

**Stratus Technologies**  
**ftServer® Products**  
**LIMITED HARDWARE WARRANTY**

This Limited Hardware Warranty (“Warranty”) applies to the Stratus ftServer Products sold with this Warranty Statement only if you are the original purchaser of the Products and purchased them from Stratus or an authorized Stratus distributor or reseller. Stratus warrants that the Hardware Products will be free from defects in material and workmanship under normal use during the applicable Warranty Period described below.

<u>Hardware Product</u>	<u>Warranty Period (From date of Stratus Shipment)</u>
*ftServer Systems (Hardware Only)	1 Year
Add-on Hardware Components	90 Days
Pass Through Hardware Products	“AS IS” from Stratus; direct Manufacturer’s warranty if transferable
*processing model and associated components ordered contemporaneously with and factory installed on the processing model	

You must notify Stratus of any claimed defect within the applicable Warranty Period.

You must remove and install parts designated as “Customer Replaceable Units” or “CRUs” under the remote direction of Stratus or its Authorized Service Representative. For a list of CRUs, please refer to the Stratus Website at <http://www.stratus.com>.

**Removal and installation of parts designated as Field Replaceable Units or “FRUs” by anyone other than Stratus, its authorized service representative, or by you if you have received FRU removal certification from Stratus, will void this Warranty. For a listing of FRUs, please refer to the Stratus Web Site at <http://www.stratus.com>. FRU removal and installation services are available from Stratus at its then current rates. FRU removal and installation certification training is available from Stratus in accordance with its then current rates and policies.** Stratus will replace defective FRUs on-site, on a schedule basis, during local business hours.

Stratus reserves the right, at its option, to fulfill the Warranty obligations hereunder either directly or through its designee. All parts that are replaced under this Warranty become the property of Stratus, and any replacement part returned to you takes on the Warranty status of the replaced part.

Returned parts and Products may be inspected and tested and, if it is determined that the returned part or Product is not defective, you may be charged a restocking fee and billed for any freight charges.

This Warranty does not apply to any part the serial number of which has been altered or removed or any part that has been damaged or rendered defective as a result of: (1) its use with equipment or software not furnished by Stratus, or (2) the use of parts not manufactured or sold by Stratus or its authorized representatives, or (3) modification or alteration without Stratus’ prior written approval, or (4) accident, neglect, misuse, abuse or other external cause, or (5) exposure to conditions outside the range of environmental, power and operating specifications stated in the user documentation that shipped with the Product.

## **Types of Warranty Support**

### ***For Customers Located Within a Tier 1 Country:***

Tier 1 Countries include Australia, Austria, Belgium, Canada, the Caribbean, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Italy, Japan, Luxembourg, Mexico, the Netherlands, Norway, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, UK and USA.

If you are located in a Tier 1 Country, Stratus will use commercially reasonable efforts to provide same business day shipment of a replacement part for Hardware defect calls generated through the Stratus Service Network (the “SSN”) or via Stratus’ eCAC or by telephone, provided the call is received and confirmed prior to 5:00 P.M. local time. Replacements parts will be shipped to your original installation location pre-paid, and include shipping material and a prepaid freight bill for your use in returning the defective part to Stratus. You must return the defective part(s) to Stratus within fourteen (14) days of your receipt of the replacement part(s). If you fail to return

the defective part(s) to Stratus within this fourteen (14) day period, Stratus will bill you and you agree to promptly pay Stratus the list price for the replacement part(s) shipped. These are your exclusive remedies for defective Products.

***For Customers Located Outside of the Tier 1 Countries:***

If you are located outside of the Tier 1 Countries, you must first contact the party from which you purchased that Product for return instructions prior to returning any defective part. You may also obtain return instructions or other Warranty information by contacting your local Stratus sales office, the Stratus Web site at <http://www.stratus.com> or your local authorized Stratus service representative. Returned parts may be refused if you do not first obtain return instructions or if you fail to follow the return instructions provided to you. You are responsible for all shipping charges for returned parts. Stratus' sole obligation and your exclusive remedy under this Warranty will be, at Stratus' option, to repair or replace any parts that are defective and returned by you within the applicable Warranty Period to the location designated by Stratus or the authorized Stratus distributor or reseller from which you purchased the Product. Stratus will use commercially reasonable efforts to ship a repaired or replacement part to you as soon as practicable. These are your exclusive remedies for defective Products.

**Warranty Disclaimer And Limitation of Liability:**

**Except as expressly set forth in this Warranty, neither Stratus, its affiliates, subsidiaries nor its or their suppliers make any other warranties, express or implied, including any implied warranties of merchantability and fitness for a particular purpose. Stratus, its affiliates, subsidiaries and its and their suppliers expressly disclaim all warranties not stated in this Warranty Statement. Any implied warranties that may be imposed by law are limited to the terms of this Warranty Statement.**

**Except for damages or losses related to death or bodily injury, in no event will Stratus, its affiliates, subsidiaries or its or their suppliers, be liable for any special, indirect, punitive, incidental or consequential damages or losses (including without limitation loss of use, data, profit, savings or business), whatever the basis of the claim or action (such as breach of warranty, condition, contract, infringement and tort, including strict liability and negligence, or other legal theory) even if advised of the possibility of such damages or if such possibility was reasonably foreseeable. To the maximum extent permitted by law, the liability of Stratus, its affiliates, subsidiaries and its and their suppliers for damages or losses for any cause whatsoever, and regardless of the basis of the claim or action will be limited to the amount you actually paid for the specific Product that caused the damages or losses.**

**IMPORTANT NOTICE: Some states/jurisdictions do not allow the exclusion or limitation of implied warranties or the exclusion or limitation of special, indirect, punitive, incidental or consequential damages. Consequently, such exclusions or limitations may not apply to you. This warranty gives you specific legal rights, and you may also have other rights that vary from state/jurisdiction to state/jurisdiction.**

**Pass-through Hardware Products:**

Pass-through Hardware Products are provided "AS IS" but may be subject to warranties provided directly to you by their respective non-Stratus manufacturers or suppliers. For more information, contact your local Stratus sales office, the Stratus Web site at <http://www.stratus.com> or your local authorized Stratus service representative.

**Import and Export:**

You acknowledge that the Products are of U.S. origin and are subject to U.S. Export Administration, international and national import and export control laws and regulations, including end-user, end-use and destination restrictions issued by the U.S. and other governments ("Import and Export Controls"). You agree that you shall not export, import, directly or indirectly, re-export, divert, or transfer the Product or any materials, items or technology relating to Stratus' or its licensors' business or related technical data or any direct product thereof to any destination, company or person restricted or prohibited by the Import and Export Controls.

## **Governing Law:**

This Warranty is governed by and shall be construed in accordance with the laws of the Commonwealth of Massachusetts and the United States of America, excluding the conflicts of law principles thereof. The United Nations Convention on the International Sale of Goods shall not apply to this Warranty or the Products.

*If you acquired the Products in one of the jurisdictions identified below, then the Supplemental Warranties applicable in the jurisdiction in which you acquired the Products will apply to you and your use of the Products.*

### **SUPPLEMENTAL WARRANTIES**

#### **AUSTRALIA**

**Supplement Warranty, with the following:**

**Consumer Remedies.** The limitations on Stratus' liability under this Warranty are made to the full extent permitted by law. Nothing in this Warranty restricts the effect of any conditions or warranties which may be implied by the Australian Trade Practices Act 1974 ("the Act") or any other law which cannot be excluded, restricted or modified, either at all or except to a limited extent. Subject to those laws and to the extent to which it is lawful to do so, Stratus' liability for a breach of any condition or warranty or similar statutory right implied by the Act or any similar legislation (other than a term, condition or warranty implied by section 69 of the Act) will be limited, at Stratus' option, to any one or more of the following:

- (1) *in the case of goods:*
  - (i) *the replacement of the goods or the supply of equivalent goods;*
  - (ii) *the repair of the goods;*
  - (iii) *the payment of the cost of replacing the goods or acquiring equivalent goods; or*
  - (iv) *the payment of the cost of having the goods repaired; and*
  
- (2) *in the case of services:*
  - (i) *the supply of the services again; or*
  - (ii) *the payment of the cost of having the services supplied again.*

*You acknowledge that neither Stratus nor its Affiliates or their agents or representatives have made any representations to you about any Products on which you have relied in deciding to acquire them. You warrant that you have relied on your own skill and judgment or that of your advisers in relation to these matters.*

**Supplement the Section entitled "Warranty Disclaimer And Limitation of Liability" with the following:**

*Stratus' liability under this Warranty, whether in contract, tort (including negligence), strict liability in tort or by statute or otherwise, will be reduced by the extent (if any) to which you or your employees, agents or subcontractors, caused or contributed to the loss or damage, or the event giving rise to the loss or damage.*

#### **CANADA**

**Add a New Section entitled "General Terms and Conditions" as follows:**

*It is the express wish of the Parties that this Warranty and/or any related documents have been drawn up in a language other than French. French translation: Il est de la volonté expresse des parties que le présent contrat et/ou tous les documents qui s'y rattachent soient rédigés dans une langue autre que le français.*

#### **ENGLAND**

**The following Section replaces the second paragraph of the Section entitled "Warranty Disclaimer And Limitation Of Liability:"**

1. Nothing in this Warranty shall exclude or limit Stratus' liability for (i) any fraudulent misrepresentation (ii) any death or personal injury caused by its negligence (as such term is defined in the Unfair Contract Terms Act 1977) (iii) any breach of the obligations implied by s.12 Sale of Goods Act 1979 or s.2 Supply of Goods and Services Act 1982 or (iv) any liability which cannot be excluded by law.

2. For the avoidance of doubt, the limit on liability set out in Section 1 above shall apply to Stratus' liability for any misrepresentation as to a fundamental matter, including a matter fundamental to Stratus' ability to perform its obligations under this Warranty.

3. Subject to Section 1 above, Stratus shall have no liability for any of the following losses or damage (whether such losses or damage were foreseen, foreseeable, known or otherwise): loss of revenue; loss of actual or anticipated profits (including for loss of profits on contracts); loss of the use of money; loss of anticipated savings; loss of business; loss of opportunity; loss of goodwill; loss of reputation; loss of, damage to or corruption of data; or any indirect or consequential loss or damage howsoever caused (including, for the avoidance of doubt, where such loss or damage is of the type already expressly specified in this Section 3).

4. Subject to Section 1 above, Stratus' aggregate liability in connection with this Warranty shall in no circumstances exceed a sum equal to the purchase price paid for the Product(s) to which the applicable claim or action relates (whether or not such purchase price has in fact been paid by you). The limitation of liability under this Section 4 has effect in relation both to any liability expressly provided for under this Warranty and to any liability arising by reason of the invalidity or unenforceability of any term of this Warranty.

**Add a New Section entitled "General Terms and Conditions," as follows:**

**You acknowledge that neither Stratus nor its Affiliates or their agents or representatives have made any representations to you about any Products on which you have relied in deciding to acquire them. You warrant that you have relied on your own skill and judgment or that of your advisers in relation to these matters. Neither party shall have any remedy in respect of any untrue statement made by the other upon which it relied with respect to this Warranty (unless such representation was made fraudulently or was a representation as to a fundamental matter, including as to a matter fundamental to a party's ability to perform its obligations under this Warranty) and that party's only remedy shall be for breach of Warranty as provided herein.**

### **HONG KONG**

*You hereby acknowledge and agree that certain of the provisions of this Warranty are expressed to be for the benefit of Stratus and the Affiliates, and that Stratus, in entering into this Warranty does so not only in its own right, but also as trustee and agent for the Affiliates.*

### **IRELAND**

**Add a New Section entitled "General Terms and Conditions," as follows:**

*You hereby acknowledge and agree that certain of the provisions of this Warranty are expressed to be for the benefit of Stratus and its Affiliates, and that Stratus, in entering into this Warranty does so not only in its own right, but also as trustee and agent for its Affiliates.*

### **SINGAPORE**

**Add a New Section entitled "General Terms and Conditions", as follows:**

*You hereby acknowledge and agree that certain of the provisions of this Warranty are expressed to be for the benefit of Stratus and its Affiliates, and that Stratus, in entering into this Warranty does so not only in its own right, but also as trustee and agent for its Affiliates.*

*You acknowledge that neither Stratus nor its Affiliates or their agents or representatives have made any representations to you about any Products on which you have relied in deciding to acquire them. You warrant that you have relied on your own skill and judgment or that of your advisers in relation to these matters.*

*You confirm that the Products provided by Stratus or its Affiliates under or in connection with this Warranty are acquired in the course of your business and that you are not “dealing as a consumer” (as that term is defined in the Unfair Contracts Terms Act). Subject to this subsection, nothing in this Warranty is otherwise intended to limit the rights of a person “dealing as a consumer,” and the terms of this Warranty are to be modified to the extent necessary to give effect to this intention. This provision shall survive termination or expiration of this Warranty.*

### **NEW ZEALAND**

***Add a New Section entitled “General Terms and Conditions,” as follows:***

*You acknowledge that neither Stratus nor its Affiliates or their agents or representatives have made any representations to you about any Products on which you have relied in deciding to acquire them. You warrant that you have relied on your own skill and judgment or that of your advisers in relation to these matters.*

*Where Stratus or its Affiliate is a supplier (as that term is defined in the Consumer Guarantees Act 1993 (“CGA”) of the Products, you confirm that the Products provided by us under or in connection with this Warranty are acquired for the purposes of a business (as that term is defined in the CGA) and you agree that the CGA does not apply to the Products supplied by us. Subject to this subsection, nothing in this Warranty is otherwise intended to limit the rights of a “consumer” under the CGA where that Act applies, and the terms of this Warranty are to be modified to the extent necessary to give effect to this intention. This provision shall survive termination or expiration of this Warranty.*