

AppleCare Premium Service and Support Plan Terms and Conditions

Your AppleCare Premium Service and Support (“APSS” or “Plan”), is governed by these Terms and Conditions and constitutes your service contract with the Apple entity described in section 8a below (“Apple”). Subject to these Terms and Conditions, your Plan (i) covers defects for the Apple-branded Xserve or the Xserve RAID computer listed in your Plan’s Certificate or Proof of Coverage document (“Plan Confirmation”) and the accessories that are contained in the product(s) original packaging (“Covered Equipment”), and (ii) provides you with access to telephone support and web-based support resources for the Covered Equipment. To obtain the Plan Confirmation you must register your Plan’s unique agreement or registration number (“Plan Agreement Number”) as described in the instructions included in the Plan’s packaging. Customers choosing the Auto-Registration option, where available, will automatically receive their Plan Confirmation. The duration of the Plan (“Coverage Period”) is for the period ending on the date specified in your Plan Confirmation. The price of the Plan is listed on the Plan’s original sales receipt.

1. Repair Coverage

- a. **Scope of Coverage.** Your eligibility for the Plan’s coverage for defects begins on the date your Covered Period begins and terminates at the end of the Coverage Period (“Repair Coverage Period”). Apple will provide both parts and labor, but may require you to replace certain readily installable parts yourself, as described below. Apple may provide replacement product or parts that are manufactured from new, refurbished or serviceable used parts. The replacement product or parts will be functionally equivalent to the replaced products or parts and will assume the remaining coverage under the Plan. The products or parts that are replaced become Apple’s property. Apple strongly advises you to record as a back up, data and software residing or recorded in the Covered Equipment, before having the Covered Equipment available for repair or replacement services. Under APSS, Apple covers the Covered Equipment and one Apple branded display if purchased at the same time and registered with a covered Xserve. An Apple-branded mouse and keyboard are also covered under APSS if included with the Covered Equipment. Apple-branded RAM modules and Apple-branded PCI expansion or graphics cards are also covered under APSS if owned by you and used with the Covered Equipment. If during the Repair Coverage Period there is a defect in the materials or workmanship of the Covered Equipment or the other covered items described above, Apple will at its option, repair or replace the affected item. However, Apple will not cover any defects or failure due to any software or data residing or recorded in the Covered Equipment. Apple will use reasonable efforts to reinstall the Covered Equipment’s original software configuration and subsequent update releases, but will not provide any recovery or transfer for software or data not originally installed on the Covered Equipment. Service may be limited or not available for up to thirty (30) days after a new model of the Covered Equipment is released.
- b. **Limitations.** The Plan does not cover:
 - i. Installation, removal or disposal of the Covered Equipment, or installation, removal, repair, or maintenance of non-Covered Equipment (including accessories, attachments, or other devices such as external modems) or electrical service external to the Covered Equipment;
 - ii. Damage to the Covered Equipment caused by accident, abuse, neglect, misuse (including faulty installation, repair, or maintenance by anyone other than Apple or an Apple Authorized Service Provider), unauthorized modification, extreme environment (including extreme temperature or

- humidity), extreme physical or electrical stress or interference, fluctuation or surges of electrical power, lightning, static electricity, fire, acts of God or other external causes;
- iii. Covered Equipment with a serial number that has been altered, defaced or removed;
 - iv. Problems caused by a device that is not the Covered Equipment, including equipment that is not Apple-branded, whether or not purchased at the same time as the Covered Equipment;
 - v. Service necessary to comply with the regulations of any government body or agency arising after the date of this Plan;
 - vi. The provision of replacement equipment during the period when the Covered Equipment is being repaired;
 - vii. Covered Equipment that has been lost or stolen. This Plan only covers Covered Equipment that is returned to Apple in its entirety;
 - viii. Cosmetic damage to the Covered Equipment including but not limited to scratches, dents and broken plastic on ports;
 - ix. Consumable parts, such as batteries unless failure has occurred due to a defect in materials and workmanship;
 - x. Preventative maintenance on the Covered Equipment; or
 - xi. Damage to, or loss of any software or data residing or recorded in the Covered Equipment.
- c. Service Options. Apple may provide service through one or more of the following options:
- i. Carry-in service. Return the Covered Equipment requiring service to an Apple-owned retail store or an Apple Authorized Service Provider location offering carry-in service. Service will be performed at the location, or the store or service provider may send the Covered Equipment to an Apple repair service location to be repaired. Once you are notified that service is complete, you will promptly retrieve the product.
 - ii. On-site service. On-site service is available if the location of the Covered Equipment is within the scope of the on-site coverage area as described on the online Service Plan Support Page (<http://www.apple.com/legal/applecare/acpssgeos.html>). When on-site service is requested within the coverage area, Apple will dispatch a service technician to the location of the Covered Equipment for the purpose of performing services. Apple will use reasonable efforts to provide a service technician at the location within the response times specified on the Service Plan Support Page. If a service technician visits a location at an agreed time and no Customer representative is available to provide access, an additional fee may apply. Further information about onsite service, including service coverage area and response times is available at the Service Plan Support Page.
 - iii. Direct mail-in service. If Apple determines that your Covered Equipment is eligible for mail-in service, Apple will send you prepaid way bills (and if you no longer have the original packaging, Apple may send you packaging material) and you will ship the Covered Equipment to Apple's repair service location in accordance with its instructions. Once service is complete, the Apple repair service location will return the Covered Equipment to you. Apple will pay for shipping to and from your location if all instructions are followed.

- iv. Do-It-Yourself Parts service. Do-It-Yourself Parts service allows you to service your own product. If Do-It-Yourself Parts service is available in the circumstances, the following process will apply.
 1. Do-It-Yourself Parts service where Apple requires return of the replaced part. Apple may require a credit card authorization as security for the retail price of the replacement part and applicable shipping costs. If you are unable to provide credit card authorization, Do-It-Yourself Parts service may not be available to you and Apple will offer alternative arrangements for service. Apple will ship you a replacement part with installation instructions and any requirements for the return of the replaced part. If you follow the instructions, Apple will cancel the credit card authorization, so you will not be charged for the part and shipping to and from your location. If you fail to return the replaced part as instructed, Apple will charge the credit card for the authorized amount.
 2. Do-It-Yourself Parts service where Apple does not require return of the replaced part. Apple will ship you free of charge a replacement part accompanied by instructions on installation and any requirements for the disposal of the replaced part. Apple is not responsible for any labor costs you incur relating to Do-It-Yourself Parts service.

Apple reserves the right to change the method by which Apple may provide repair or replacement service to you, and your Covered Equipment's eligibility to receive a particular method of service, including but not limited to onsite service at any time. Service will be limited to the options available in the country where service is requested. Service options, parts availability and response times may vary according to country. You may be responsible for shipping and handling charges if the Covered Equipment cannot be serviced in the country it is in. If you seek service in a country that is not the country of purchase, you will comply with all applicable export laws and regulations and be responsible for all custom duties, V.A.T. and other associated taxes and charges. For international service, Apple may repair or exchange defective products and parts with comparable products and parts that comply with local standards.

- d. Obtaining Service. To obtain service under this Plan, access the Apple website (www.apple.com/support) or call the toll-free telephone number listed in the Plan Confirmation or on the Service Plan Support Page. When accessing the website, follow the instructions for requesting repair service provided by Apple. If calling, an Apple technical support representative will answer, request your Plan Agreement Number, advise you and determine what service is necessary for the Covered Equipment. All service is subject to Apple's prior approval. Keep your Plan Confirmation document and the original sales receipt for your Covered Equipment and your Plan. Proof of purchase may be required if there is any question as to your product's eligibility for Plan coverage.
2. Technical Support
 - a. Scope of Coverage. Your eligibility for the Plan's technical support begins on the date your Coverage Period begins and terminates at the end of the Coverage Period ("Technical Coverage Period"). During the Technical Coverage Period Apple will provide you with access to telephone technical support and web-based technical support resources. Technical support includes assistance with installation, launch, configuration, troubleshooting, and recovery (except for data recovery) using the

graphical user interface commands, including storing, retrieving, and managing files; interpreting system error messages; and determining when hardware repairs are required, all in connection with the originally configured Covered Equipment and Apple's proprietary Mac OS X Client or Server software product installed thereon, and updates thereof that are licensed commercially by Apple and are not in beta or pre-release form ("Supported Product"). Under the Plan, Apple will provide technical support for the purpose of resolving a specific, discrete problem that can be answered by isolating its origin to a single cause ("Support Incident"). Apple, in its sole discretion, will determine what constitutes a Support Incident. A Support Incident is resolved when Apple provides either: (a) information that resolves the problem; (b) information on how to obtain a software solution that will resolve the problem; (c) notice that the problem is caused by a known, unresolved issue or an incompatibility issue with the Supported Product; (d) information that identifies the problem as being resolved by upgrading to a newer release of the Supported Product; or (e) notice that the problem has been identified as a hardware equipment issue. Technical support will be provided exclusively to you. Apple grants you a nonexclusive, nontransferable, limited license to use the technical support exclusively for the purpose of assisting you in your use of the Supported Product. You may not use or distribute the information provided as part of the technical support services in support of any third party use.

- b. Limitations. The Plan does not cover:
 - i. the use or modification of a Supported Product in a manner for which it is not intended,
 - ii. the use of a third-party or Apple branded product that is not a Supported Product, whether or not bundled with the Covered Equipment,
 - iii. your failure to upgrade a Supported Product to a more current software release
 - iv. the use of a Supported Product that may be resolved through the use or configuration of an operating system's non-graphical command line functions,
 - v. the use of scripting, FX scripting, programming, compiling, bug tracking, debugging, infrastructure design, content creation, content customization, multimedia project planning/design, resource management, budgeting or training
 - vi. software designated as "beta", "prerelease," or "preview" or similarly labeled software, or
 - vii. Damage to, or loss of any software or data residing or recorded in the Covered Equipment.
 - c. Obtaining Service. You may obtain technical support by calling the toll-free telephone number listed in the Plan Confirmation or on the Service Plan Support Page.
3. Customer's Responsibilities. To receive support, you must register the Plan by following the instructions provided by Apple. Once registered, you may obtain support by following the instructions provided by Apple. You are responsible for all fees in establishing and maintaining email and telephone communication with Apple. You agree to cooperate with and follow instructions provided by Apple, including but not limited to assisting Apple diagnose or replicate an issue. You will ensure that while providing support, Apple has permission to access and use the Covered Equipment and any necessary third party equipment including all data, hardware and software components. Certain third party equipment warranties may limit or void the remedies that they offer if unauthorized persons perform support service on the equipment. It is your responsibility to ensure that the effect on

the terms of warranty by Apple support is acceptable to you. You are responsible for any and all restoration and reconstruction of lost or altered files, data, or programs. You agree to maintain and implement a complete data backup and disaster recovery plan. You agree to have a reasonable understanding of the Supported Products. In the event Onsite service is provided, you will provide free, safe, and sufficient access to your facilities to allow Apple or its agents to perform service. You will ensure that any information or data disclosed to Apple is not confidential or proprietary. You will not use support received under these Terms and Conditions in a fraudulent or abusive manner. You agree to retain the Proof of Coverage document and the original sales receipt for the Covered Equipment and Service Plan to verify eligibility for coverage.

4. **Limitation of Liability/Disclaimer of Warranties.** APPLE AND ITS EMPLOYEES AND AGENTS WILL UNDER NO CIRCUMSTANCES BE LIABLE TO YOU OR ANY SUBSEQUENT TRANSFEREE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COSTS OF RECOVERING, REPROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA OR THE FAILURE TO MAINTAIN THE CONFIDENTIALITY OF DATA, ANY LOSS OF BUSINESS, PROFITS, REVENUE OR ANTICIPATED SAVINGS, RESULTING FROM APPLE'S OBLIGATIONS UNDER THESE TERMS AND CONDITIONS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE LIMIT OF APPLE AND ITS EMPLOYEES AND AGENT'S LIABILITY TO YOU AND ANY SUBSEQUENT TRANSFEREE ARISING UNDER THESE TERMS AND CONDITIONS WILL NOT EXCEED THE ORIGINAL PRICE PAID FOR THE SERVICE PLAN. APPLE SPECIFICALLY DOES NOT WARRANT THAT IT WILL BE ABLE TO (i) RESOLVE ANY SUPPORT INCIDENT WITHOUT RISK TO OR LOSS OF SOFTWARE PROGRAMS OR DATA, OR (ii) MAINTAIN THE CONFIDENTIALITY OF DATA. NOTHING IN THESE TERMS AND CONDITIONS SHALL LIMIT OR EXCLUDE APPLE'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD.
5. **FOR CONSUMERS, WHO ARE COVERED BY CONSUMER PROTECTION LAWS OR REGULATIONS IN THEIR COUNTRY OF PURCHASE OR, IF DIFFERENT, THEIR COUNTRY OF RESIDENCE, THE BENEFITS CONFERRED BY THIS PLAN ARE IN ADDITION TO ALL RIGHTS AND REMEDIES CONVEYED BY SUCH CONSUMER PROTECTION LAWS AND REGULATIONS. THIS PLAN DOES NOT EXCLUDE, LIMIT OR SUSPEND ANY RIGHTS OF CONSUMERS ARISING OUT OF NON-CONFORMITY WITH A SALES CONTRACT. SOME COUNTRIES, STATES AND PROVINCES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY OR CONDITION MAY LAST, SO THE LIMITATIONS OR EXCLUSIONS DESCRIBED ABOVE MAY NOT APPLY TO YOU. THIS PLAN GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY BY COUNTRY, STATE OR PROVINCE.**
6. **Cancellation.** Subject to applicable law, Apple may change or terminate these Terms and Conditions, including the terms described on the Service Plan's Support Page upon not less than thirty (30) days' notice to you. If Apple cancels these Terms and Conditions, you will receive a pro-rata refund for the Service Plan's unexpired term. Apple may terminate these Terms and Conditions immediately, if you make a misrepresentation or breach any of the Terms and Conditions. If Apple cancels these Terms and Conditions for your misrepresentation or breach, the sums paid for the Service Plan will be non-refundable. You may cancel the Terms and Conditions at any time for any reason. You may cancel by providing written notice either via mail to AppleCare Protection Plan Administration, Apple Inc., P.O. Box 149125, Austin, TX 78714- 9125, U.S or via fax to 916-399-7337 (in Canada

800-903-5284) or via email to refund@apple.com. Your notice of cancellation must be accompanied by a copy of the proof of purchase of the Service Plan. Unless applicable law provides otherwise, if you cancel within thirty (30) days of Apple's acceptance of your Plan, or receipt of these Terms and Conditions, whichever occurs later, you will receive a full refund less the value of any services provided under the Plan. If you cancel more than thirty (30) days after Apple's acceptance of your Plan, or receipt of these Terms and Conditions, whichever occurs later, you will receive a pro-rata refund of the Service Plan's original purchase price, based on the unexpired Coverage Period, less (i) a cancellation fee of U.S. \$25 or ten (10%) percent of the pro-rata amount, whichever is less, and (ii) the value of any services provided to you under the Service Plan. All terms and conditions, limitations, exclusions and warranties contained herein that by their sense and context are intended to survive the termination of these Terms and Conditions, shall so survive.

7. **Transfer of Plan.** You may transfer this Service Plan by providing written notice of the transfer either via mail to Apple Inc. ATTN: Agreement Administration MS: 217-AC, Laguna Blvd. Elk Grove, CA 9578, U.S or via fax to 916-399-7337 (in Canada 800-903-5284) or via email to transfer@apple.com. Written notice of transfer must include the Service Plan's agreement number, proof of purchase of the Service Plan, and the name, address, telephone number and email address of the transferee.
8. **General Terms.**
 - a. **Availability of Service Plan; Apple.** The Service Plan is available for sale in the United States and Canada only. For Plans sold in the United States, "Apple" is AppleCare Service Company, Inc., an Arizona corporation with its registered office at c/o CT Corporation System, 2394 East Camelback Road, Phoenix, Arizona 85016, doing business in the state of Texas as Apple CSC Inc., AppleCare Service Company, Inc. is the legal and financial obligor of Plans sold in the United States. For Plans sold in Canada, "Apple" is Apple Canada Inc., of 7495 Birchmount Road, Markham, Ontario, L3R 5G2, Canada. Apple Canada Inc. is the legal and financial obligor for Plans sold in Canada. The Administrator for Plans sold in the United States is Apple Inc. (the "Administrator"). In the United States, the Administrator is responsible for the collection and transfer to AppleCare Service Company, Inc. of the purchase price for the Plan and for the administration of claims under the Plan.
 - b. **Language.** All Support Services shall be provided in English only.
 - c. **Force Majeure.** Apple will not be liable for performance delays or for non-performance due to causes beyond its reasonable control.
 - d. **Use of Support Services.** These Terms and Conditions are intended to support Covered Equipment that is being used in commercial or educational environments only, and not personal use.
 - e. **Additional Rights to Warranty.** This is not a warranty. The Covered Equipment may come with a limited warranty from Apple. It is your responsibility to review the terms of the warranty to identify the rights and remedies contained therein. The rights provided under these Terms and Conditions are additional to those contained in the Covered Equipment's warranty.
 - f. **Use of Third Parties.** Apple may subcontract or assign performance of its obligations under these Terms and Conditions to third parties, but shall not be relieved of its obligations to you in doing so.
 - g. **Additional Services.** Any additional services provided as part of the Service Plan will be governed by these Terms and Conditions. In the event that software is made available as part of the support of this Service Plan, such software shall be the copyrighted work of Apple and/or its suppliers. You may install, reproduce, and use the software exclusively for the purpose of supporting the Supported Products, but, except as may be permitted by applicable law, may not decompile, reverse engineer,

modify, rent, lease, loan, or create derivative works in the software. If the software is subject to the terms of a separate license agreement, the terms of the separate license agreement shall govern the software's terms of use. If you order an AppleCare Service Parts Kit, you acknowledge that its price is not included as part of this Service Plan.

- h. **Waiver; Severability.** A waiver of any breach or default under these Terms and Conditions shall not constitute a waiver of any subsequent breach or default. If a court of competent jurisdiction holds that any provision of these Terms and Conditions is invalid or unenforceable, the remaining portions will remain in full force and effect, and the parties will replace the invalid or unenforceable provision with a valid and enforceable provision that achieves the original intent of the parties and economic effect of the Terms and Conditions.
- i. **Recording Calls.** In delivering Support Services Apple may record part or all of the calls between you and Apple for quality assurance and reference purposes.
- j. **Governing Law.** Except where prohibited by law, the laws of the following jurisdictions shall apply to these Terms and Conditions. For Service Plans purchased in the United States these Terms and Conditions will be governed by the laws of the State of California without regard to its conflict of laws provisions. For Service Plans purchased in Canada these Terms and Conditions will be governed by the laws of the province of Ontario, without regard to its conflict of laws provisions.
- k. **Customer Data.** You agree and understand that it is necessary for Apple to collect, process and use its data in order to perform the service and support obligations under the Service Plan. This may include the necessity to transfer data to affiliated companies or service providers located in the European Union, South Africa, Australia, India, Japan, Canada, the People's Republic of China or the U.S. Apple has security measures, which should protect your data against unauthorized access or disclosure as well as unlawful destruction. You will be responsible for the instructions you give to Apple regarding the processing of data, and Apple will seek to comply with those instructions as reasonably necessary for the performance of the service and support obligations under the Plan. If you do not agree with the above, notify Apple at the telephone numbers provided or if you have questions regarding how your data may be impacted by being processed in this way.
- l. **Privacy.** Apple will protect your information in accordance with Apple Customer Privacy Policy available at URL <http://www.apple.com/legal/warranty/privacy/>. If you wish to have access to the information that Apple holds on you or if you want to make changes, you may access URL www.apple.com/contact/myinfo to update personal contact preferences or contact privacy@apple.com for specific questions.
- m. **Complete Agreement.** These Terms and Conditions including any additional terms referenced herein constitute the entire agreement between Apple and you with regard to the Service Plan and the services provided thereunder and supersedes all prior negotiations, agreements, and understandings with respect to the subject matter, and no addition to or deletion from or modification of any of the provisions hereto shall be binding upon Apple unless made in writing and signed by an authorized representative of Apple. Any term or condition on any order or other document submitted by you shall be of no force or effect whatsoever, and is specifically rejected. These Terms and Conditions shall not renew without the written consent of Apple.