

Product Warranty Terms

These Warranty Terms ("Terms") apply to the Hitachi Data Systems products purchased by You ("Products"). If You have a current signed agreement in place with Hitachi Data Systems (HDS) or a HDS Authorized Service Provider (ASP), the terms and conditions of that agreement will take precedence over any conflicting provisions in these Terms.

1. WARRANTY

1.1 Warranty Period and Remedy

- (a) HDS warrants to You that, during the Warranty Period, the Products will function in accordance with the Published Specifications. To make a valid warranty claim, it must be in accordance with the following sections. **The Warranty Period begins upon delivery of the Product.**
- (b) HDS warrants the Products for the **"Warranty Period"** specified in Attachment A; except that if your order included and equipment of software not listed on HDS' standard product price list ("Third Party Products") they may be warranted by the third party licensor under separate license terms provided to You with the Third Party Product.
- (c) During the Warranty Period, HDS will provide **"Warranty Services"** as defined herein to correct any failure of the Equipment to comply with the above warranties and will replace any defective Software media. The Warranty Services are governed by the specifications and conditions in the published Maintenance and Support Terms. You must submit any warranty claim in writing to HDS during the Warranty Period or contact the local HDS support contact center. Your order may have included additional product maintenance and support services, which HDS will deliver in accordance with the published Maintenance and Support Terms.
- (d) If HDS does not provide the Warranty Services in a workmanlike manner in accordance with generally accepted industry standards, HDS will promptly re-perform the Services at no additional charge to you. You must submit any Service claim in writing within 90 calendar days of the performance of the Services giving rise to the claim.
- (e) **EXCEPT AS SPECIFIED IN THESE TERMS, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARE EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY LAW. WE DO NOT WARRANT THAT ANY PRODUCT OR SERVICE WILL OPERATE UNINTERRUPTED OR ERROR FREE.**

1.2 Warranty Exclusions; Components.

- (a) HDS' warranties exclude any Products damaged by accident, neglect, or abuse by any party other than HDS or its subcontractors, or by natural disaster, or subjected to an unsuitable physical operating

environment, not properly installed or maintained by any party other than HDS, its subcontractors or its authorized service providers, used in a manner not contemplated by the Published Specifications or modified without HDS' prior written consent.

- (b) Equipment may include components which are used or remanufactured, regardless, HDS' warranties apply. All components removed in the course of performing Warranty Service or any Maintenance and Support Services will be the property of HDS.
- (c) Breaking the factory seal on a Field Replaceable Unit (FRU) by any party other than HDS or a HDS ASP will void the warranty in its entirety.

3. Limitation of Liability

Except for liability arising from: death, bodily injury or damage to tangible property arising from HDS' negligent acts or omissions, and for willful misconduct, in all cases and to the extent not prohibited by applicable law: (a) HDS' maximum aggregate liability for all claims relating to these Terms, whether for breach of contract, breach of warranty or in tort, including negligence will be limited to fifty thousand US dollars (U.S. \$50,000); (b) HDS will not be liable for any indirect, punitive, special, incidental or consequential damages in connection with or arising out of these Terms (including, without limitation, loss of business, revenue, profits, goodwill, use, data, electronically transmitted orders, or other economic advantage), however they arise, whether in breach of contract, breach of warranty or in tort, including negligence, and even if HDS has previously been advised of the possibility of such damages. These limitations and exclusions apply even if an exclusive remedy provided for in these Terms fails of its essential purpose.

4. Governing Law

Unless it is agreed in writing that the laws of another jurisdiction will apply, the laws of the state, province or country in which You purchased the Products will apply to these Terms and the venue for any litigation will be the appropriate courts that state, province or country. To the extent allowed in the applicable jurisdiction, the United Nations Convention on Contracts for the International sale of goods and its implementing legislation will not apply to these Terms.

5. Defined Terms

Equipment: The hardware component of any Product.

Field Replaceable Unit (FRU): a subassembly of components sealed at the factory and subject to replacement as a discreet unit at the customer site.

Services: Maintenance and Support Services, Professional Services, Warranty Services or any other services listed in our published offerings.

Product(s): Equipment and/or Software listed in HDS' standard product price lists published from time to time.

Published Specifications: are the specifications for Products valid at the time of acceptance of your order.

The following variations to the Terms shall apply in the countries stated below:

Italy

Add "damages resulting from gross negligence or violation of public order rules" before "and to the extent not prohibited" in the first sentence of Section 3.

Spain

Add "gross negligence and Act 22/1944 on damages caused by defective products" before "and to the extent not prohibited" in the first sentence of Section 3.

Finland

Add "damages resulting from gross negligence" before "and to the extent not prohibited" in the first sentence of Section 3.

Germany

Delete Section 1.1(e).

Replace Section 3 with:

"Except for liability arising from: death, bodily injury or damage to tangible property arising from HDS' negligent acts or omissions and to the extent not prohibited by applicable law HDS' liability for damages, irrespective of its legal grounds,

Warranty Services: Maintenance and Support Services as described in Attachment A and the published Maintenance and Support Terms that are provided during the Warranty Period.

LOCAL LAW VARIATIONS FOR EUROPE

shall be limited as follows: a) HDS shall only be liable up to the amount of the typically foreseeable damages as anticipated at the time of entering into an agreement, and in any event only for damages caused by a slightly negligent breach or a material contractual obligation, and b) HDS shall not be liable for damages caused by a slightly negligent breach of a non-material contractual obligation or for other slight negligent behaviour.

This limitation of liability shall not apply to any mandatory statutory liability, in particular to liability under the German Product Liability Act for assuming a specific guarantee or liability for culpably caused personal injury."

Austria

Replace Section 3 with:

"Each party acknowledges the full extent of its own respective liability and shall not seek to exclude or otherwise limit any liability to the other arising from: death or personal injury resulting from negligent acts or omissions; any claims resulting from intentional or severe grossly negligent behaviour. We each exclude our own respective liability regarding any claims resulting from slight negligence or minor gross negligence."

Attachment A

Warranty Period / Services

TYPE	PRODUCT NAME / FAMILY	WARRANTY PERIOD	WARRANTY SERVICES
Equipment	Simple Modular Storage (SMS)	36 Months (3 Years)	Basic Self Service
Equipment	Workgroup Modular Storage (WMS)	12 Months (1 Year)	Week Day Basic
Equipment	Adaptable Modular Storage (AMS)	12 Months (1 Year)	Week Day Basic
Equipment	Network Storage Controller (NSC)	24 Months (2 Years)	Standard
Equipment	Universal Storage Platform (USP VM)	24 Months (2 Year)	Premium Standard – EMEA
Equipment	Universal Storage Platform (USP/V)	36 Months (3 Years)	Premium Standard – EMEA
Equipment	Virtual Storage Platform (VSP)	36 Months (3 Years)	Maintenance
Equipment	Hitachi Compute Blade (HCB)	36 Months (3 Years)	Week Day Basic
Equipment	Hitachi Compute Rack (HCR)	12 Months (1 Year)	Week Day Basic
Software	Software	3 Months	Media Only