

# QualxServ LLC

## HARDWARE SERVICE CONTRACT FOR IN-HOME/ON-SITE SERVICE

PLEASE TAKE THE TIME TO READ THE FOLLOWING TERMS AND CONDITIONS UNDER WHICH QUALXSERV LLC ("QUALXSERV") AGREES TO PROVIDE REPAIR SERVICES FOR YOUR DELL SYSTEM. THIS AGREEMENT IS BETWEEN YOU AND QUALXSERV. QUALXSERV IS NOT AN AGENT FOR DELL INC. ("DELL") AND DOES NOT HAVE THE AUTHORITY TO ACT ON BEHALF OF DELL.

HERE ARE THE DETAILS OF YOUR SERVICE CONTRACT ("AGREEMENT"):

**Your System.** For purposes of this Agreement, a System is defined as a Dell system comprised of the following components: monitor; central processing unit (CPU); input device (such as a keyboard); a data storage device (such as a disk drive); and any other components that are described specifically on your invoice or are standard (at the time of purchase) components of the model of the Dell System you purchased. The System covered under this Agreement is described in your invoice. This Agreement is valid on System(s) purchased in the United States only. The Services to be provided under this Agreement apply only to the continental United States, Alaska, and Hawaii.

### How to Use Your Service

1. **Call Dell for Telephone-based Assistance.** For service support call one of the following toll free numbers based on your type of business. These phone lines are answered twenty-four (24) hours a day, seven days a week, including regularly observed holidays:

#### For Consumers/Home-Office and Small Business:

- Technical Support (800) 624-9896
  - Customer Service (800) 624-9897
2. **Prepare for the Call.** You will help the technician serve you better if you have the following information and materials ready when you call: your System's invoice and serial numbers; service tag number; model and model numbers; the current version of the operating system you are using; and the brand names and models of any peripheral devices (such as a modem) you are using.
  3. **Explain Your Problem to the Technician.** Now you are ready to describe the problem you are having with your System. Let the technician know what error message you are getting and when it occurs; what you were doing when the error occurred; and what steps you may have already taken to solve the problem.
  4. **Cooperate with the Technician to Solve Your Problem.** Experience shows that most System problems and errors can be corrected over the phone as a result of close cooperation between the user and the technician. Listen carefully to the technician and follow the technician's suggestions.

UNTIL YOU HAVE COMPLIED WITH THE ABOVE PROCEDURES, DELL CANNOT NOTIFY QUALXSERV TO DISPATCH A SERVICE TECHNICIAN TO PERFORM ONSITE REPAIRS.

5. **Your Service Alternatives.** If the technician cannot correct your problem over the phone, the technician will confirm your selection of one the following service alternatives, depending on which service contract you purchased with your system:
  - **Type 3 Service Agreements.** "Type 3" Service Agreements are next-business-day response contracts that have a Principal Period of Maintenance ("PPM") of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding regularly observed holidays.
  - **Nights and Weekends Service Agreements.** "Nights and Weekends" Service Agreements are next-day response contracts that have a PPM of 8:00 a.m. to 9:00 p.m. local time, Monday through Friday, and Saturday and Sunday from 8:00 a.m. through 5:00 p.m. local time, excluding regularly observed holidays.
6. **Fee-based Services.** As an alternative, and for an additional fee, service may be available Outside of Principal Period of Maintenance subject to the availability of personnel, among other factors.

**The service alternative you have chosen is recorded on your invoice.** This service does not cover any related network problems or any Service which would be unique to the System's operation on a network. This Agreement will only involve such Services as are required to restore your System's operational capability. For purposes of this Agreement, all references to time mean the customer's local time. References to the United States include the continental United States, Alaska, Hawaii. PPM means the principal period of maintenance or the principal hours during which Services are

rendered for a service level.

**On-Site/In-Home Service.** Subject to the terms of this Agreement, On-Site Service is available for your System within the United States. The technician will need to have the full address of your System's location and know whether it is a residence or business. A service technician will be dispatched to your location to service your System, according to your service level, as follows:

- **Type 3 Service Agreement On-site/At-Home Service.** If you follow these procedures, a service technician will, in most cases, be dispatched to arrive at your location for On-Site Service on the next business day (during your PPM); Monday through Friday, excluding regularly observed holidays. If the service technician is dispatched for On-Site Service after 5:00 p.m. local time, the service technician may take an additional business day to arrive at your location.
- **Nights and Weekends On-site/At-Home Service.** If you follow these procedures, a service technician will, in most cases, be dispatched to arrive at your location for On-Site Service on the next day (during your PPM); excluding regularly observed holidays. If the service technician is dispatched for On-Site Service on a Thursday after 5:00 p.m. local time, Night and Weekend Service is unavailable on the following Friday, Saturday and Sunday, and the service technician may take an additional business day to arrive at your location.

**Holidays:** Regular holidays shall include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, unless you are notified otherwise by QUALXSERV.

**An Adult Must Be Present At Residences:** For On-Site Service provided at a residence, an adult must be present at all times during the service technician's visit.

**Assistance You Must Provide.** The service technician must receive full access to the System and (at no cost to QUALXSERV) have working space, electricity, and a local telephone line. If these requirements are lacking, QUALXSERV is not obligated to provide On-Site Service.

- **If You Miss The Service Visit.** If you or your authorized representative is not at the location when the service technician arrives, we regret that the service technician cannot service your System. If this occurs, you will need to call Dell Technical Support at (800) 624-9896 in order to request another service call. The service technician will attempt to leave a card to let you know he or she was there and you may be charged an additional charge for a follow-up Service call.

**If You Miss The Service Visit.** If you or your authorized representative is not at the location when the service technician arrives, we regret that the service technician cannot service your System. The service technician will leave a card to let you know he or she was there. If this occurs, you may be charged an additional charge for a follow-up Service call.

**Customer Replaceable Units and Whole Unit Replacement.** If the telephone technician determines that the defective unit is one that is easily disconnected and reconnected, such as a keyboard, monitor, hard drives in portable computers, or any other component designated from time to time as a component that may be replaced by the customer, you may receive such component to install without a service technician arriving on site. Also, if the telephone technician determines that the System is one that should be replaced as a whole unit, a whole replacement unit with a prepaid return mailing label for the defective return may be sent directly to you. You are required to return the defective unit within ten (10) days. If the telephone technician determines that the defective unit is one that is not easily disconnected and reconnected, you authorize QUALXSERV's service technician to act as your service agent to deliver the replacement unit to you in person and to return the defective unit to Dell.

**Warranty Parts.** If the telephone technician determines that your System needs a replacement part, you authorize QUALXSERV to act as your service agent to handle the delivery and return of the warranty parts necessary to render on-site repairs. You may incur a charge if you fail to allow QUALXSERV to return non-working/unused units/warranty parts to Dell. If the replacement unit is not delivered in person by a service technician, you may incur a charge from Dell if you fail to return the non-working/unused units/warranty parts to Dell within the ten (10) day period.

**Shipment.** In the case of replacement units/warranty parts, you will take delivery from Dell. You authorize QUALXSERV to act as your agent to handle the delivery and return of non-working/unused units/warranty parts to Dell.

**Payment Terms.** If payment is necessary, all invoices are payable upon receipt. If payment is not received within 10 days, Customer will pay an additional fee of 1.5% per month.

**Transfer of this Agreement.** Subject to the limitations set forth in this Agreement, you may transfer this Agreement to anyone who buys your entire System before the expiration of your service period (as specified on your invoice), provided you are the original purchaser of the System and this Agreement, or you have purchased the System and this Agreement from its original owner (or a previous transferee) and have complied with all the transfer rules in this Agreement. Please note that if you move your System to a geographic location in which the Service coverage is not available at the same price as you paid for this Agreement, you may incur an additional charge to maintain the same categories of Service coverage at the new location. If you choose not to pay such additional charge, your Service may be automatically changed to categories of Service that are available at such price or a lesser price in such new location with no refund available. Additionally, if (i) you transfer your Agreement to a buyer who will move the System to a geographic location in

which the Service coverage is not available at the same price as you paid for this Agreement, or (ii) if the transferee (i.e., the buyer) of this Agreement wishes to change the Service coverage, then you may incur an additional charge for such transfer fee discussed above.

**TO TRANSFER THIS SERVICE AGREEMENT:**

- **Using the Internet:** Complete the on-line form located within Dell's Service and Support section at:

[http://www.dell.com/us/en/dhs/topics/sbtopic\\_015\\_ccare.htm](http://www.dell.com/us/en/dhs/topics/sbtopic_015_ccare.htm)

- **Using Fax:** Fax a completed request to transfer to Fax #: (512) 728-8063

**Renewal.** Prior to the expiration of your service contract, you may extend your service period based on available options then in effect for your system. Service Extensions may be purchased by calling Dell at (800) 695-4458.

**Notices.** Any written notices provided by you to QUALXSERV must be sent to the following address:

Qualxserv  
836 North Street  
Tewksbury, MA 01876

**Governing Law.** This Agreement is governed by Texas law.

**Assignment.** QUALXSERV reserves the right to assign its rights and obligations under this Agreement to a qualified third party designated by QUALXSERV. In the event of such an assignment, you agree to look solely to the third party assignee for performance under this agreement.

**Complete Agreement.** THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN YOU AND QUALXSERV AND IT SUPERSEDES ALL PRIOR ORAL AND WRITTEN PROPOSALS AND COMMUNICATIONS PERTAINING TO THE SUBJECT MATTER HEREOF.

**LIMITATIONS TO SERVICE COVERAGE. THIS AGREEMENT IS OF LIMITED DURATION AND COVERAGE.** This Agreement extends only to original purchasers of the System shown on your invoice and located within the United States as determined by QUALXSERV, and to any person who buys the System and this Agreement from the original purchaser or a subsequent transferee; as long as all transfer procedures have been complied with. This Agreement extends only to uses for which the System was designed. Except as stated below, the services QUALXSERV agrees to provide under this Agreement are labor only which is necessary because of any defect which exists or occurs in materials or workmanship in the System or in any System component covered in your warranty. Preventive maintenance is not included. Installation, de-installation, or relocation services and operating supplies are not included. Repairs necessitated by software problems or as a result of alteration, adjustment, or repair by anyone other than QUALXSERV (or its representatives) and repair services which are necessary due to manufacturer's recall of Systems or System components are not included. QUALXSERV is not obligated to repair any System or System component which has been damaged as a result of: (i) accident, misuse, neglect, failure to follow instructions for proper use, care or cleaning of the System or abuse of the System or component (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, failure to follow operating instructions, or use of out of specification supplies) by anyone other than QUALXSERV (or its representatives), (ii) an act of God such as, but not limited to, lightning, flooding, tornado, earthquakes, and hurricanes, or (iii) failure due to an external factor (fire, flood, failures or fluctuations of electrical power or air conditioning), (iv) repairs due to excessive use, wear and tear, (v) service calls if QUALXSERV determines there is no trouble found, (vi) the loading of software, software configurations or any data files, or (vii) the moving of the System from one geographic location to another or from one entity to another.

**Geographic Limitations.** The Services described herein will only be available to original purchasers of the System located within the United States and to any person who receives this Service Description through a transfer from the original buyer in accordance with Dell's transfer procedures. The Services may not be available in all locations, and additional restrictions, charges, terms, and conditions may apply in certain locations. If you move the System to a location in which the Services are not available or you elect not to pay such additional charge, your service may automatically be changed to a Service Type that is available at such price or a lesser price in such new location.

**Force Majeure.** QUALXSERV is not liable for any failure or delay in performance due to any cause beyond its control. In any event, if QUALXSERV's ability to render repair services is impaired by you or circumstances beyond QUALXSERV's control, QUALXSERV may terminate this Agreement.

**Important Notice:** Prior to requesting services, it is your responsibility to back up the software and data on your System's hard disk drive and on any other storage device(s) in the System. QUALXSERV is not responsible for any loss of any software or data. Please note that if you move or sell your System into a geographic location in which the service coverage set forth in your invoice is not available; your Service may be automatically changed to categories of Service that are available at such price or a lesser price in such new location with no refund available.

**WARRANTY EXCLUSION. QUALXSERV MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR**

PURPOSE. QUALXSERV EXPRESSLY DISCLAIMS ALL WARRANTIES. LIMITATION OF REMEDY. YOUR EXCLUSIVE REMEDY AND QUALXSERV'S ENTIRE, COLLECTIVE LIABILITY IN CONTRACT, TORT OR OTHERWISE, UNDER THIS AGREEMENT IS THE REPAIR OF THE DEFECTIVE SYSTEM OR COMPONENTS IN ACCORDANCE WITH THIS AGREEMENT. IF QUALXSERV IS UNABLE TO MAKE SUCH REPAIR, YOUR EXCLUSIVE REMEDY AND QUALXSERV'S ENTIRE LIABILITY WILL BE THE PAYMENT OF ACTUAL DAMAGES NOT TO EXCEED THE CHARGE PAID BY YOU NOT TO EXCEED THE CHARGE PAID BY YOU IN THE PRECEEDING TWELVE (12) MONTHS OR, IF NO CHARGE WAS PAID, THE THEN-CURRENT PUBLISHED ANNUAL CHARGES FOR THIS AGREEMENT UNDER NO CIRCUMSTANCES WILL QUALXSERV BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, EXPENSES, COST, PROFITS, LOST SAVINGS OR EARNINGS, LOST OR CORRUPTED DATA, OR OTHER LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, OR OUT OF THE INSTALLATION, DEINSTALLATION, USE OF, OR INABILITY TO USE THE SYSTEM, OR OUT OF THE USE OF ANY SERVICE MATERIALS PROVIDED HEREUNDER. THIS AGREEMEENT GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF (i) INCIDENTAL OR CONSEQUENTIAL DAMAGES OR (ii) IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY.

CANCELLATION. QUALXSERV MAY IMMEDIATELY CANCEL THIS AGREEMENT AND YOU WILL NOT BE ENTITLED TO A REFUND IF YOU FAIL TO MAKE ANY PAYMENT WHEN DUE, IF YOU FAIL TO PROVIDE A LOCATION THAT IS A HOME OR OFFICE ENVIRONMENT THAT IS CONDUCIVE TO COMPUTER REPAIR, IF YOU INSIST ON SERVICE TO BE PROVIDED AT VARYING LOCATIONS, IF YOU FAIL TO PROPERLY RESTRAIN A PET, IF YOU THREATEN OUR TECHNICIAN EITHER VERBALLY OR PHYSICALLY, IF YOUR LOCATION OR THE GENERAL ARAEA WHERE THE SYSTEM IS LOCATED IS DANGEROUS, INFESTED WITH BUGS, RODENTS PESTS, BIOHAZARDS, HUMAN OR ANIMAL EXCREMENT AND/OR CHEMICALS AS REASONABLY DETERMINED TO BE UNSAFE BY OUR TECHNICIAN.

Neither QUALXSERV nor you may institute any action in any form arising out of this Agreement more than eighteen (18) months after the cause of action has arisen, or in the case of nonpayment, more than eighteen (18) months from the date of last payment.

With regard to any services that are not within the coverage of this Agreement, it will be within QUALXSERV's discretion whether to perform the services, and, if QUALXSERV elects to perform the services, the services will be subject to an additional charge to be paid by you.

THANK YOU