



nexsan
TECHNOLOGIES

NEXSAN TECHNOLOGIES

SERVICE AND SUPPORT

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Storage Products

Warranty General Terms

Nexsan warrants that its Products are free from defects in material and workmanship, and will conform to the applicable Nexsan specifications, under normal use and service, for the applicable warranty period.

Nexsan's sole and exclusive obligations under its warranty are to repair or replace, at Nexsan's option, the nonconforming system or component, or to issue customer a refund for the purchase price of the equipment.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THE WARRANTY REMEDIES STATED HEREIN ARE EXCLUSIVE. Nexsan shall not be responsible or liable for any consequential, indirect or special damages to any party, including lost profits, lost savings, lost data and loss of reputation, even if Nexsan has been advised of the possibility of such damages. Nexsan strongly urges all customers to take precautions to protect against data loss, particularly mission critical data, and to properly archive and backup data.

Any Nexsan warranty shall immediately be null and void if, in Nexsan's sole judgment, the unit has been altered or repaired other than with authorization from Nexsan and by its approved procedures, has been subject to misuse, abuse, negligence or accident, damaged by excess voltage, damaged in shipment, subjected to improper environmental conditions, or had its serial numbers and/or other marking altered, defaced or removed. Normal user preventative maintenance is the responsibility of the Purchaser and is excluded from this warranty.

Storage Products

The Nexsan manufactured SATABoy and SATABeast family of products come with a standard three-year, advance replacement warranty of all Nexsan manufactured components. All warranties begin upon original shipment date from Nexsan. Nexsan will offer advance replacement during the three year period.

Customers that do not wish to replace defective components can arrange for the entire storage device to be shipped, at customer's expense, to Nexsan for diagnosis and repair or alternatively can request on-site professional services from Nexsan. If professional services are requested a quote will be provided to the customer.

Escalation Policy

In the event that a support request is exceeding an expected resolution time or complexity then the call will be escalated internally to a level-2 engineer who may at their discretion escalate to engineering (Level-3) if the problem warrants ; this determination is made based on historical trends. All escalation events are monitored by Nexsan senior management. Customers can request escalation at any time if they believe that the engineer supporting them does not have the ability to resolve the issue at hand.

Phone and Email Support

The Technical Services Group is Nexsan Technologies' warranty and customer care program providing world wide support for all Nexsan products under warranty. Customers who require

assistance with installation, configuration, warranty or repair of a Nexsan product may contact Nexsan's Technical Support for English language technical support. Basic Warranty Service provides email and phone support during business hours whereas after hours support is provided via phone to our contracted customers. Nexsan Technologies provides regional Support centers in North America, United Kingdom and Central Europe. All of our regional support centers staff Senior Field Application Engineers, who can provide phone or on-site support as requested.

Nexsan Technical Support Center in the United States can be contacted directly by calling: 866-263-9726 or 760 690-1111 or +44 01332 291600 in the United Kingdom.

All support requests received via email to support@nexsan.com are addressed during Nexsan business hours.

Black Hole Policy

A Black Hole policy is required for some customers, primarily governmental, that cannot return a defective disk drive due to the sensitivity of the data (National Security) that was stored on the magnetic media and their respective organizations security policies, which prohibit any electronic storage device to leave the facility. In order to honor drive warranties in accounts such as these, Nexsan has established a Black Hole policy in conjunction with Hitachi, Seagate and Western Digital. Customers who have a black hole environment should consider maintaining a local spare for emergency use while the process occurs.

To get a replacement drive a photocopy of the label of the failed drive should be faxed to the Nexsan support fax 760 745-3503 in the US or +44 01332 291616 in the UK along with company name, contact, phone number and a brief description of the failure and the reason the drive cannot be returned for normal warranty exchange. Once this data is submitted a replacement drive is shipped to the customer. Black hole replacements usually ship within two days of notification.

On-Site and Support Contracts

Nexsan offers a full line of on-site support agreements; these support agreements are provided by Kodak with service agents and centers worldwide. On-site agreements cover parts and labor. 'Next Business day' or 7x24 on-site maintenance with a 4-hour response is available worldwide. Maintenance includes parts and labor and can be dispatched by calling the Nexsan support hotline or by calling Kodak. Zone charges do apply. Kodak also provides post-warranty contracts.

Support levels can be upgraded at any time by calling 866-2-NEXSAN and requesting service upgrades. Nexsan provides On-Site contracts that cover both labor and parts world-wide. All service programs are annual programs that are available during the warranty of the product and purchased post-warranty.

7x24 phone support- is a level in which a technician will respond to calls with 4 hours. This level of support is an uplift to the standard warranty. All email requests after Nexsan business hours will be addressed during the next business day.

Next Business Day Support- is a break-fix support level in which a technician will provide on-site maintenance the next business day of the initial call. All support requests via phone or email will be answered during the next business day.

7x24x4 on-site maintenance support- is a break-fix support level in which a technician will respond within 4 hours of the initial call. Once the issue diagnosed a technician will be dispatched to the customer's site if needed. All email requests after Nexsan business hours will be addressed during the next business day.

On Location Pre-Exchange (“OLPE”)

A program for maximum protection of critical storage devices, this program provides customers with an on-location pre-exchange unit that features fully redundant fail-over hardware including the chassis for a nominal annual charge. This program enables customers to have in their rack chassis a fully implemented system. Along with our Basic level of technical support or premium uplift support, customers can now be assured of rapid resolution to any problem. Defective components can then be advance replaced for constant availability.

RMA PROCEDURES

Requesting a Return Material Authorization (RMA)

1. If a customer believes that a Product does not conform to Nexsan's specification, the customer must notify Nexsan and request an RMA number. The customer must provide details of the non-conformance as reasonably requested by Nexsan.
2. Upon receiving a request for an RMA number, Nexsan will determine whether to issue an RMA, and whether such RMA shall be for the entire system or a field replaceable unit (“FRU”). Nexsan will opt for the return and repair of a FRU, as opposed to an entire unit, whenever possible.
3. In-warranty Products will be repaired or replaced (“RMA Activity”) free of charge. Out-of-warranty RMA Activity will be processed for a fee.
4. For in-warranty Products, Nexsan shall ship an advance replacement system or FRU within three (3) business days. With respect to out-of-warranty products, Nexsan shall have the sole discretion to either provide advance replacement, or to require the return of the system or FRU prior to shipping a repaired system or FRU. Out-of-warranty repairs or replacements will be made in a reasonable period of time.
5. In cases of advance-replacement, if Nexsan does not receive the defective Product or FRU back from the customer within ten (10) days after customer receives the replacement Product or FRU, Nexsan shall notify the customer in writing. If the customer fails to return such Product or FRU within ten (10) days after receiving written notification thereof from Nexsan, then Nexsan may

generate an invoice and charge customer the applicable price for the Product or FRU. Further, failure to return Products or FRUs, and failure to pay for the unreturned Product or FRU in a timely fashion, shall terminate Nexsan's obligation to provide advance replacement going forward

6. For in-warranty products, customer shall bear the cost and risk of transporting and insuring nonconforming equipment to Nexsan. Nexsan shall bear the cost of transporting advance replacement equipment to the customer. For out-of-warranty products, customer shall bear the cost and risk of transporting equipment both to and from Nexsan. For Dead-On-Arrival ("DOA") equipment (defined as products that fail within thirty (30) days of Nexsan's original shipment) – Nexsan shall bear the cost of transporting equipment both to and from Nexsan, and Nexsan shall transport replacement products to customer by priority shipment.
7. Customers must return equipment in Nexsan authorized shipping cartons. If such cartons have been discarded, customer must call Nexsan's shipping department for instructions.
8. If a customer wishes to expedite shipment, customer may request to do so at customer's cost, by providing Nexsan with customer's shipping account numbers.
9. In cases where Nexsan suspects that In-Warranty equipment has damage that invalidates Nexsan's warranty terms, Nexsan shall contact the customer and provide the following details:
 - i. Nexsan RMA;
 - ii. Digital photograph of damage;
 - iii. Probable cause of damage;
 - iv. Statement confirming damage invalidates warranty and repair is chargeable.

Customer will then choose whether to pay for the repair or replacement, or to have the un-repaired unit shipped back to it and return the advance replaced unit, if applicable.

Post Warranty Policies

To request post-warranty support (support for products that are no longer covered by the applicable warranty period), customers may call Nexsan's support hotline at 760 690-1111 or in Europe at +44 01332 291600 and our support engineers will assist in diagnosing the failure and will recommend a field replacement of the failed component or recommend that the unit be returned to a Nexsan depot for repair. All post warranty support requests will be handled during Nexsan Business Hours (8am to 5pm M-F Pacific time). Minimum labor for units returned to our depot is \$500, and that cost will cover diagnostics, inspection and up to 30 minutes of remedial labor. An estimate will be given if the repair costs exceed the \$500 fee prior to work beginning. If the customer chooses to not proceed, there will be no additional charges. Outbound freight will be paid for by Nexsan based on best available rates. Customers can opt to pay any freight uplift at their discretion.

Depot Repair program:

1. 1-year warranty on the repaired system (excluding disk drives).
2. A minimum \$500 inspection + diagnostic fee is required but if the costs exceed that an estimate will be sent for approval before proceeding. The maximum labor rate is \$500, and includes all labor, upgrades to current firmware, shipping and handling for the ATABoy (by product availability) or SATABoy products. The maximum labor rate is \$1,200 for the ATABeast (by product availability) or SATABeast. Shipping charges priority or overnight shipments are available at customer's cost with the customer's freight account number.
3. Parts will be charged from our part price list.
4. Parts purchased by end-users must be paid for by credit card or, after supplying its most recent financials and banking information, an end-user may apply for credit terms with Nexsan.

Field Parts Replacement:

1. Nexsan support engineers will assist in remote diagnostics and will provide the end-user remedial recommendations. All requests will be during Nexsan Business Hours (8am-5pm M-F Pacific time)
2. All replacement parts are warranted for one-year from the date of shipment, except disk drives, which are covered by the manufacturer's warranty.
3. Parts will be charged from our parts price list and are shipped FOB Origin. Freight and insurance in both directions are the responsibility of the customer.

*Note: All prices given in USD

RAID Product Support Matrix

RAID Products	Parts and Labor	Business Hour Phone Support (8-5 PST/PDT)	After Hour and Weekend Support	NBD Onsite Support	24x7x4hr Onsite Support
SATABoy	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
SATABeast	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
SATABeast Xi	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
SASBoy	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
SASBeast	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Note 1	First year must be included at time of purchase. Can be extended in 1 year increments				

ASSUREON®

Assureon Warranty

Nexsan warrants that its Hardware Products are free from defects in material and workmanship for 1 year from date of shipment or contract purchase, and will conform to the applicable Nexsan specifications, under normal use and service, for the applicable warranty period of 1 year.

Nexsan's sole and exclusive obligations under its warranty are to repair or replace, at Nexsan's option, the nonconforming system or component, or to issue customer a refund for the purchase price of the equipment.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THE WARRANTY REMEDIES STATED HEREIN ARE EXCLUSIVE. Nexsan shall not be responsible or liable for any consequential, indirect or special damages to any party, including lost profits, lost savings, lost data and loss of reputation, even if Nexsan has been advised of the possibility of such damages. Nexsan strongly urges all customers to take precautions to protect against data loss, particularly mission critical data, and to properly archive and backup data.

Any Nexsan warranty shall immediately be null and void if, in Nexsan's sole judgment, the unit has been altered or repaired other than with authorization from Nexsan and by its approved procedures, has been subject to misuse, abuse, negligence or accident, damaged by excess voltage, damaged in shipment, subjected to improper environmental conditions, or had its serial numbers and/or other marking altered, defaced or removed. Normal user preventative maintenance is the responsibility of the Purchaser and is excluded from this warranty.

Nexsan warrants that the software portion of its Products, when delivered and properly installed at customer site, will perform in accordance with Nexsan's published Specification, except for non-material aesthetic aspects. Nexsan will replace any defective media item within ten (10) business days after delivery. Nexsan does not warrant that the functions contained in the Software will meet any requirements beyond the Product Specifications, or that the operation of the software will be uninterrupted or error free. Nexsan makes no representation as to the suitability of Software supplied as to fitness for a particular purpose.

In the event of a failure during the warranty or any contracted support period the end-user may contact Nexsan support at 760 690-1111 or support@nexsan.com and Nexsan engineers will assist in diagnoses and resolution.

The Assureon appliance being sold has all stated Assureon software and Microsoft software pre-installed. The hardware portion of the appliance is being sold to Licensee, but all software is being licensed. (A license agreement is available for review from Nexsan. Please refer to that document for terms and conditions of Assureon licensing)

LICENSOR warrants that it is authorized to grant the license to the Software herein to the Licensee and that the Software will, when delivered and properly installed, perform materially in accordance with the documentation provided by LICENSOR. LICENSOR will replace any defective media item within 30 days after delivery. Any consulting or other services provided by LICENSOR are on a best

efforts basis. LICENSOR does not warrant that any of the Items will meet the specific needs of the Licensee.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. LICENSOR SPECIFICALLY DENIES ANY IMPLIED OR EXPRESS REPRESENTATION THAT: (i) ANY OF THE ITEMS WILL FIT THE LICENSEE'S REQUIREMENTS; (ii) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; OR (iii) LICENSOR CAN HAVE ALL PROGRAM DEFECTS CORRECTED.

Assureon Support Programs

- i. Basic Support NBD Support program.
 - a. Hardware support is Next Business Day On-site (provided by 3rd party provider)
 - b. All support is done during Nexsan business hours (8am to 5pm M-F Pacific)
 - c. Basic Support NBD does not include after hours phone or email support
 - i. Once a product has been diagnosed and a replacement FRU (Field Replaceable Unit) needs to be shipped, that part will ship within one business day from the conclusion of the diagnosis. Except in the case of EOL system or drive where parts availability are on a first come first serve basis.
- ii. 7x24x4 –7 days per week, 24 hours a day support with a 4-hour response excluding major holidays.
 - a. Nexsan will provide telephone support during and after business hours for hardware replacements. Nexsan support engineers will diagnose the issue, by-pass or temporary fix to a reported defect until the reported defect can be permanently corrected. Nexsan will use commercially reasonable efforts to respond to requests from customer for support as follows:
 - Severity Type 1 – Item not operational:
 - Initial response within two hours of initial contact with continuous reasonable effort by Nexsan Support until resolution complete. If the failure is determined to be hardware related Nexsan support engineers will upon diagnosis dispatch a technician for parts replacement within (4) hours.
 - Severity Type 2 - Item operational using temporary work around:
 - Initial response by next business day of initial contact with continuous effort by Nexsan Support during its normal business hours until resolution is complete
- iii. Encryption yearly service – Remote key management, 3rd party escrow service

On Site Support

Kodak worldwide provides Next Business Day On-site support on all Assureon systems (excluding OEM versions). Four hour 24/7 uplifts are available as well. Software and OS support are not covered by Kodak; Nexsan Technical support provides software support as a remote service. All on-site services are break-fix services and do not include standard administration issues.

Key Service (3rd Party Key Escrow)

In a Compliance model, the Assureon system connects via SSL to a third party key server. This highly secure key service provides end-users with encryption keys and secure disposition. Files are encrypted using the AES256 algorithm, the strongest technique commercially available today. The cryptographic module is certified to FIPS 140-2 Level 1, and options are available for Level 2 and Level 3 implementations for highly security conscious environments. Each file has its own unique encryption key, which allows Assureon to cryptographically delete individual files, even if they have

been copied to offline media such as tape or optical, by simply deleting all copies of the particular key. Safeguards are provided such that emergency recovery of cryptographically deleted offline files may be performed for a user-specified period of time (usually one month).

Key management is fully automatic, with multiple redundant copies of master keys and key databases stored in remote locations. A new master key for each month is provided on CD-R media. The CD-R data itself is encrypted with public key cryptography, with the private key hidden inside the Assureon software. Neither master keys nor individual file encryption keys are ever stored or transmitted in the clear.

(Note: A full Software license agreement is available for review and prior to use must be agreed upon by the end-user along with applicable Microsoft EULA)

Assureon Post-Contract support

All Assureon customers are solicited by Nexsan for contract renewals sixty to ninety days in advance of the expiration of their existing agreement. In the event the customer(s) opt not to renew their agreement the following process must follow:

1. All Assureon support calls must be checked for support entitlement.
2. If they subscribed to Key service we need to notify Montreal to discontinue key service and expire all their existing keys
3. Customers should not be notified of any potential support entitlements through any of our suppliers. Those are confidential agreements.
4. Any failure of h/w components within the Assureon are billable replacements if the one-year warranty has expired. Components will be replaced at Exclusive price for those components out of the standard price list.
5. These prices are for exchanging the failed component with a new component. Full price to purchase and not return the failed component is 35% higher than the exchange price. Customer pays all freight.
6. If the part that requires replacing is not in the standard price list then refer the pricing inquiry to US or UK Operations Managers who will take the cost of the component and mark it up appropriately (based on guidelines given by myself or Gene Spies) and provide that back to you.
7. Customers can provide us with either a credit card or a Purchase order directly for those parts prior to us shipping replacements.
8. Nexsan will provide email support inquiries or phone support inquiries during our standard business hours and within the parameters of our standard support queue. No on-site or after hours telephone support is available without a 7x24 support contract.
9. Nexsan can provide CarePacks in hourly increments
 - a. 5-hour \$600
 - b. 8-hour \$900
 - c. 40-hour \$4,250That can be used to assist in Assureon or server administration, troubleshooting or telephone consultations for deployments and can be purchased on an as-needed basis. A dedicated engineer becomes the point person during that period to assist in managing the customer's issue. CarePacks are good for one year from date of purchase and the CarePack time is accumulated Nexsan man-hours.
10. Customers that wish to renew their agreement after the fact (because it failed and they now see the value in a support agreement) must first pay to get the system repaired and once we certify it's running will need to assess what it will take to put them back under contract. Those requests have to be turned over to Michelle who will confer with the Assureon overlay team and I on what will be required. In some cases there may be a penalty.

ASSUREON END-USER SOFTWARE LICENSE AGREEMENT

IMPORTANT! THIS LICENSE AGREEMENT IS A BINDING AGREEMENT BETWEEN THE END USER (YOU) AND NEXSAN TECHNOLOGIES, INC. AND ITS RELATED COMPANIES ("NEXSAN").

Read this Agreement before downloading, installing, using or ordering the software that accompanies Nexsan's Assureon products ("Software"). When you, the End User, order, download, install or use the Software, you acknowledge that you have read the Agreement and understand it, and agree to be bound by the terms of this Agreement. If you act on behalf of a company or other entity, you warrant that you are duly authorized to enter into this Agreement on behalf of such company or other entity as the End User. If you did not obtain this copy of the Software legally, immediately delete the Software from the system and destroy any copies. If you do not accept all of the terms and conditions of this Agreement do not download, install, or use the Software.

THE RIGHT TO USE THE SOFTWARE IS GRANTED ONLY UPON THE CONDITION THAT YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

In creating the Software, Nexsan has used certain pieces of software that it licenses from third parties, such as Microsoft Corporation ("Microsoft"). You must also read and agree to be bound by the Microsoft End User License Agreements ("Microsoft EULA") that are attached hereto and made a part hereof by reference.

1. DEFINITIONS

"Agreement" means this Assureon End-User Software License Agreement, as well as any other documents incorporated herein by reference, such as the Microsoft EULAs.

"Designated Assureon Hardware Platform", "Designated Operating System", and "Designated Database" mean the Assureon hardware, operating system, and database, respectively, upon which the End User is authorized by the Nexsan to use the Software and in conjunction with which this Software has been provided.

"End User" means the entity or individual that has been granted a license to use the Software, as well as its employees, officers, directors, consultants, agents or others who are authorized to have access to the Software through the End User.

"Nexsan" means Nexsan Technologies, Inc. and any related companies, as well as – when applicable – Nexsan's employees, officers, directors and shareholders.

"Services" means Software updates, upgrades or other related services provided by Nexsan and subscribed to by the End User. The terms and conditions of such Services are set forth in a separate agreement ("Services Agreement") to be entered into by the End User and Nexsan.

"Software" means (a) the contents of the files or other computer information with which this Agreement is provided including, but not limited to: (i) Nexsan or third party computer information or software and (ii) related explanatory written materials or files ("Documentation"); and (b) modified versions, updates, upgrades, additions and copies of the Software, if any, licensed to the End User by Nexsan.

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regarding the Software. Any breach by the End User of the License terms set forth in this Section 1 shall immediately void and terminate the License.

(b) **LIMIT ON SCOPE.** The End User understands that the price for the Software is based on the amount of useable terabytes (“UTB”) with which the Software is used. The End User hereby agrees not to exceed the amount of UTBs that is authorized by Nexsan (“Authorized UTBs”). If the End User desires to increase the amount of Authorized UTBs, End User may do so by notifying Nexsan or an authorized reseller of Nexsan and paying the applicable fees.

(c) **INTERNAL USE.** The End User shall only use the Software for its own internal business purposes. Resale and re-licensing in any form whatsoever are strictly prohibited, and any such attempt shall be void. The End User shall not make the Software available on an application service provider or service bureau basis without the prior written consent of Nexsan.

(d) **RESTRICTIONS ON USE.** The End User shall use the Software only upon the Designated Assureon Hardware Platform and only in conjunction with the Designated Operating System and Designated Database. The End User hereby agrees not to use the Software in conjunction with a server or storage that has not been manufactured or originally distributed by Nexsan. If the Designated Assureon Hardware Platform is retired from service or is deployed for a purpose other than for operation of the Software, this License shall immediately terminate.

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Nexsan warrants that it is authorized to grant the License to the Software herein and that the Software, in its unaltered form, will, when delivered and properly installed, perform materially in accordance with the documentation provided by Nexsan. Nexsan will replace any defective media item within thirty (30) days after delivery.

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NEXSAN DOES NOT WARRANT THAT: (i) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; (ii) THE SOFTWARE WILL MEET ANY REQUIREMENTS OR SPECIFIC NEEDS OF THE END USER; OR (iii) THE END USER CAN HAVE ALL PROGRAM DEFECTS CORRECTED. NEXSAN IS NOT RESPONSIBLE FOR ANY MALFUNCTION, NONPERFORMANCE OR DEGRADATION OF PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ANY ALTERATION OR ATTACHMENT OF THE SOFTWARE OR ASSUREON HARDWARE TO NON-NEXSAN PRODUCTS.

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The Software is not absolutely fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems in which the failure of the Software could lead directly to death, personal injury or severe physical or environmental damage (“High Risk Activities”). Nexsan specifically disclaims any express or implied warranty of fitness for High Risk Activities.

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Nexsan shall not be liable for any non-authorized access by the End User or others of the Software to an information source or for the non-authorized access to documents or web pages. Nexsan shall not be liable for the interruption or the slowdown of the services of a network or web site server that may be potentially caused by the End user or other users of the Software. Nexsan shall not be responsible for correcting any errors not reproducible by the End User on the unmodified Software or errors caused by: (i) End User’s failure to implement all updates and upgrades issued under this Agreement; (ii) changes to the operating system or environment which could adversely affect the Software; (iii) any alteration of or addition to the Software made by a party other than Nexsan; (iv) the use of the Software in a manner not provided for in the Software Documentation; or (v) accident, negligence, or misuse of the Software.

6. INSTALLATION OF SOFTWARE

Unless End User has purchased installation and configuration services, End User will be responsible for configuration of the Software and any Designated Assureon Hardware Platform, Operating System or Database wholly at its expense, as well as any data conversion, data entry and data verification.

7. CONFIDENTIALITY

The Software contains information and trade secrets proprietary to Nexsan. To protect and maintain the confidentiality and restricted use of the Software, the End User shall take all reasonable steps and precautions. Furthermore, the End User agrees to use all reasonable efforts to ensure that persons employed by the End User or under the End User’s direction and control, abide by the terms and conditions of this Agreement, without limitation, not knowingly permitting anyone to use any portion of the Software for the purpose of deriving its source code. In the event the End User becomes aware that the Software is being used by such persons in a manner not authorized by this Agreement, the End User shall

immediately take all reasonable steps to have such unauthorized use of the Software immediately cease. The End User shall notify Nexsan in writing of the unauthorized use.

8. DEFAULT AND TERMINATION

Nexsan may terminate this Agreement and the License based on End User's material breach of this Agreement or End User's non-payment of any amounts owed to Nexsan when due, either under this Agreement or otherwise, if such breach continues for more than ten (10) days after Nexsan's sending written notice to the End User of such breach. Notwithstanding the foregoing, Nexsan may immediately terminate this Agreement, with no need for notification or a cure period, if End User breaches any provision of Section 1, hereof. Within fifteen (15) days following the termination of this Agreement, the End User shall either return all copies of the Software to Nexsan or certify in writing to Nexsan that all copies of the Software have been destroyed. A License shall be deemed to terminate on the date the End User no longer owns or leases the Designated Assureon Hardware Platform, the Designated Operating System, or the Designated Database. Upon termination of this Agreement, any provisions that, by their nature, are meant to survive termination shall so survive. Any default under this Agreement may be remedied by monetary damages, injunctive relief or both, at Nexsan's option.

9. GENERAL:

(a) **GOVERNING LAW.** This Agreement is made in the State of California, USA and shall be governed by the laws of the California. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any dispute relating to this Agreement will be adjudicated in the courts of the State of California without regard to conflict of laws principles.

(b) **TAXES.** Taxes and charges, imposed by any government with respect to the Software shall be paid by the End User.

(c) **EXPORT OR OTHER MOVEMENT OF SOFTWARE.** The Software and Designated Assureon Hardware Platform shall not be transferred or exported into any country that does not have copyright laws that will protect the rights of Nexsan and its licensors, or to which such export is impermissible. In order to make effective certain statements in this Agreement and to be informed of updates and upgrades, End User agrees to inform Nexsan on a confidential basis of its identity including its postal and email address, and any change thereto as well as any change in the location of the Designated Assureon Hardware Platform and Software.

(d) **LICENSE VERIFICATION.** For license verification purposes, End User agrees that the Software may electronically transmit to Nexsan the license code and version information along with summary data relating to the use of the Software, being understood that such summary data shall be strictly limited to the name of the Software host and instance, the number of UTBs, documents indexed or maximum documents used in conjunction with the License. Such transmission shall not contain any information regarding specific documents, queries and information sources, and shall be used solely for the purposes of License verification. End User agrees to not install any firewall or other computing environment configuration which may inhibit or prevent such transmission. Nexsan may enter upon End User's premises for the purpose of auditing the use of the Software. End User agrees to cooperate with Nexsan's audit and provide reasonable assistance and access to information. End User shall pay for the reasonable cost of the audit if End User is not in compliance and will promptly make good any underpayment disclosed in the course of the audit.

(e) **TITLES.** Captions contained in this Agreement are for reference purposes only, and are not part of the Agreement.

(f) **SEVERABILITY.** If any provisions of this Agreement are held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(g) **FORCE MAJEURE.** If Nexsan shall be delayed or prevented from performing this Agreement, due to any cause beyond its reasonable control, any such delay shall be excused during the continuance of the cause of delay, and the period of performance shall be extended to such extent as may be necessary to enable Nexsan to perform after the cause of delay has ended.

(h) **WAIVER.** A delay or failure by either party to exercise any right or partial right shall not be deemed to constitute a waiver of any such right or any other rights hereunder. Consent by either party to a breach of any express or implied term of this Agreement shall not constitute consent to any subsequent breach.

(i) **NONTRANSFERABILITY.** The End User shall not assign, sub-license, extend or otherwise transfer, in whole or in part, this Agreement or any license granted hereunder, without the prior written consent of Nexsan. Any such attempted assignment, sub-license, extension or transfer shall be void.

(j) **ENTIRE AGREEMENT.** The foregoing terms and conditions and the face page hereof constitute the entire agreement between the parties with respect to the matters discussed herein and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and all other communications between the parties. No amendment to this Agreement shall be valid and binding on either party unless agreed to in writing and signed by the duly authorized representative of each party. This Agreement may not be released, discharged, changed, modified or assigned except by an instrument in writing signed by a duly authorized representative of each of the parties.

(k) **SERVICE AGREEMENT.** End User understands that the Software is sold with the understanding that a Services Agreement will be entered into by the parties, which Services are described in more detail in the Services Agreement. In the event the End User terminates its subscription to Services, and then subsequently elects to renew the Services, the End User will be required to pay a penalty which is further described in the Services Agreement.

MICROSOFT SOFTWARE LICENSE TERMS AND CONDITIONS

MICROSOFT WINDOWS SERVER 2003 R2 STANDARD EDITION, ENTERPRISE EDITION, STANDARD x64 EDITION, ENTERPRISE x64 EDITION

These license terms are an agreement between Microsoft Corporation (or based on where you live, one of its affiliates) and you. Please read them. They apply to the software named above, which includes the media on which you received it, if any. The terms also apply to any Microsoft updates, supplements, Internet-based services and support services, for this software, unless other terms accompany those items. If so, those terms apply.

By using the software, you accept these terms. If you do not accept them, do not use the software. Instead, return it to the retailer for a refund or credit. If you cannot obtain a refund there, contact Microsoft or the Microsoft affiliate serving your country for information about Microsoft's refund policies. See www.microsoft.com/worldwide. In the United States and Canada, call (800) MICROSOFT or see www.microsoft.com/info/nareturns.htm.

As described below, using some features also operates as your consent to the transmission of certain standard computer information for Internet-based services.

If you comply with these license terms, you have the rights below for each software license you acquire.

OVERVIEW.

Software. *The software includes*

- server software; and
- additional software that may only be used with the server software directly, or indirectly through other additional software.

License Models. *The software is licensed based on*

- the number of instances of server software that you run; and

- the number of devices and users that access instances of the server software.

Definitions.

- **Instance.** You create an “instance” of software by executing the software’s setup or install procedure. You also create an instance of software by duplicating an existing instance. References to software in this agreement include “instances” of the software.
- **Run an Instance.** You “run an instance” of software by loading it into memory and executing one or more of its instructions. Once running, an instance is considered to be running (whether or not its instructions continue to execute) until it is removed from memory.
- **Operating System Environment.** An “operating system environment” is one instance of an operating system and instances of applications, if any, configured to run on that operating system instance. There are two types of operating system environments, physical and virtual. A physical operating system environment is configured to run directly on a physical hardware system. A virtual operating system environment is configured to run on a virtual (or otherwise emulated) hardware system. A physical hardware system can have either or both of the following:
 - one physical operating system environment
 - one or more virtual operating system environments.
- **Server.** A server is a physical hardware system capable of running server software. A hardware partition or blade is considered to be a separate physical hardware system.
- **Assigning a Software License.** To assign a software license means simply to designate that license to one device or user.

TERMS SPECIFIC TO THE SERVER + CLIENT ACCESS LICENSE MODEL.

a. **Assigning the License to the Server.**

- i. Before you run any instance of the server software under a software license, you must assign that license to one of your servers. That server is the licensed server for that particular license. You may assign other software licenses to the same server, but you may not assign the same license to more than one server.
- ii. You may reassign a software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

b. **Running Instances of the Server Software.** You have the rights below for each software license you assign (corresponding to the edition of the software you have licensed).

- i. **Standard Edition.** You may run, at any one time, one instance of the server software in one physical or virtual operating system environment on the licensed server.

- ii. **Enterprise Edition.**

You may run on the licensed server, at any one time:

one instance of the server software in one physical operating system environment, and up to four instances of the server software in virtual operating system environments (only one instance per virtual operating system environment). If you have separately licensed Standard Edition, you may run an instance of Standard Edition in place of Enterprise Edition in any of these virtual operating system environments. This agreement applies to your use of Standard Edition in this manner.

If you run all five permitted instances at the same time, the instance of the server software running in the physical operating system environment may be used only to run hardware virtualization software and to manage and service operating system environments on the licensed server.

c. Running Instances of the Additional Software. *You may run or otherwise use any number of instances of additional software listed below in physical or virtual operating system environments on any number of devices. You may use additional software only with the server software directly, or indirectly through other additional software.*

- DFS Namespaces and Replication Console
- Print Management
- File Server Management
- Identity Management for Unix Admin Pack
- File Server Resource Manager
- Server Administration Tools
- Remote Desktop Connection
- Windows System Resource Manager

Creating and Storing Instances on Your Servers or Storage Media. *You have the additional rights below for each software license you acquire.*

- * You may create one instance of the server software solely to exercise your right to run one instance in a physical operating system environment as described above.
- * You may create any number of instances of the server software solely to exercise your right to run instances in virtual operating system environments as described above.
- * You may create any number of instances of the additional software solely to exercise your rights to run or use instances in physical and virtual operating system environments as described above.
- * You may store instances created under (ii) and (iii) above on any of your servers or storage media.
- * You may create and store instances to exercise your rights described above under any of your software licenses. You may not use the instances for any other purpose (e.g., you may not distribute instances to third parties).

ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.

Client Access Licenses (CALs).

i. In addition to the software license, you must acquire and assign the appropriate CAL to each device or user that accesses your instances of the server software directly or indirectly. A hardware partition or blade is considered to be a separate device.

- You do not need CALs for any user or device that accesses your instances of the server software only through the Internet without being authenticated or otherwise individually identified by the server software.
- You do not need CALs for any of your servers licensed to run your instances of the server software.
- You do not need CALs for up to two devices or users to access your instances of the server software only to administer those instances.
- Your CALs permit access to your instances of earlier versions, but not later versions, of the server software. As an exception, you may use Windows Server 2003 CALs, Windows Server 2003 Terminal Services CALs and Windows Server 2003 Rights Management Services CALs to satisfy your CAL requirements described in more detail below.

ii. Types of CALs. There are two types of CALs: one for devices and one for users. Each device CAL permits one device, used by any user, to access instances of the server software on your licensed servers. Each user CAL

permits one user, using any device, to access instances of the server software on your licensed servers. You may use a combination of device and user CALs.

iii. Reassignment of CALs.

- You may permanently reassign your device CAL from one device to another, or your user CAL from one user to another; or temporarily reassign your device CAL to a loaner device while the first device is out of service, or your user CAL to a temporary worker while the user is absent.

iv. Windows Server 2003 CALs.

The server software can be used in either “per device or per user” mode or “per server” mode. In “per device or per user” mode, you need a Windows Server 2003 CAL for each device or user that directly or indirectly accesses instances of the server software on your licensed servers. In “per server” mode, you need and must dedicate exclusively to an instance of the server software as many Windows Server 2003 CALs as the greatest number of devices and users that may directly or indirectly access that instance at the same time. You may change the mode only one time, from “per server” to “per device or per user.” If you do, you will retain the same number Windows Server 2003 CALs.

You may use Windows Small Business Server 2003 CALs instead of Windows Server 2003 CALs to access instances of the server software as described above when those instances of server software are within an SBS domain.

v. Windows Server 2003 Terminal Services CALs. Regardless of the mode in which you use the server software, the following apply.

In addition to needing a Windows Server 2003 CAL, you need a Windows Server 2003 Terminal Services CAL for each user or device that directly or indirectly accesses the server software to host a graphical user interface (using the Windows Server 2003 R2 Terminal Services functionality or other technology).

You do not need a Windows Server 2003 Terminal Services CAL to attach to or mirror the console session. The console session is the session that takes place through the server’s primary keyboard and display device (or similar devices).

vi. Windows Server 2003 Rights Management Services CALs. Regardless of the mode in which you use the server software, the following applies. In addition to needing a Windows Server 2003 CAL, you need a Windows Server 2003 Rights Management Services CAL for each user or device that directly or indirectly accesses the Windows Server 2003 R2 Rights Management Services functionality.

Multiplexing. *Hardware or software you use to:*

- pool connections,
- reroute information,
- reduce the number of devices or users that directly access or use the software, or
- reduce the number of devices or users the software directly manages,

(sometimes referred to as “multiplexing” or “pooling”), does not reduce the number of licenses of any type that you need.

No Separation of Server Software. *You may not separate the server software for use in more than one operating system environment under a single license, unless expressly permitted. This applies even if the operating system environments are on the same physical hardware system.*

Additional Functionality. *Microsoft may provide additional functionality for the software. Other license terms and fees may apply.*

MANDATORY ACTIVATION. To prevent its unlicensed use, you will not be able to use the software if you do not activate it as described during installation or setup. **You can activate the software by Internet or telephone;**

Internet and telephone service charges may apply. Some changes to your computer components or the software may require you to reactivate the software. The software will remind you to activate until you do.

INTERNET-BASED SERVICES. Microsoft provides Internet-based services with the software. It may change or cancel them at any time.

Consent for Internet-Based Services. *The software features described below connect to Microsoft or service provider computer systems over the Internet. In some cases, you will not receive a separate notice when they connect. You may switch off these features or not use them. For more information about these features, see <http://go.microsoft.com/fwlink/?linkid=38670>. **By using these features, you consent to the transmission of this information.** Microsoft does not use the information to identify or contact you.*

- **Computer Information.** The following features use Internet protocols, which send to the appropriate systems computer information, such as your Internet protocol address, the type of operating system, browser and name and version of the software you are using, and the language code of the device where you run the software. Microsoft uses this information to make the Internet-based services available to you.
- **Windows Update Feature.** You may connect new hardware to the device where you run the software. Your device may not have the drivers needed to communicate with that hardware. If so, the update feature of the software can obtain the correct driver from Microsoft and install and run it on your device. You can switch off this update feature.
- **Web Content Features.** Features in the software can retrieve related content from Microsoft and provide it to you. To provide the content, these features send to Microsoft the type of operating system, name and version of the software you are using, type of browser and language code of the device where you run the software. Examples of these features are clip art, templates, online training, online assistance and Appshelp. You may choose not to use these web content features.
- **Digital Certificates.** The software uses digital certificates. These digital certificates confirm the identity of Internet users sending X.509 standard encrypted information. The software retrieves certificates and updates certificate revocation lists. These security features operate only when you use the Internet.
- **Auto Root Update.** The Auto Root Update feature updates the list of trusted certificate authorities. You can switch off the Auto Root Update feature.
- **Windows Media Digital Rights Management.** Content owners use Windows Media digital rights management technology (WMDRM) to protect their intellectual property, including copyrights. The software and third party software use WMDRM to play and copy WMDRM-protected content. If the software fails to protect the content, content owners may ask Microsoft to revoke the software's ability to use WMDRM to play or copy protected content. Revocation does not affect other content. When you download licenses for protected content, you agree that Microsoft may include a revocation list with the licenses. Content owners may require you to upgrade WMDRM to access their content. Microsoft software that includes WMDRM will ask for your consent prior to the upgrade. If you decline an upgrade, you will not be able to access content that requires the upgrade. You may switch off WMDRM features that access the Internet. When these features are off, you can still play content for which you have a valid license.
- **Windows Media Player.** When you use Windows Media Player, it checks with Microsoft for
 - compatible online music services in your region;
 - new versions of the player; and
 - codecs if your device does not have the correct ones for playing content.

You can switch off this last feature. For more information, go to <http://go.microsoft.com/fwlink/?LinkId=51331>.

- **Windows Rights Management Services.** The software contains a feature that allows you to create content that cannot be printed, copied or sent to others without your permission. You must connect to Microsoft to use this feature for the first time. Once a year, you must re-connect to Microsoft to update it. For more information, go to <http://go.microsoft.com/fwlink/?LinkId=52646>. You may choose not to use this feature.

Misuse of Internet-based Services. *You may not use these services in any way that could harm them or impair anyone else's use of them. You may not use the services to try to gain unauthorized access to any service, data, account or network by any means.*

DATA STORAGE TECHNOLOGY. The server software includes data storage technology called Microsoft SQL Server Desktop Engine for Windows. Components of the server software use this technology to store data. You may not otherwise use or access this technology under this agreement.

MICROSOFT .NET FRAMEWORK BENCHMARK TESTING. The software includes the .NET Framework component (“.NET Component”). You may conduct internal benchmark testing of the .NET Component. You may disclose the results of any benchmark test of the .NET Component, provided that you comply with the following terms: (1) you must disclose all the information necessary for replication of the tests, including complete and accurate details of your benchmark testing methodology, the test scripts/cases, tuning parameters applied, hardware and software platforms tested, the name and version number of any third party testing tool used to conduct the testing, and complete source code for the benchmark suite/harness that is developed by or for you and used to test both the .NET Component and the competing implementation(s); (2) you must disclose the date (s) that you conducted the benchmark tests, along with specific version information for all Microsoft software products tested, including the .NET Component; (3) your benchmark testing was performed using all performance tuning and best practice guidance set forth in the product documentation and/or on Microsoft’s support web sites, and uses the latest updates, patches and fixes available for the .NET Component and the relevant Microsoft operating system; (4) it shall be sufficient if you make the disclosures provided for above at a publicly available location such as a website, so long as every public disclosure of the results of your benchmark test expressly identifies the public site containing all required disclosures; and (5) nothing in this provision shall be deemed to waive any other right that you may have to conduct benchmark testing. The foregoing obligations shall not apply to your disclosure of the results of any customized benchmark test of the .NET Component, whereby such disclosure is made under confidentiality in conjunction with a bid request by a prospective customer, such customer’s application(s) are specifically tested and the results are only disclosed to such specific customer. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the .NET Component, provided it complies with the same conditions above.

SCOPE OF LICENSE. The software is licensed, not sold. This agreement only gives you some rights to use the software. Microsoft reserves all other rights. Unless applicable law gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that only allow you to use it in certain ways. For more information, see www.microsoft.com/licensing/userights. You may not

- work around any technical limitations in the software;
- reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- make more copies of the software than specified in this agreement or allowed by applicable law, despite this limitation;
- publish the software for others to copy;
- rent, lease or lend the software; or
- use the software for commercial software hosting services.

Rights to access the software on any device do not give you any right to implement Microsoft patents or other Microsoft intellectual property in software or devices that access that server or device.

BACKUP COPY. You may make one backup copy of the software media. You may use it only to create instances of the software.

DOCUMENTATION. Any person that has valid access to your computer or internal network may copy and use the documentation for your internal, reference purposes.

NOT FOR RESALE SOFTWARE. You may not sell software marked as “NFR” or “Not for Resale.”

ACADEMIC EDITION SOFTWARE. You must be a “Qualified Educational User” to use software marked as “Academic Edition” or “AE.” If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.

DOWNGRADE. Instead of using the software, you may use an earlier version. This agreement applies to your use of the earlier version. If the earlier version includes different components, any terms for those components in the agreement that comes with the earlier version apply to your use of them. Microsoft is not obligated to supply earlier versions to you. At any time, you may replace an earlier version with this version of the software.

USING SOFTWARE DESIGNED FOR OTHER PLATFORMS. The following software is designed for the 32-bit x86 platform:

- Windows Server 2003 R2 Standard Edition; and
- Windows Server 2003 R2 Enterprise Edition.

The following software is designed for the x64 platform:

- Windows Server 2003 R2 Standard x64 Edition; and
- Windows Server 2003 R2 Enterprise x64 Edition.

A license for a platform-specific version of standard edition permits you to use, in place of what you have licensed, the standard edition software for the other platform under that license. A license for a platform-specific version of enterprise edition permits you to use, in place of what you have licensed, the enterprise edition software for the other platform under that license. For example, under a license for Windows Server 2003 R2 Standard x64 Edition you may run Windows Server 2003 R2 Standard Edition in place of Windows Server 2003 R2 Standard x64 Edition. You may create and run only as many instances of software under a license as that license permits. You may not run enterprise edition software under a standard edition license. The software may not work on all platforms (e.g., software for x64 may not work on the 32-bit x86 platform). Microsoft is not obligated to provide you software for platforms you have not licensed.

PROOF OF LICENSE. If you acquired the software on a disc or other media, a genuine Microsoft Proof of License label with a genuine copy of the software identifies licensed software. To be valid, this label must appear on Microsoft packaging. If you receive the label separately, it is invalid. You should keep the packaging that has the label on it to prove that you are licensed to use the software. To identify genuine Microsoft software, see www.howtotell.com.

TRANSFER TO A THIRD PARTY. The first user of the software may transfer it, this agreement, and CALs, directly to a third party. Before the transfer, that party must agree that this agreement applies to the transfer and use of the software. The transfer must include the software and the Proof of License label. The first user may not retain any instances of the software unless that user also retains another license for the software.

NOTICE ABOUT THE MPEG-4 VISUAL STANDARD. This software includes MPEG-4 visual decoding technology. This technology is a format for data compression of video information. MPEG LA, L.L.C. requires this notice:

USE OF THIS PRODUCT IN ANY MANNER THAT COMPLIES WITH THE MPEG 4 VISUAL STANDARD IS PROHIBITED, EXCEPT FOR USE DIRECTLY RELATED TO (A) DATA OR INFORMATION (i) GENERATED BY AND OBTAINED WITHOUT CHARGE FROM A CONSUMER NOT THEREBY ENGAGED IN A

BUSINESS ENTERPRISE, AND (ii) FOR PERSONAL USE ONLY; AND (B) OTHER USES SPECIFICALLY AND SEPARATELY LICENSED BY MPEG LA, L.L.C.

If you have questions about the MPEG-4 visual standard, please contact MPEG LA, L.L.C., 250 Steele Street, Suite 300, Denver, Colorado 80206; www.mpegla.com.

EXPORT RESTRICTIONS. The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.

SUPPORT SERVICES. Microsoft provides support services for the software as described at www.support.microsoft.com/common/international.aspx.

ENTIRE AGREEMENT. This agreement (including the warranty below), and the terms for supplements, updates, Internet-based services and support services that you use, are the entire agreement for the software and support services.

APPLICABLE LAW.

United States. If you acquired the software in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.

Outside the United States. If you acquired the software in any other country, the laws of that country apply.

LEGAL EFFECT. This agreement describes certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.

LIMITATION ON AND EXCLUSION OF DAMAGES. You can recover from Microsoft and its suppliers only direct damages up to the amount you paid for the software. You cannot recover any other damages, including consequential, lost profits, special, indirect or incidental damages. This limitation applies to:

anything related to the software, services, content (including code) on third party Internet sites, or third party programs; and claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law. It also applies even if repair, replacement or a refund for the software does not fully compensate you for any losses; or Microsoft knew or should have known about the possibility of the damages.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. They also may not apply to you because your country may not allow the exclusion or limitation of incidental, consequential or other damages.

MICROSOFT SOFTWARE LICENSE TERMS MICROSOFT SQL SERVER 2005 WORKGROUP EDITION

These license terms are an agreement between Microsoft Corporation (or based on where you live, one of its affiliates) and you. Please read them. They apply to the software named above, which includes the media on which you received it, if any. The terms also apply to any Microsoft updates, supplements, Internet based services, and support services for this software,

unless other terms accompany those items. If so, those terms apply.

By using the software, you accept these terms. If you do not accept them, do not use the software. Instead, return it to the retailer for a refund or credit. If you cannot obtain a refund there, contact Microsoft or the Microsoft affiliate serving your country for information about Microsoft's refund policies. See www.microsoft.com/worldwide. In the United States and Canada, call (800) MICROSOFT or see www.microsoft.com/info/nareturns.htm.

Each license for the software is acquired under either the Server + Client Access License model or the Per Processor license model, and may not be changed. If you comply with these license terms you have the rights below for each software license you acquire or each server you appropriately license, as further explained in sections 2 and 3.

1. OVERVIEW.

a. Software. The software includes server software; and additional software that may only be used with the server software directly, or indirectly through other additional software.

b. License Models. The software is licensed based on either: the number of instances of server software that you run and the number of devices and users that access instances of the server software (see section 2 – Terms Specific to the Server + Client Access License Model); or the number of physical and virtual processors used by operating system environments in which you run instances of the server software (see section 3 – Terms Specific to the Per Processor License Model).

c. Definitions.

■ Instance. You create an “instance” of software by executing the software’s setup or install procedure. You also create an instance of software by duplicating an existing instance. References to software in this agreement include “instances” of the software.

■ Run an Instance. You “run an instance” of software by loading it into memory and executing one or more of its instructions. Once running, an instance is considered to be running (whether or not its instructions continue to execute) until it is removed from memory.

■ Operating System Environment. An “operating system environment” is one instance of an operating system and instances of applications, if any, configured to run on that operating system instance. There are two types of operating system environments, physical and virtual. A physical operating system environment is configured to run directly on a physical hardware system. A virtual operating system environment is configured to run on a virtual (or otherwise emulated) hardware system. A physical hardware system can have either or both of the following:

- o one physical operating system environment
- o one or more virtual operating system environments

_ Server. A server is a physical hardware system capable of running server software. A hardware partition or blade is considered to be a separate physical hardware system.

_ Physical and Virtual Processors. A physical processor is a processor in a physical hardware system. Physical operating system environments use physical processors. A virtual processor is a processor in a virtual (or otherwise emulated) hardware system. Virtual operating system environments use virtual processors. A virtual processor is considered to have the same number of threads and cores as each physical processor on the underlying physical hardware system.

_ Assigning a Software License. To assign a software license means simply to designate that license to one server.

2. TERMS SPECIFIC TO THE SERVER + CLIENT ACCESS LICENSE MODEL.

a. Assigning the License to the Server.

- i. Before you run any instance of the server software under a software license, you must assign that license to one of your servers. That server is the licensed server for that particular license. You may assign other software licenses to the same server, but you may not assign the same license to more than one server. A hardware partition or blade is considered to be a separate server.
- ii. You may reassign a software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.

b. Running Instances of the Server Software. You may run any number of instances of the server software in one physical or virtual operating system environment on the licensed server at a time.

c. **Running Instances of the Additional Software.** You may run or otherwise use any number of instances of additional software listed below on any number of devices. You may use additional software only with the server software directly, or indirectly through other additional software.

Business Intelligence Development Studio
SQL Server 2005 Books Online
Connectivity Components
Legacy Components
Management Tools
Reporting Services Report Manager
Reporting Services Shared Tools
SQL Server 2005 Shared Tools
Software Development Kit
SQLXML Client Features
SQL Server Mobile Server Tools

d. **Creating and Storing Instances on Your Servers or Storage Media.** You have the additional rights below for each software license you acquire.

- You may create any number of instances of the server software and additional software.
- You may store instances of the server software and additional software on any of your servers or storage media.
- You may create and store instances of the server software and additional software solely to exercise your right to run instances of the server software under any of your software licenses as described above (e.g., you may not distribute instances to third parties).

e. **Included Microsoft Programs.** The software contains other Microsoft programs. The license terms with those programs apply to your use of them.

f. **Client Access Licenses (CALs).**

i. In addition to the software license, you must acquire the appropriate CAL for each device or user that accesses instances of the server software directly or indirectly.

You may access instances of the server software under Microsoft SQL Server 2005 CALs. However, you may not access instances of Microsoft SQL Server 2005 Standard Edition or Enterprise Edition server software under Workgroup Edition CALs.

You do not need a CAL for any of your servers licensed to run instances of the server software.

You do not need a CAL for up to two devices or users to access instances of the server software only to administer those instances.

Your CALs permit access to instances of earlier versions, but not later versions, of the server software.

ii. **Types of CALs.** There are two types of CALs: one for devices and one for users. Each device CAL permits one device, used by any user, to access instances of the server software on your licensed servers. Each user CAL permits one user, using

any device, to access instances of the server software on your licensed servers. You may use a combination of device and user

CALs.

iii. **Reassignment of CALs.** You may permanently reassign your device CAL from one device to another, or your user CAL from one user to another; or temporarily reassign your device CAL to a loaner device while the first device is out of service, or your user CAL to a temporary worker while the user is absent.

3. TERMS SPECIFIC TO THE PER PROCESSOR LICENSE MODEL.

- a. Licensing a Server. Before you run instances of the server software on a server, you must determine the required number of software licenses and assign those licenses to that server as described below.
 - i. Determining the Number of Licenses Required. You must first determine the number of software licenses you need. The total number of software licenses required for a server equals the sum of the software licenses required under (A) and (B) below.
 - A. To run instances of the server software in the physical operating system environment on a server, you need a software license for each physical processor that the physical operating system environment uses.
 - B. To run instances of the server software in virtual operating system environments on a server, you need a software license for each virtual processor that each of those virtual operating system environments uses. If a virtual operating system environment uses a fraction of a virtual processor, the fraction counts as a full virtual processor.
 - b. Assigning the Required Number of Licenses to the Server.
 - i. After you determine the number of software licenses you need for a server, you must assign that number of software licenses to that server. That server is the licensed server for all of those licenses. You may not assign the same license to more than one server. A hardware partition or blade is considered to be a separate server.
 - ii. You may reassign the software license, but not within 90 days of the last assignment. You may reassign a software license sooner if you retire the licensed server due to permanent hardware failure. If you reassign a license, the server to which you reassign the license becomes the new licensed server for that license.
 - c. Running Instances of the Server Software. For each server to which you have assigned the required number of software licenses, you may run, at any one time, any number of instances of the server software in physical and virtual operating system environments on the licensed server. However, the total number of physical and virtual processors used by those operating system environments cannot exceed the number of software licenses assigned to that server.
 - d. Running Instances of the Additional Software. You may run or otherwise use any number of instances of additional software listed below on any number of devices. You may use additional software only with the server software directly, or indirectly through other additional software.

- Business Intelligence Development Studio
- SQL Server 2005 Books Online
- Connectivity Components
- Legacy Components
- Management Tools
- Reporting Services Report Manager
- Reporting Services Shared Tools
- SQL Server 2005 Shared Tools
- Software Development Kit
- SQLXML Client Features
- SQL Server Mobile Server Tools

e. Creating and Storing Instances on Your Servers or Storage Media. You have the additional rights below for each software license you acquire.

- You may create any number of instances of the server software and additional software.
- You may store instances of the server software and additional software on any of your servers or storage media.
- You may create and store instances of the server software and additional software solely to exercise your right to run instances

of the server software under any of your software licenses as described above (e.g., you may not distribute instances to third parties).

f. Included Microsoft Programs. The Software contains other Microsoft programs. The license terms with those programs apply to your use of them.

4. ADDITIONAL LICENSING REQUIREMENTS AND/OR USE RIGHTS.

a. Multiplexing. Hardware or software you use to:

- pool connections,
 - reroute information,
 - reduce the number of devices or users that directly access or use the software, or
 - reduce the number of devices or users the software directly manages, (sometimes referred to as “multiplexing” or “pooling”),
- does not reduce the number of licenses you need.

b. Failover Rights. For any operating system environment in which you run instances of the server software, you may run up to the same number of passive failover instances in a separate operating system environment for temporary support. If you have licensed the server software under the Per Processor licensing model, the number of processors used in that separate operating system environment must not exceed the number of processors used in the corresponding operating system environment in which the active instances are running. You may run the passive failover instances on a server other than the licensed server.

c. No Separation of Server Software. You may not use the server software in more than one operating system environment under a single license, unless expressly permitted. This applies even if the operating system environments are on the same physical hardware system.

d. .NET Framework Software. The software contains Microsoft .NET Framework software. This software is part of Windows. The license terms for Windows apply to your use of the .NET Framework software.

e. Distributable Code. The software contains code that you are permitted to distribute in programs you develop if you comply with the terms below.

i. Right to Use and Distribute. The code and text files listed below are “Distributable Code.”

_ Sample Code. You may modify, copy, and distribute the source and object code form of code marked as “sample.”

_ Third Party Distribution. You may permit distributors of your programs to copy and distribute the Distributable Code as part of those programs.

ii. Distribution Requirements. For any Distributable Code you distribute, you must

- i. _ add significant primary functionality to it in your programs;
- ii. _ require distributors and external end users to agree to terms that protect it at least as much as this agreement;
- iii. _ display your valid copyright notice on your programs; and
- iv. _ indemnify, defend, and hold harmless Microsoft from any claims, including attorneys’ fees, related to the distribution or use of your programs.

iii. Distribution Restrictions. You may not

- _ alter any copyright, trademark or patent notice in the Distributable Code;
- _ use Microsoft’s trademarks in your programs’ names or in a way that suggests your programs come from or are endorsed by Microsoft;
- _ distribute Distributable Code to run on a platform other than the Windows platform;
- _ include Distributable Code in malicious, deceptive or unlawful programs; or
- _ modify or distribute the source code of any Distributable Code so that any part of it becomes subject to an Excluded License. An Excluded License is one that requires, as a condition of use, modification or distribution, that the code be disclosed or distributed in source code form; or others have the right to modify it.

5. BENCHMARK TESTING. You must obtain Microsoft’s prior written approval to disclose to a third party the results of any benchmark test of the software. However, this does not apply to the Microsoft .NET Framework (see below).

6. MICROSOFT .NET FRAMEWORK BENCHMARK TESTING. The software includes the .NET Framework component of the Windows operating systems (“.NET Component”). You may conduct internal benchmark testing of the .NET Component. You may disclose the results of any benchmark test of the .NET Component, provided that you comply with the following terms: (1)

you must disclose all the information necessary for replication of the tests, including complete and accurate details of your benchmark testing methodology, the test scripts/cases, tuning parameters applied, hardware and software platforms tested, the name and version number of any third party testing tool used to conduct the testing, and complete source code for the benchmark suite/harness that is developed by or for you and used to test both the .NET Component and the competing implementation(s); (2) you must disclose the date (s) that you conducted the benchmark tests, along with specific version information for all Microsoft software products tested, including the .NET Component; (3) your benchmark testing was performed using all performance tuning and best practice guidance set forth in the product documentation and/or on Microsoft's support web sites, and uses the latest updates, patches and fixes available for the .NET Component and the relevant Microsoft operating system; (4) it shall be sufficient if you make the disclosures provided for above at a publicly available location such as a website, so long as every public disclosure of the results of your benchmark test expressly identifies the public site containing all required disclosures; and (5) nothing in this provision shall be deemed to waive any other right that you may have to conduct benchmark testing. The foregoing obligations shall not apply to your disclosure of the results of any customized benchmark test of the .NET Component, whereby such disclosure is made under confidentiality in conjunction with a bid request by a prospective customer, such customer's application(s) are specifically tested and the results are only disclosed to such specific customer. Notwithstanding any other agreement you may have with Microsoft, if you disclose such benchmark test results, Microsoft shall have the right to disclose the results of benchmark tests it conducts of your products that compete with the .NET Component, provided it complies with the same conditions above.

7. SCOPE OF LICENSE. The software is licensed, not sold. This agreement only gives you some rights to use the software. Microsoft reserves all other rights. Unless applicable law gives you more rights despite this limitation, you may use the software only as expressly permitted in this agreement. In doing so, you must comply with any technical limitations in the software that only allow you to use it in certain ways. For more information, see www.microsoft.com/licensing/userights. You may not

- _ work around any technical limitations in the software;
- _ reverse engineer, decompile or disassemble the software, except and only to the extent that applicable law expressly permits, despite this limitation;
- _ publish the software for others to copy;
- _ rent, lease or lend the software; or
- _ use the software for commercial software hosting services.

Rights to access the server software do not give you any right to implement Microsoft patents or other Microsoft intellectual property in software or devices that access the server.

8. BACKUP COPY. You may make one backup copy of the software media. You may use it only to create instances of the software.

9. DOCUMENTATION. Any person that has valid access to your computer or internal network may copy and use the documentation for your internal, reference purposes.

10. NOT FOR RESALE SOFTWARE. You may not sell software marked as "NFR" or "Not for Resale."

11. ACADEMIC EDITION SOFTWARE. You must be a "Qualified Educational User" to use software marked as "Academic Edition" or "AE." If you do not know whether you are a Qualified Educational User, visit www.microsoft.com/education or contact the Microsoft affiliate serving your country.

12. DOWNGRADE. Instead of using the software, you may use an earlier version. This agreement applies to your use of the earlier version. If the earlier version includes different components, any terms for those components in the agreement that comes with the earlier version apply to your use of them. Microsoft is not obligated to supply earlier versions to you. At any time, you may replace an earlier version with this version of the software.

13. TRANSFER TO A THIRD PARTY. The first user of the software may transfer it, this agreement, and CALs, directly to a third party. Before the transfer, that party must agree that this agreement applies to the transfer and use of the software. The first user may not retain any instances of the software unless that user also retains another license for the software.

14. EXPORT RESTRICTIONS. The software is subject to United States export laws and regulations. You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use. For additional information, see www.microsoft.com/exporting.

15. SUPPORT SERVICES. Microsoft provides support services for the software as described at www.support.microsoft.com/common/international.aspx.

16. ENTIRE AGREEMENT. This agreement (including the warranty below), and the terms for supplements, updates, Internet based services and support services that you use, are the entire agreement for the software and support services.

17. APPLICABLE LAW.

- a. United States. If you acquired the software in the United States, Washington state law governs the interpretation of this agreement and applies to claims for breach of it, regardless of conflict of laws principles. The laws of the state where you live govern all other claims, including claims under state consumer protection laws, unfair competition laws, and in tort.
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- b. Outside the United States. If you acquired the software in any other country, the laws of that country apply.

18. LEGAL EFFECT. This agreement describes certain legal rights. You may have other rights under the laws of your state or country. You may also have rights with respect to the party from whom you acquired the software. This agreement does not change your rights under the laws of your state or country if the laws of your state or country do not permit it to do so.

19. LIMITATION ON AND EXCLUSION OF DAMAGES. You can recover from Microsoft and its suppliers only direct damages up to the amount you paid for the software. You cannot recover any other damages, including consequential, lost profits, special, indirect or incidental damages.

This limitation applies to

- _ anything related to the software, services, content (including code) on third party Internet sites, or third party programs; and
- _ claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort to the extent permitted by applicable law.

It also applies even if

- _ repair, replacement or a refund for the software does not fully compensate you for any losses; or
- _ Microsoft knew or should have known about the possibility of the damages.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. They also may not apply to you because your country may not allow the exclusion or limitation of incidental, consequential or other damages.

LIMITED WARRANTY

- A. **LIMITED WARRANTY.** If you follow the instructions, the software will perform substantially as described in the Microsoft materials that you receive in or with the software.
- B. **TERM OF WARRANTY; WARRANTY RECIPIENT; LENGTH OF ANY IMPLIED WARRANTIES.** The limited warranty covers the software for one year after acquired by the first user. If you receive supplements, updates, or replacement software during that year, they will be covered for the remainder of the warranty or 30 days, whichever is longer. If the first user transfers the software, the remainder of the warranty will apply to the recipient.

To the extent permitted by law, any implied warranties, guarantees or conditions last only during the term of the limited warranty. Some states do not allow limitations on how long an implied warranty lasts, so these limitations may not apply to you. They also might not apply to you because some countries may not allow limitations on how long an implied warranty, guarantee or condition lasts.
- C. **EXCLUSIONS FROM WARRANTY.** This warranty does not cover problems caused by your acts (or failures to act), the acts of others, or events beyond Microsoft's reasonable control.
- D. **REMEDY FOR BREACH OF WARRANTY.** Microsoft will repair or replace the software at no charge. If Microsoft cannot repair or replace it, Microsoft will refund the amount shown on your receipt for the software. It will also repair or replace supplements, updates and replacement software at no charge. If Microsoft cannot repair or replace them, it will refund the amount you paid for them, if any. You must uninstall the software and return any media and other associated materials to Microsoft with proof of purchase to obtain a refund. These are your only remedies for breach of the limited warranty.
- E. **CONSUMER RIGHTS NOT AFFECTED.** You may have additional consumer rights under your local laws, which this agreement cannot change.
- F. **WARRANTY PROCEDURES.** You need proof of purchase for warranty service.
 - 1. United States and Canada. For warranty service or information about how to obtain a refund for software acquired in the United States and Canada, contact Microsoft at (800) MICROSOFT;

Microsoft Customer Service and Support, One Microsoft Way, Redmond, WA 980526399; or visit www.microsoft.com/info/nareturns.htm.

2. Europe, Middle East and Africa. If you acquired the software in Europe, the Middle East or Africa, Microsoft Ireland Operations Limited makes this limited warranty. To make a claim under this warranty, you should contact either
- Microsoft Ireland Operations Limited, Customer Care Centre, Atrium Building Block B, Carmanhall Road, Sandyford Industrial Estate, Dublin 18, Ireland; or
 - the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).
3. Outside United States, Canada, Europe, Middle East and Africa. If you acquired the software outside the United States, Canada, Europe, the Middle East and Africa, contact the Microsoft affiliate serving your country (see www.microsoft.com/worldwide).
- G. NO OTHER WARRANTIES. The limited warranty is the only direct warranty from Microsoft. Microsoft gives no other express warranties, guarantees or conditions. Where allowed by your local laws, Microsoft excludes implied warranties of merchantability, fitness for a particular purpose and noninfringement. If you're local laws give you any implied warranties, guarantees or conditions, despite this exclusion, your remedies are described in the Remedy for Breach of Warranty clause above, to the extent permitted by your local laws.
- H. LIMITATION ON AND EXCLUSION OF DAMAGES FOR BREACH OF WARRANTY. The Limitation on and Exclusion of Damages clause above applies to breaches of this limited warranty.

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state. You may also have other rights which vary from country to country.

Assureon Product Support Matrix

Assureon System	Parts and Labor	Business Hour Phone Support (8-5 PST/PDT)	After Hour and Weekend Support	NBD Onsite Support	24x7x4hr Onsite Support
Assureon System	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Assureon Edge	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Any RAID Product Included with Assureon	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Note 1	First year must be included at time of purchase. Can be extended in 1 year increments				

DATA BEAST

DATABeast Warranty

Nexsan warrants that its Hardware Products are free from defects in material and workmanship for 1 year from date of shipment or contract purchase, and will conform to the applicable Nexsan specifications, under normal use and service, for the applicable warranty period of 1 year.

Nexsan's sole and exclusive obligations under its warranty are to repair or replace, at Nexsan's option, the nonconforming system or component, or to issue customer a refund for the purchase price of the equipment.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THE WARRANTY REMEDIES STATED HEREIN ARE EXCLUSIVE. Nexsan shall not be responsible or liable for any consequential, indirect or special damages to any party, including lost profits, lost savings, lost data and loss of reputation, even if Nexsan has been advised of the possibility of such damages. Nexsan strongly urges all customers to take precautions to protect against data loss, particularly mission critical data, and to properly archive and backup data.

Any Nexsan warranty shall immediately be null and void if, in Nexsan's sole judgment, the unit has been altered or repaired other than with authorization from Nexsan and by its approved procedures, has been subject to misuse, abuse, negligence or accident, damaged by excess voltage, damaged in shipment, subjected to improper environmental conditions, or had its serial numbers and/or other marking altered, defaced or removed. Normal user preventative maintenance is the responsibility of the Purchaser and is excluded from this warranty.

Nexsan warrants that the software portion of its Products, when delivered and properly installed at customer site, will perform in accordance with Nexsan's published Specification, except for non-material aesthetic aspects. Nexsan will replace any defective media item within ten (10) business days after delivery. Nexsan does not warrant that the functions contained in the Software will meet any requirements beyond the Product Specifications, or that the operation of the software will be uninterrupted or error free. Nexsan makes no representation as to the suitability of Software supplied as to fitness for a particular purpose.

In the event of a failure during the warranty or any contracted support period the end-user may contact Nexsan support at 760 690-1111 or support@nexsan.com and Nexsan engineers will assist in diagnoses and resolution.

The DATABeast appliance being sold has all stated DATABeast software and Solaris software pre-installed. The hardware portion of the appliance is being sold to Licensee, but all software is being licensed. (A license agreement is available for review from Nexsan. Please refer to that document for terms and conditions of DATABeast licensing)

LICENSOR warrants that it is authorized to grant the license to the Software herein to the Licensee and that the Software will, when delivered and properly installed, perform materially in accordance with the documentation provided by LICENSOR. LICENSOR will replace any defective media item within 30 days after delivery. Any consulting or other services provided by LICENSOR are on a best efforts basis. LICENSOR does not warrant that any of the Items will meet the specific needs of the Licensee.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. LICENSOR SPECIFICALLY DENIES ANY IMPLIED OR EXPRESS REPRESENTATION THAT: (i) ANY OF THE ITEMS WILL FIT THE LICENSEE'S REQUIREMENTS; (ii) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; OR (iii) LICENSOR CAN HAVE ALL PROGRAM DEFECTS CORRECTED.

DATABeast Support Programs

- iv. Basic Support NBD Support program.
 - a. Hardware support is Next Business Day On-site (provided by 3rd party provider)
 - b. All support is done during Nexsan business hours (8am to 5pm M-F Pacific)
 - c. Basic Support NBD does not include after hours phone or email support
 - i. Once a product has been diagnosed and a replacement FRU (Field Replaceable Unit) needs to be shipped, that part will ship within one business day from the conclusion of the diagnosis. Except in the case of EOL system or drive where parts availability are on a first come first serve basis.
- ii. 7x24x4 –7 days per week, 24 hours a day support with a 4-hour response on site service for Break fix issues, excluding major holidays.
 - a. Nexsan will provide telephone support during and after business hours for hardware replacements. Nexsan support engineers will diagnose the issue, by-pass or temporary fix to a reported defect until the reported defect can be permanently corrected. Nexsan will use commercially reasonable efforts to respond to requests from customer for support as follows:
 - Severity Type 1 – Item not operational
 - Initial response by phone within two (2) hours of initial contact with continuous effort by Nexsan Support until resolution complete. Nexsan support engineers will diagnose the issue and if needed dispatch a technician for parts replacement.
 - Severity Type 2 - Item operational using temporary work around:
 - Initial response by next business day of initial contact with continuous effort by Nexsan Support during its normal business hours until resolution is complete.

On Site Support

Kodak worldwide provides Next Business Day On-site support on all DATABeast systems (excluding OEM versions). Four hour 24/7 uplifts are available as well. Software and OS support are not covered by Kodak, Nexsan Technical support provides software support as a remote service. All on-site services are break-fix services and do not include standard administration issues.

DATABeast Post-Contract support

All DATABeast customers are solicited by Nexsan for contract renewals sixty to ninety days in advance of the expiration of their existing agreement. In the event the customer(s) opt not to renew their agreement the following process must follow:

1. All DATABeast support calls must be checked for support entitlement.
 - a. Verify contract via Census or Support Contract Excel sheet

2. Customers should not be notified of any potential support entitlements through any of our suppliers. Those are confidential agreements.
 - a. All contracts are through Nexsan from end user to us. Customers have no relationship with Kodak or SUN support
3. Any failure of h/w components within the DATABeast are billable replacements if the one-year warranty has expired. Components will be replaced at exclusive price for those components out of the standard price list.
 - a. Requests should be forwarded to Michelle Mosley the Contracts Manager
4. If the part that requires replacing is not in the standard price list then refer the pricing inquiry to US or UK Operations Managers who will take the cost of the component and mark it up appropriately (based on guidelines given by Rik Mussman or Gene Spies) and provide that back to you.
5. Customers can provide us with either a credit card or a purchase order directly for those parts prior to us shipping replacements.
 - a. Purchase orders should be faxed or emailed to Michelle Mosley
 - b. Credit Card purchases will be sent to Michelle Mosley
6. Nexsan will provide email support inquiries or phone support inquiries during our standard business hours and within the parameters of our standard support queue. No on-site or after hours telephone support is available without a 7x24 support contract.
 - a. Normal business hours are conducted (8am to 5pm M-F Pacific)
- 7.** Customers that wish to renew their agreement after the fact (because it failed and they now see the value in a support agreement) must first pay to get the system repaired and once we certify it's running will need to assess what it will take to put them back under contract. Those requests have to be turned over to Michelle who will confer with the Assureon overlay team and Rik Mussman on what will be required. In some cases there may be a penalty.

DATABeast Product Support Matrix

Complete Systems	Parts and Labor	Business Hour Phone Support (8-5 PST/PDT)	After Hour and Weekend Support	NBD Onsite Support	24x7x4hr Onsite Support
DATABeast	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Note 1	First year must be included at time of purchase. Can be extended in 1 year increments				



iSeries Warranty

Nexsan warrants that its Hardware Products are free from defects in material and workmanship for 1 year from date of shipment or contract purchase, and will conform to the applicable Nexsan specifications, under normal use and service, for the applicable warranty period of 1 year.

Nexsan's sole and exclusive obligations under its warranty are to repair or replace, at Nexsan's option, the nonconforming system or component, or to issue customer a refund for the purchase price of the equipment.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THE WARRANTY REMEDIES STATED HEREIN ARE EXCLUSIVE. Nexsan shall not be responsible or liable for any consequential, indirect or special damages to any party, including lost profits, lost savings, lost data and loss of reputation, even if Nexsan has been advised of the possibility of such damages. Nexsan strongly urges all customers to take precautions to protect against data loss, particularly mission critical data, and to properly archive and backup data.

Any Nexsan warranty shall immediately be null and void if, in Nexsan's sole judgment, the unit has been altered or repaired other than with authorization from Nexsan and by its approved procedures, has been subject to misuse, abuse, negligence or accident, damaged by excess voltage, damaged in shipment, subjected to improper environmental conditions, or had its serial numbers and/or other marking altered, defaced or removed. Normal user preventative maintenance is the responsibility of the Purchaser and is excluded from this warranty.

Nexsan warrants that the software portion of its Products, when delivered and properly installed at customer site, will perform in accordance with Nexsan's published Specification, except for non-material aesthetic aspects. Nexsan will replace any defective media item within ten (10) business days after delivery. Nexsan does not warrant that the functions contained in the Software will meet any requirements beyond the Product Specifications, or that the operation of the software will be uninterrupted or error free. Nexsan makes no representation as to the suitability of Software supplied as to fitness for a particular purpose.

In the event of a failure during the warranty or any contracted support period the end-user may contact Nexsan support at 760 690-1111 or support@nexsan.com and Nexsan engineers will assist in diagnoses and resolution.

The I-Series appliance being sold has all stated I-Series software pre-installed. The hardware portion of the appliance is being sold to Licensee, but all software is being licensed. (A license agreement is available for review from Nexsan. Please refer to that document for terms and conditions of I-Series licensing)

LICENSOR warrants that it is authorized to grant the license to the Software herein to the Licensee and that the Software will, when delivered and properly installed, perform materially in accordance with the documentation provided by LICENSOR. LICENSOR will replace any defective media item within 30 days after delivery. Any consulting or other services provided by LICENSOR are on a best

efforts basis. LICENSOR does not warrant that any of the Items will meet the specific needs of the Licensee.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. LICENSOR SPECIFICALLY DENIES ANY IMPLIED OR EXPRESS REPRESENTATION THAT: (i) ANY OF THE ITEMS WILL FIT THE LICENSEE'S REQUIREMENTS; (ii) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; OR (iii) LICENSOR CAN HAVE ALL PROGRAM DEFECTS CORRECTED.

iSeries Support Programs

1. Basic Warranty Support program

The iSeries iSCSI appliance carries a 1-year warranty program; Nexsan storage attached to the iSeries has a 3-year warranty, see the appropriate documentation for the storage component for details.

- a. 7x24 telephone support
- b. Email support (Nexsan business hours)
- c. NBD (Next Business Day) Advance replacement shipping

1.
 - i. Once a product has been diagnosed and a replacement FRU (Field Replaceable Unit) needs to be shipped, that part will ship within one business day from the conclusion of the diagnosis. Except in the case of EOL system or drive where parts availability are on a first come first serve basis.

RMA PROCEDURES

Requesting a Return Material Authorization (RMA)

1. If a customer believes that a Product does not conform to Nexsan's specification, the customer must notify Nexsan and request an RMA number. The customer must provide details of the non-conformance as reasonably requested by Nexsan.
2. Upon receiving a request for an RMA number, Nexsan will determine whether to issue an RMA, and whether such RMA shall be for the entire system or a field replaceable unit ("FRU"). Nexsan will opt for the return and repair of a FRU, as opposed to an entire unit, whenever possible.
3. In-warranty Products will be repaired or replaced ("RMA Activity") free of charge. Out-of-warranty RMA Activity will be processed for a fee.
4. For in-warranty Products, Nexsan shall ship an advance replacement system or FRU within three (3) business days. With respect to out-of-warranty products, Nexsan shall have the sole discretion to either provide advance replacement, or to require the return of the system or FRU prior to shipping a repaired system or FRU. Out-of-warranty repairs or replacements will be made in a reasonable period of time.
5. In cases of advance-replacement, if Nexsan does not receive the defective Product or FRU back from the customer within ten (10) days after customer receives the replacement Product or FRU, Nexsan shall notify the customer in writing. If the customer fails to return such Product or FRU within ten (10) days after receiving written notification thereof from Nexsan, then Nexsan may generate an invoice and charge customer the applicable price for the Product or FRU. Further, failure to return Products or FRUs, and failure to pay for the unreturned Product or FRU in a timely fashion, shall terminate Nexsan's obligation to provide advance replacement going forward
6. For in-warranty products, customer shall bear the cost and risk of transporting and insuring nonconforming equipment to Nexsan. Nexsan shall bear the cost of transporting advance replacement equipment to the customer. For out-of-warranty products, customer shall bear the cost and risk of transporting equipment both to and from Nexsan. For Dead-On-Arrival ("DOA") equipment

(defined as products that fail within thirty (30) days of Nexsan's original shipment) – Nexsan shall bear the cost of transporting equipment both to and from Nexsan, and Nexsan shall transport replacement products to customer by priority shipment.

7. Customers must return equipment in Nexsan authorized shipping cartons. If such cartons have been discarded, customer must call Nexsan's shipping department for instructions.
8. If a customer wishes to expedite shipment, customer may request to do so at customer's cost, by providing Nexsan with customer's shipping account numbers.
9. In cases where Nexsan suspects that In-Warranty equipment has damage that invalidates Nexsan's warranty terms, Nexsan shall contact the customer and provide the following details:
 - i. Nexsan RMA;
 - ii. Digital photograph of damage;
 - iii. Probable cause of damage;
 - iv. Statement confirming damage invalidates warranty and repair is chargeable.

Customer will then choose whether to pay for the repair or replacement, or to have the un-repaired unit shipped back to it and return the advance replaced unit, if applicable.

NEXSAN END-USER SOFTWARE LICENSE AGREEMENT FOR NEXSAN ISERIES PRODUCTS

IMPORTANT! THIS LICENSE AGREEMENT IS A BINDING AGREEMENT BETWEEN THE END USER (YOU) AND NEXSAN TECHNOLOGIES, INC. AND ITS RELATED COMPANIES ("NEXSAN").

Read this Agreement before downloading, installing, using or ordering the software that accompanies Nexsan's iSeries products ("Software"). When you, the End User, order, download, install or use the Software, you acknowledge that you have read the Agreement and understand it, and agree to be bound by the terms of this Agreement. If you act on behalf of a company or other entity, you warrant that you are duly authorized to enter into this Agreement on behalf of such company or other entity as the End User. If you did not obtain this copy of the Software legally, immediately delete the Software from the Nexsan iSeries system and destroy any copies. If you do not accept all of the terms and conditions of this Agreement do not download, install, or use the Software.

THE RIGHT TO USE THE SOFTWARE IS GRANTED ONLY UPON THE CONDITION THAT YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1. DEFINITIONS

"Agreement" means this End-User Software License Agreement.

"Designated Storage System" means the Nexsan iSeries hardware upon which the End User is authorized by Nexsan to use the Software and in conjunction with which this Software has been provided.

"End User" means the entity or individual that has been granted a license to use the Software, as well as its employees, officers, directors, consultants, agents or others who are authorized to have access to the Software through the End User.

"Nexsan" means Nexsan Technologies, Inc. and any related companies, as well as – when applicable – Nexsan's employees, officers, directors and shareholders.

"Services" means Software updates, upgrades or other related services provided by Nexsan and subscribed to by the End User. The terms and conditions of such Services are set forth in a separate agreement ("Services Agreement") to be entered into by the End User and Nexsan.

"Software" means (a) the contents of the files or other computer information with which this Agreement is

provided including, but not limited to: (i) Nexsan or third party computer information or software and (ii) related explanatory written materials or files (“Documentation”); and (b) modified versions, updates, upgrades, additions and copies of the Software, if any, licensed to the End User by Nexsan.

2. LICENSE

(a) **LICENSE.** Subject to the terms and conditions of this Agreement and the End User’s payment of all applicable fees, Nexsan grants to the End User a non-transferable, limited, non-exclusive, personal license to use the Software in object code version only, in its unaltered form, on a single Designated Nexsan iSeries System for internal use (“License”). Except to the extent of the License, this Agreement does not grant End User any rights to patents, copyrights, trade secrets, trade names, and trademarks or any other rights, functions or licenses regarding the Software. Any breach by the End User of the License terms set forth in this Section 1 shall immediately void and terminate the License.

(b) **INTERNAL USE.** The End User shall only use the Software for its own internal business purposes. Resale and re-licensing in any form whatsoever are strictly prohibited, and any such attempt shall be void. The End User shall not make the Software available on an application service provider or service bureau basis without the prior written consent of Nexsan.

(c) **RESTRICTIONS ON USE.** The End User shall use the Software only upon the Designated Nexsan iSeries System. The End User hereby agrees not to use the Software in conjunction with hardware storage systems that have not been manufactured or originally distributed by Nexsan. If the Designated Nexsan iSeries System is retired from service or is deployed for a purpose other than for operation of the Software, this License shall immediately terminate.

(e) **COPIES.** Except for one backup copy for backup and disaster recovery purposes, the End User shall not duplicate the Software in any manner. Each copy of the Software shall prominently contain the same copyright, trademark and other legal notices which appear on or in the Software.

(f) **OTHER RESTRICTIONS.** The End User shall not decompile, disassemble, modify, create derivatives or reverse engineer the Software, nor make any attempts to do so or aid any third party in doing so.

3. OWNERSHIP

The Software contains copyrighted material, and is proprietary to Nexsan and its licensors. As between Nexsan and the End User, Nexsan retains all title to and ownership of the Software. This Agreement does not transfer any right, title, or interest in the Software. Any ideas, concepts, know-how, data-processing techniques, derivatives, translations, modifications, code or documentation developed with respect to the Software will be the exclusive property of Nexsan.

4. WARRANTIES AND LIMITATIONS:

Nexsan warrants that it is authorized to grant the License to the Software herein and that the Software, in its unaltered form, will, when delivered and properly installed, perform materially in accordance with the documentation provided by Nexsan. Nexsan will replace any defective media item within thirty (30) days after delivery.

EXCEPT AS SET FORTH HEREIN, THE SOFTWARE IS LICENSED ON AN “AS IS” BASIS AND THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Some jurisdictions do not allow for the exclusion of implied warranties, so the above exclusions or limitations may not apply to a particular End User. In that event, to the extent permissible, any implied warranties are limited in duration to ninety (90) days after the date of delivery of the Software.

NEXSAN DOES NOT WARRANT THAT: (i) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; (ii) THE SOFTWARE WILL MEET ANY REQUIREMENTS OR SPECIFIC NEEDS OF THE

END USER; OR (iii) THE END USER CAN HAVE ALL PROGRAM DEFECTS CORRECTED. NEXSAN IS NOT RESPONSIBLE FOR ANY MALFUNCTION, NONPERFORMANCE OR DEGRADATION OF PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ANY ALTERATION OR ATTACHMENT OF THE SOFTWARE OR HARDWARE TO NON-NEXSAN PRODUCTS.

THESE WARRANTY DISCLAIMERS ARE A FUNDAMENTAL ELEMENT OF THE BASIS OF THE AGREEMENT BETWEEN END USER AND NEXSAN. NEXSAN WOULD NOT PROVIDE THE SOFTWARE TO ANOTHER PARTY ABSENT SUCH LIMITATIONS.

The Software is not absolutely fault-tolerant and is not designed, manufactured or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems in which the failure of the Software could lead directly to death, personal injury or severe physical or environmental damage ("High Risk Activities"). Nexsan specifically disclaims any express or implied warranty of fitness for High Risk Activities.

As to any computer equipment and/or software provided to the End User which is not provided by Nexsan, Nexsan has no obligation or liability whatsoever, as to such products and the End User agrees to look solely to the seller/manufacture of such products.

5. DISCLAIMERS:

THE ENTIRE LIABILITY OF NEXSAN TO ANY PARTY FOR DAMAGES FROM ANY CAUSE RELATED TO OR ARISING OUT OF THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE LICENSE FEE PAID FOR THE SOFTWARE.

IN NO EVENT WILL NEXSAN, ITS LICENSORS OR ANY OF ITS RELATED COMPANIES BE LIABLE FOR: (a) ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATING TO THIS AGREEMENT, THE SOFTWARE OR THE DESIGNATED NEXSAN ISERIES SYSTEM PLATFORM INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, REVENUE, PROFITS, GOOD WILL OR SAVINGS, EVEN IF NEXSAN KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES; (b) CLAIMS, DEMANDS OR ACTIONS AGAINST THE END USER BY ANY PERSON OR; (c) LOSS OF DAMAGE TO DATA FROM ANY CAUSE.

Nexsan shall not be liable for any non-authorized access by the End User or others of the Software to an information source or for the non-authorized access to documents or web pages. Nexsan shall not be liable for the interruption or the slowdown of the services of a network or web site server that may be potentially caused by the End user or other users of the Software. Nexsan shall not be responsible for correcting any errors not reproducible by the End User on the unmodified Software or errors caused by: (i) End User's failure to implement all updates and upgrades issued under this Agreement; (ii) changes to the operating system or environment which could adversely affect the Software; (iii) any alteration of or addition to the Software made by a party other than Nexsan; (iv) the use of the Software in a manner not provided for in the Software Documentation; or (v) accident, negligence, or misuse of the Software.

6. INSTALLATION OF SOFTWARE

Unless End User has purchased installation and configuration services, End User will be responsible for configuration of the Software and any Designated Nexsan iSeries System wholly at its expense, as well as any data conversion, data entry and data verification.

7. CONFIDENTIALITY

The Software contains information and trade secrets proprietary to Nexsan. To protect and maintain the confidentiality and restricted use of the Software, the End User shall take all reasonable steps and precautions. Furthermore, the End User agrees to use all reasonable efforts to ensure that persons employed by the End User or under the End User's direction and control, abide by the terms and conditions of this Agreement, without limitation, not knowingly permitting anyone to use any portion of the Software for the purpose of deriving its source code. In the event the End User becomes aware that the Software is being used by such persons in a manner not authorized by this Agreement, the End User shall immediately take all reasonable steps to have such

unauthorized use of the Software immediately cease. The End User shall notify Nexsan in writing of the unauthorized use.

8. DEFAULT AND TERMINATION

Nexsan may terminate this Agreement and the License based on End User's material breach of this Agreement or End User's non-payment of any amounts owed to Nexsan when due, either under this Agreement or otherwise, if such breach continues for more than ten (10) days after Nexsan's sending written notice to the End User of such breach. Notwithstanding the foregoing, Nexsan may immediately terminate this Agreement, with no need for notification or a cure period, if End User breaches any provision of Section 1, hereof. Within fifteen (15) days following the termination of this Agreement, the End User shall either return all copies of the Software to Nexsan or certify in writing to Nexsan that all copies of the Software have been destroyed. A License shall be deemed to terminate on the date the End User no longer owns or leases the Designated Nexsan iSeries System. Upon termination of this Agreement, any provisions that, by their nature, are meant to survive termination shall so survive. Any default under this Agreement may be remedied by monetary damages, injunctive relief or both, at Nexsan's option.

9. GENERAL:

(a) **GOVERNING LAW.** This Agreement is made in the State of California, USA and shall be governed by the laws of the California. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any dispute relating to this Agreement will be adjudicated in the courts of the State of California without regard to conflict of laws principles.

(b) **TAXES.** Taxes and charges, imposed by any government with respect to the Software shall be paid by the End User.

(c) **EXPORT OF SOFTWARE.** The Software and Designated Nexsan iSeries System shall not be transferred or exported into any country that does not have copyright laws that will protect the rights of Nexsan and its licensors, or to which such export is impermissible.

(d) **TITLES.** Captions contained in this Agreement are for reference purposes only, and are not part of the Agreement.

(e) **SEVERABILITY.** If any provisions of this Agreement are held invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(f) **FORCE MAJEURE.** If Nexsan shall be delayed or prevented from performing this Agreement, due to any cause beyond its reasonable control, any such delay shall be excused during the continuance of the cause of delay, and the period of performance shall be extended to such extent as may be necessary to enable Nexsan to perform after the cause of delay has ended.

(g) **WAIVER.** A delay or failure by either party to exercise any right or partial right shall not be deemed to constitute a waiver of any such right or any other rights hereunder. Consent by either party to a breach of any express or implied term of this Agreement shall not constitute consent to any subsequent breach.

(h) **NONTRANSFERABILITY.** The End User shall not assign, sub-license, extend or otherwise transfer, in whole or in part, this Agreement or any license granted hereunder, without the prior written consent of Nexsan. Any such attempted assignment, sub-license, extension or transfer shall be void.

(i) **ENTIRE AGREEMENT.** The foregoing terms and conditions and the face page hereof constitute the entire agreement between the parties with respect to the matters discussed herein and shall supersede all previous proposals, both oral and written, negotiations, representations, commitments, writings, agreements and all other communications between the parties. No amendment to this Agreement shall be valid and binding on either party unless agreed to in writing and signed by the duly authorized representative of each party. This Agreement may not be released, discharged, changed, modified or assigned except by an instrument in writing signed by a duly authorized representative of each of the parties.

ISERIES Product Support Matrix

Complete Systems	Parts and Labor	Business Hour Phone Support (8-5 PST/PDT)	After Hour and Weekend Support	NBD Onsite Support	24x7x4hr Onsite Support
iSeries	1 yr from date of shipment FOB Nexsan (see note 1)	1 yr from date of purchase (see note 1)	1 yr from date of purchase (see note 1)	NA	NA
Any RAID Product included with iSeries and The Edge	3 yr from date of shipment FOB Nexsan (see note 1)	3 yr from date of shipment FOB Nexsan (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Note 1	First year must be included at time of purchase. Can be extended in 1 year increments				

THE EDGE

The Edge Warranty

Nexsan warrants that its Hardware Products are free from defects in material and workmanship for 1 year from date of shipment or contract purchase, and will conform to the applicable Nexsan specifications, under normal use and service, for the applicable warranty period of 1 year.

Nexsan's sole and exclusive obligations under its warranty are to repair or replace, at Nexsan's option, the nonconforming system or component, or to issue customer a refund for the purchase price of the equipment.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED. THE WARRANTY REMEDIES STATED HEREIN ARE EXCLUSIVE. Nexsan shall not be responsible or liable for any consequential, indirect or special damages to any party, including lost profits, lost savings, lost data and loss of reputation, even if Nexsan has been advised of the possibility of such damages. Nexsan strongly urges all customers to take precautions to protect against data loss, particularly mission critical data, and to properly archive and backup data.

Any Nexsan warranty shall immediately be null and void if, in Nexsan's sole judgment, the unit has been altered or repaired other than with authorization from Nexsan and by its approved procedures, has been subject to misuse, abuse, negligence or accident, damaged by excess voltage, damaged in shipment, subjected to improper environmental conditions, or had its serial numbers and/or other marking altered, defaced or removed. Normal user preventative maintenance is the responsibility of the Purchaser and is excluded from this warranty.

Nexsan warrants that the software portion of its Products, when delivered and properly installed at customer site, will perform in accordance with Nexsan's published Specification, except for non-material aesthetic aspects. Nexsan will replace any defective media item within ten (10) business days after delivery. Nexsan does not warrant that the functions contained in the Software will meet any requirements beyond the Product Specifications, or that the operation of the software will be uninterrupted or error free. Nexsan makes no representation as to the suitability of Software supplied as to fitness for a particular purpose.

In the event of a failure during the warranty or any contracted support period the end-user may contact Nexsan support at 760 690-1111 or support@nexsan.com and Nexsan engineers will assist in diagnoses and resolution.

The Edge appliance being sold has all stated Edge software and Solaris software pre-installed. The hardware portion of the appliance is being sold to Licensee, but all software is being licensed. (A license agreement is available for review from Nexsan. Please refer to that document for terms and conditions of Edge licensing)

LICENSOR warrants that it is authorized to grant the license to the Software herein to the Licensee and that the Software will, when delivered and properly installed, perform materially in accordance with the documentation provided by LICENSOR. LICENSOR will replace any defective media item within 30 days after delivery. Any consulting or other services provided by LICENSOR are on a best

efforts basis. LICENSOR does not warrant that any of the Items will meet the specific needs of the Licensee.

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES OF MERCHANTABILITY. LICENSOR SPECIFICALLY DENIES ANY IMPLIED OR EXPRESS REPRESENTATION THAT: (i) ANY OF THE ITEMS WILL FIT THE LICENSEE'S REQUIREMENTS; (ii) THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; OR (iii) LICENSOR CAN HAVE ALL PROGRAM DEFECTS CORRECTED.

Edge Support Programs

2. Basic Support NBD Support program.
 - i. Hardware support is Next Business Day On-site (provided by 3rd party provider)
 - ii. All support is done during Nexsan business hours (8am to 5pm M-F Pacific)
 - iii. Basic Support NBD does not include after hours phone or email support

3. 7x24X4 –7 days per week, 24 hours a day support with a 4-hour response on site service for Break fix issues, excluding major holidays.
 - i. Nexsan will provide telephone support during and after business hours for hardware replacements. Nexsan support engineers will diagnose the issue, by-pass or temporary fix to a reported defect until the reported defect can be permanently corrected. Nexsan will use commercially reasonable efforts to respond to requests from customer for support as follows:
 - Severity Type 1 – Item not operational
 - Initial response by phone within two (2) hours of initial contact with continuous effort by Nexsan Support until resolution complete. Nexsan support engineers will diagnose the issue and if needed dispatch a technician for parts replacement.
 - Severity Type 2 - Item operational using temporary work around:
 - Initial response by next business day of initial contact with continuous effort by Nexsan Support during its normal business hours until resolution is complete.

On Site Support

Kodak worldwide provides Next Business Day On-site support on all Edge systems (excluding OEM versions). Four hour 24/7 uplifts are available as well. Software and OS support are not covered by Kodak, Nexsan Technical support provides software support as a remote service. All on-site services are break-fix services and do not include standard administration issues.

EDGE PRODUCT SUPPORT MATRIX

Complete Systems	Parts and Labor	Business Hour Phone Support (8-5 PST/PDT)	After Hour and Weekend Support	NBD Onsite Support	24x7x4hr Onsite Support
The Edge	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)	Requires service agreement (see note 1)
Note 1	First year must be included at time of purchase. Can be extended in 1 year increments				

Black Hole Policies and Procedure

Black-Hole Definition

Black-hole is defined as a secure environment that because of the sensitivity of the data the drive cannot be removed from the facility. Any media capable of transporting data out of a facility must be destroyed and/or demagnetized based on the security requirements placed by the security officer. Disk drives in Nexsan Arrays are subject to this constraint.

Black-Hole Procedure

Nexsan manufactured arrays support Hitachi and Maxtor drives and have cooperated with both of these companies to provide a program that allows the entire drive warranty to be exercised in this environment.

Upon notification of a drive failure to a Nexsan support engineer the policy will proceed as follows:

1. Verification by Nexsan of serial number and warranty status.
2. The end-user will need to provide a photo copy of the disk drive label (large label on the top of the drive that details part number, serial number, and other manufacturer specific data).
3. The customer will be asked to fill out a “Certificate of Destruction” that guarantees that the drive has been or will be destroyed and to fax in the documents to our support facility in either the US or the UK.
4. Once the documents are mailed or faxed into our RMA administrator a replacement drive will ship from Nexsan within 24 hours, based on availability.

Keep a Spare

The Black-hole policy procedure can add a little time to the replacement of the drive so our recommendation is that clients in black-hole environments should consider keeping a cold spare.

NEXSAN- RMA STATEMENT OF DESTROYED MATERIALS

We certify that the drive(s) listed below are defective and have been destroyed. We verify that all of the following apply:

1. The agency or contractor owns the drive(s)
2. The agency is unable to return the drive(s) due to classified information stored on the drive(s)
3. The drive(s) have failed for reasons that are covered under warranty
4. The failed drive(s) have been physically destroyed (crushed or otherwise)

Name of company/agency destroying the drive(s): _____

This must be accompanied by a Return Material Authorization Request and a Photocopy of the front face plate of the drives.

Part Number	Serial Number	Part Number	Serial Number

Name _____

Title _____

Company _____

Address _____
