Software will be voided where: (a) Hardware has been mishandled, altered, damaged or rendered inoperable (e.g., degaussed disk drives) due to willful or negligent acts or omissions, accident, Force Majeure, or operation of the Hardware other than as specified in the Documentation; (b) a solid state drive or flash device has been used in excess of its rated life as set forth in the Documentation and/or as determined by its original manufacturer or has not been configured as set forth in the Documentation; (c) services have been performed by a person or entity other than NetApp or an authorized NetApp service representative in relation to the Hardware and Software, in the absence of a prior written agreement with NetApp; (d) a power surge or failure has occurred or Hardware was subjected to fire suppression discharge; (e) Customer has failed to provide a suitable environment for the Hardware within the range of tolerances set forth in the applicable NetApp Hardware Universe guidelines and related information at <https://hwu.netapp.com/Home/Index>; (f) an issue arises from cleaning, refinishing or cosmetic modification of Hardware, or any electrical or site preparation; or (g) products or components, including software or hardware, have been procured from a source not authorized by NetApp, and then combined with Products.

3. WARRANTY

NetApp warrants that Support Services will be performed in a professional and workmanlike manner consistent with generally accepted industry practices. In the event of a breach of the foregoing warranty, NetApp will re-perform such Support Services. TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE FOREGOING WARRANTY IS CUSTOMER'S SOLE AND EXCLUSIVE WARRANTY AND REMEDY. EXCEPT FOR THE EXPRESS WARRANTY SET FORTH IN THESE SUPPORT SERVICES TERMS, NETAPP MAKES NO OTHER WARRANTIES AND SPECIFICALLY DISCLAIMS AND



EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

4. CUSTOMER RESPONSIBILITIES

- 4.1 Customer Contacts.** Customer will designate up to three technically qualified personnel to serve as Customer's primary points of contact in relation to the receipt of Support Services.
- 4.2 Customer Information.** Immediately on receipt, Customer will register all Hardware and Software on the NetApp Support Site to create Customer's support profile. Customer will keep this profile up-to-date. TROs, if any, can be met only if Customer has provided NetApp with accurate information including delivery and on-site service addresses, names and phone numbers of key Customer contacts and access to Customer's location. If this information is inaccurate or obsolete and/or access to Customer's location is unavailable or denied to the NetApp ASE or other representatives, adherence to any applicable TRO will be measured from the time that correct information is provided by the Customer to NetApp and/or the NetApp ASE is granted access to Customer's location.
- 4.3 NetApp Support Site.** During the Support Services Period, Customer will be granted access to the NetApp Support Site. A unique login and password will be assigned to Customer by NetApp, which will be deemed NetApp Confidential Information.
- 4.4 Miscellaneous Permissions.** In the event that NetApp requires access to any computer systems or software owned or licensed by Customer to provide Support Services, Customer will obtain all associated permissions. NetApp disclaims all liability to the extent Customer failure to obtain such permissions affects NetApp's ability to freely and without interruption provide Support Services.
- 4.5 Work Environment.** Customer will provide NetApp personnel with a safe working environment and make all necessary arrangements as NetApp may determine are reasonably necessary to perform the Support Services.
- 4.6 Equipment Relocation.** In the event that Customer wishes to relocate Hardware or Software, Customer will contact the NetApp TSC at least thirty (30) days prior to such relocation. NetApp will notify Customer if Customer's existing Support Services are available at the new location. Customer acknowledges that relocation of the Hardware or Software may result in a decrease in the scope and an increase in the pricing of Support Services. NetApp will communicate this to Customer on a case-by-case basis. If Customer fails to notify NetApp of the relocation of Hardware or Software as required above, NetApp may refuse to provide the Support Services at its sole discretion. In the event of an increase in pricing of Support Services following relocation, Customer will promptly pay the associated increased fees.
- 4.7 Returned Storage Media.** Unless expressly agreed to in writing by NetApp, Customer is solely responsible for migrating data from existing storage media to new storage media, and for deleting, encrypting or rendering irrecoverable all data stored on returned storage media before it is returned, in accordance with NetApp's return material authorization (RMA) policy.



- 4.8 Reinstatement of Lapsed Support.** If Customer wishes to reinstate Support Services after a lapsed period following expiration or termination of the original Support Services Period, Customer will pay an amount equal to the Support Services fees that would have been due for accrued Support Services during such lapsed period, as well as any applicable reinstatement fee and the amount due for the go-forward Support Services Period being purchased. All such amounts will be calculated in accordance with the Price List.

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