

RFP ATTACHMENT A AWARD AGREEMENT

This Agreement (#UVA-AGR-4046), effective March 29, 2024 is by and between the Rector and Visitors of the University of Virginia (the "University") and Dell Marketing L.P. and EMC Corporation ("Selected Firm").

TERM

The term of this Agreement will be until March 28, 2029 with the ability to renew for up to one additional five-year period (if agreed upon in an official Amendment by the University and the Selected Firm), unless terminated earlier in accordance with Contractual Provision P in Agreement Attachment 1.

WITNESS

By its Request for Proposal (RFP) # UVA-00082-JK082023, issued August 1, 2023, the University requested proposals from Firms to provide Technology Solutions ("Goods and Services") for the University and the Consortium. In response to the RFP, the Selected Firm submitted a written proposal. The University and Selected Firm wish to express in this Agreement the basis on which Selected Firm will provide the Services to the University. Accordingly, and in consideration of the mutual premises and provisions hereof, the parties hereby agree as follows:

I. Contents:

These documents are hereby incorporated into this Agreement either as an attachment or by reference:

- A. Agreement Attachment 1, Contractual Provisions;
- B. Agreement Attachment 2, Data Protection Addendum;
- C. Agreement Attachment 3, Publicly Accessible Contract (PAC) Addendum;
- D. Agreement Attachment 4, Cavalier Computers Addendum;
- E. Agreement Attachment 5, Sample Statement of Work ("SOW");
- F. Agreement Attachment 6: Goods & Services / Pricing – Fees - Discounts;
- G. Agreement Attachment 7: Dell General Terms;
- H. Agreement Attachment 8: Dell End User License Agreement;
- I. The RFP# UVA-00082-JK082023 (by reference); and
- J. Selected Firm's proposal in response to the RFP (by reference).

- 1. To the extent that the terms of the various Agreement documents are in conflict, the terms of this Agreement and Agreement Attachment 1 will prevail over all other Agreement documentation, then Agreement Attachment 7. Terms not defined in this Agreement shall have the same definitions as in RFP# UVA-00082-JK082023.

II. Specific Provisions:

A. Goods and Services:

Selected Firm will provide the Goods and Services offered to the University by the Selected Firm in its proposal and/or any addenda to its proposal which has been approved in writing by the University, with the understanding that Selected Firm can lower its pricing (or increase a discount) at any time. Selected Firm shall maintain a price list ("Retail Price List") that is a complete list of Goods and Services with the corresponding Retail Prices for those Goods and Services made available for purchase by Participating Entities under this Agreement. At minimum, the Retail Price List shall contain an item number, item description and the retail price for each Product. The Retail Price List is set forth online at <http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf>. Selected Firm shall provide the Retail Price List in a file format supported by Microsoft Excel upon request, but no more than once per calendar quarter.

B. Fees:

As requested by the University, Selected Firm will provide quotes/pricing to the University. This fee structure will be reflected in **Agreement Attachment 6, Goods & Services / Pricing – Fees – Discounts**.

C. Ordering Procedures:

Goods and Services will be ordered in the manner described in this section. The University makes no guarantee as to the volume of business that may be provided under this Agreement.

A proposal for Services must be specifically requested from Selected Firm by a University department. When Tied-Services are specifically requested, Selected Firm will prepare a proposed Statement of Work (SOW). The proposed Tied-Services SOW will be in the form described in **Agreement Attachment 5, Sample Statement of Work**, and will reference this Agreement. The pricing of any item contained in a SOW may not be higher than the contract pricing contained in this Agreement. Additional Contractual Provisions may *not* be introduced in the proposed SOW for Tied-Services and are void, and the SOW may not be marked as proprietary or confidential. SOWs will be used solely to describe the personnel, services, deliverables, and applicable fees, and will be mutually agreed upon by the University and Selected Firm. The University will not be required to sign or otherwise execute the SOW for Tied-Services. "Tied-Services" shall mean services for the implementation and deployment of a device that was purchased at the same time and on the same quote as the device purchase. To the extent custom-Services are requested, a signature may be required on the SOW and

the parties may mutually agree upon terms and conditions different from those in this Agreement.

If the University desires to have Selected Firm provide the Goods and Services, the University will issue a Purchase Order. When the University Purchase Order is issued, a contract exists between Selected Firm and the University for (a) the specific Goods; and (b) the Services described in the applicable statement of work. The University does not make a financial commitment without a formal written Purchase Order. The specified fee amount cannot be exceeded by the Selected Firm unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize Selected Firm to provide the Goods and Services prior to receipt of a formal written Purchase Order or incur costs in excess of authorized Purchase Order fee amounts.

D. Invoicing:

Selected Firm is not allowed to request a prepayment/down payment. Selected Firm may, however, request payment be tied to project milestones associated with a SOW. Selected Firm will submit one original invoice referencing the correct Purchase Order number on the invoice to the appropriate University's Accounts Payable Division.

- Electronic invoice Submission:

If Selected Firm will provide a catalog in the University's Electronic Marketplace as described in ***Agreement Attachment 1, Contract Provisions, Section OO***, then for all Marketplace catalog purchases, orders and invoices will be delivered electronically via cXML. The parameters for cXML invoicing will be in the University's sole discretion (in conjunction with the University's chosen Marketplace provider), and Selected Firm will use commercially reasonable efforts to comply with all applicable parameters surrounding invoice submission

- Non-Electronic Invoice Submission:

For any non-electronic invoice submission, Selected Firm will submit one original invoice, referencing the correct, valid University Purchase Order number, to the address of the University's Accounts Payable Department provided in the Purchase Order or to vendor-invoices@virginia.edu.

For all catalog and non-catalog orders, Selected Firm agrees to invoice at pricing no greater than the contract pricing in place at the time of the creation of the Purchase Order. If a Selected Firm experiences issues with the aforementioned submission methods, please notify the ordering department for further assistance.

E. Contract Administration:

The Selected Firm will not make any commitments/comments or take actions on behalf of the University without the explicit direction of the relevant Administrator. The University reserves the right to change its Contract Administrator(s) upon notice to Selected Firm.

- Primary Administration: Individual University departments and Consortium Members are the point of contact for day-to-day operations under this Agreement. Individual University departments or VHEPC cannot approve amendments to this Agreement or price changes.
- Secondary Administration: Selected Firm will channel all Contract Administration questions not pertaining to a specific service or departmental / Consortium members request through the VHEPC and University's Procurement & Supplier Diversity Services department, and specifically the individuals named below:
 - a. VHEPC
Anu Mathew
Contract Administrator, VHEPC
Carruthers Hall, 1001 N. Emmet Street
Charlottesville, Virginia 22904-4202
Phone: 434-243-8284
Email: amathew@virginia.edu
 - b. University of Virginia
Joel Kreider
Category Manager, IT&SD
Procurement & Supplier Diversity Services
University of Virginia
Carruthers Hall, 1001 N. Emmet Street
Charlottesville, Virginia 22904-4202
Phone: 434-924-8918
Email: jum2fh@virginia.edu

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ACCEPTANCE

**For the Rector and Visitors
of the University of Virginia**

DocuSigned by:



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Name: Jennifer Wagner Davis

Title: Executive Vice President and Chief Operating Officer

Date: 3/29/2024

Agreement #: UVA-AGR-4046

For Selected Firm



Name: Katherine Castillo

Title: Paralegal Advisor

Date: 03/27/2024

AGREEMENT ATTACHMENT 1

Contractual Provisions

- A. Nondiscrimination
During the performance of this Agreement, Selected Firm will comply with the contract provisions contained in Section 2.2-4311 (1) & (2) of the Code of Virginia or any successor provisions which may be applicable to this Agreement. Also, in accordance with Section 2.2- 4343.1, the University does not discriminate against faith-based organizations.
- B. Conflict of Interests
Selected Firm represents to the University that its entering into this Agreement with the University and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by the Virginia State and Local Government Conflict of Interests Act (Va. Code 2.2-3100 *et seq*), the Virginia Ethics In Public Contracting Act (Va. Code 2.2-4367 *et seq*), the Virginia Governmental Frauds Act (Va. Code 18.2-498.1 *et seq*) or any other applicable law or regulation.
- C. Independent Contractor
Selected Firm is not an employee of the University, but is engaged as an independent Selected Firm. Selected Firm will indemnify and hold harmless the Commonwealth of Virginia, the University, and its employees and agents, with respect to all withholding, Social Security, unemployment compensation and all other taxes or amounts of any kind relating to Selected Firm's performance of this Agreement. Nothing in this Agreement will be construed as authority for Selected Firm to make commitments which will bind the University, or to otherwise act on behalf of the University, except as the University may expressly authorize in writing.
- D. Drug-Free Workplace
Selected Firm, its agents and employees are prohibited, under the terms of this Agreement, Code of Virginia Section 2.2-4312, and the Commonwealth of Virginia, Department of Human Relations Management Policy Number 1.05, from manufacturing, distributing, dispensing, possessing, or using any unlawful or unauthorized drugs or alcohol while on University property.

During the performance of this Agreement, Selected Firm agrees to 1) provide a drug-free workplace for Selected Firm's employees; 2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Selected Firm's workplace and specifying the actions that will be taken against employees for violations of such prohibition; 3) state in all solicitations or advertisements for employees placed by or on behalf of Selected Firm that it maintains a drug-free workplace; and 4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific agreement awarded to a Selected Firm, the employees of whom are prohibited from engaging in the unlawful manufacturing, sale, distribution,

dispensation, possession or use of any controlled substance or marijuana during the performance of this Agreement.

E. Information Technology Access

Selected Firm may offer for purchase electronic and information technology procured through this agreement which meets the applicable accessibility standards of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended and is viewable at <http://www.section508.gov>. Additionally, in accordance with § 2.2- 3504 of the Code of Virginia, the following will apply to all information technology Agreements:

NON-VISUAL ACCESS TO TECHNOLOGY: All information technology (the "Technology") which is purchased or upgraded by the University will comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- Effective, interactive control and use of the Technology will be readily achievable by non-visual means;
- Technology equipped for non-visual access will be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- Non-visual access technology will be integrated into any networks used to share communications among employees, program participants or the public; and
- Technology for non-visual access will have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards will not be required if the Director of Procurement and Supplier Diversity Services, University of Virginia determines that 1) the Technology is not available with non-visual access because the essential elements of the Technology are visual and 2) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information will permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the agreement must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

F. Unauthorized Alien Use

Selected Firm warrants that it does not knowingly employ an "unauthorized alien," as such term is defined in the federal Immigration Reform and Control Act of 1986. Selected Firm furthermore agrees that, during the term of this Agreement, it will not knowingly employ an unauthorized alien.

G. Additional Federal Grant Provisions

The following provisions apply to a contract made under a federal grant: Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

H. Assignment

Neither party to this Agreement will have the right to assign this Agreement in whole or in part without the prior written consent of the other.

I. Amendments

No amendment of this Agreement will be effective unless it is reduced to writing and executed by the University's Director of Procurement and Supplier Diversity Services and by the individual signing Selected Firm's proposal or by other individuals named by either party as specified in the Notices provision below. If Selected Firm deviates from the terms of this Agreement without a written amendment, it does so at its own risk.

J. Notices

Any notice required or permitted to be given under this Agreement will be in writing and will be deemed duly given: (1) if delivered personally, when received; (2) if sent by recognized overnight courier service, on the date of the receipt provided by such courier service; (3) if sent by registered mail, postage prepaid, return receipt requested, on the date shown on the signed receipt, or (4) if sent by facsimile, when received (as verified by sender's machine) if delivered no later than 4:00 p.m. (receiver's time) on a business day or on the next business day if delivered (as verified by sender's machine) after 4:00 p.m. (receiver's time) on a business day or on a non-business day. All such notices will be addressed to a party at such party's address or facsimile number as shown below.

- If to the University:
Procurement and Supplier Diversity
Services University of Virginia
P.O. Box 400202
Charlottesville, Virginia 22904-4202
Phone: 434-924-4019
Fax: 434-982-2690
- If to Selected Firm:
The person signing Selected Firm's proposal in response to the University's RFP, at Selected Firm's address indicated in such proposal; or to such other person or address as either may designate for itself in writing and provide to the other.

K. University Registration

Selected Firm agrees to register and remain registered as a supplier with the University during the term of this Agreement, and to comply with all applicable terms and conditions associated with registration.

L. eVA Registration / Transaction Fee

The eVA Internet electronic procurement solution is the Commonwealth of Virginia's comprehensive electronic procurement system. The portal is a gateway for Firms to conduct business with state agencies and public bodies. All agencies and public bodies are expected to utilize eVA and all Firms desiring to provide goods and/or services in

the Commonwealth are encouraged to participate in the eVA Internet e-procurement solution.

Selected Firm is required to register in the eVA Internet e-procurement solution as a condition of award and remain eVA registered during the term of this Agreement. Selected Firm will be subject to an eVA transaction fee, for which Selected Firm will be invoiced by Commonwealth of Virginia, Department of General Services. Selected Firm may not recoup the eVA fee by invoicing the University for the fee. Additional information is available at www.eva.virginia.gov

M. Waiver

No waiver of any right will be deemed a continuing waiver, and no failure on the part of either party to exercise wholly or in part any right will prevent a later exercise of such or any other right.

N. Reserved.

O. Termination

If Selected Firm fails to provide quality goods or services in a professional manner in accordance with the product notices and Service offering Description, as reasonable determined by the University which shall not be arbitrary or capricious and, upon receipt of notice from the University, does not correct the deficiency within 30 days or a time agreed to by both parties in writing, the University reserves the right to terminate this Agreement upon written notice to Selected Firm.

In addition, this Agreement may be terminated by the University for convenience by providing 45 days' notice. The University remains responsible for payment of all products and services it has purchased or ordered as of the effective date of any termination.

Upon the expiration or termination of the Agreement, the following provisions will survive: warranties; intellectual property, copyright, patents, and data rights; indemnity and liability; use of University names and trademarks; liability for University-furnished property; terms applicable to the furnishing of goods; audit requirements; prohibition on unauthorized use of institutional information; and governing law and venue.

P. Non-Appropriation

Funding for any Agreement between the University and Selected Firm is dependent at all times upon the appropriation of funds by the Virginia General Assembly and/or any other organization of the Commonwealth authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then this Agreement may be terminated by the University effective the last day for which appropriated funding is available.

Q. Contract Compliance Audits

The University shall be entitled to perform an audit or audits of the Selected Firm's books and records in order to determine and document the Selected Firm's compliance with the contractual terms of the Agreement. The rules for any audit are as follows:

Scope of Audits: All aspects of the Agreement and all transactions between the

University and Selected Firm that occurred pursuant to the Agreement are subject to audit. In no case shall any one aspect be audited more than one during a specific time period; and in no case shall any one transaction be audited more than once. Transactions include, but are not limited to, orders; deliveries; invoice amounts; payments; paid and unpaid earned rebates; paid and unpaid earned incentives.

1. **Audit Period(s):** The University reserves the right to initiate an audit at any time during the term of the Agreement, including any extensions or renewals, and for a period of three (3) years after final payment has been made by the University under the Agreement. The University may select any time period for audit during the term of the Agreement, including any extensions or renewals, and at its sole discretion (the "Audit Period"). Multiple Audit Periods may occur under the Agreement.
2. **Frequency of Audits:** In no event shall more than one (1) audit be initiated in any calendar year during the term of the Agreement, including any extensions or renewals.
3. **Notification of Audit:** The University shall provide Selected Firm with reasonable advance notice of any audit, in writing, within thirty (30) days of initiating an audit.
4. **Location of Audit:** The location of an audit may be either at the Auditor's location or the Selected Firm's location. The location of an audit shall be the Auditor's location to the extent that all necessary data and documentation necessary to conduct the audit can be transmitted electronically or by mail to the Auditor. Should an audit be conducted at the Selected Firm's location, all books, records, and documents will be open for inspection, examination, and audit by the Auditor at all times during Selected Firm's normal hours of operation and Selected Firm shall have an employee on site capable of locating and gaining access to all documents during those hours.
5. **The Auditor:** Audits may be conducted by the University or the authorized representative of the University who shall be selected and appointed at the sole discretion of the University. The University understands that the Selected Firm may require a commercially reasonable Confidentiality Agreement between a third-party auditor and the Selected Firm and, if a third-party auditor refuses to enter into such Confidentiality Agreement with the Selected Firm, the University shall select a different third-party auditor.
6. **Requests for Information:** The Auditor may request, and the Selected Firm shall provide within a mutually agreed upon timeframe, all data and documentation necessary to complete the audit. The Auditor shall determine the data and documentation needed to conduct an audit. Notwithstanding the foregoing, Selected Firm shall not be required to perform any data analysis against data points that are known to University or should be known to University. This includes analysis of invoiced amounts against amounts in orders issued by University, or against pricing discounts that are designated in the contract. Invoice records shall be produced for University's inspection in an electronic format, in accordance with the reporting format created by Selected Firm's business system of record.
7. **Records to be Maintained:** Selected Firm will at all times keep complete and accurate books, records and documents sufficient to determine Selected Firm's compliance with the Agreement and all applicable statutes,

regulations, orders, ordinances and security programs. Records include a copy of any third-party or outside documents on which any part of the Agreement depends or refers to including, but not limited to, catalogs; manufacturer's list prices; indices; and comparative metrics.

8. Cost of an Audit: The cost of performing any audit shall be borne solely by the University.
9. Results of an Audit: The results of an audit may or may not be shared with the Selected Firm. Should the Auditor share the results of an audit with the Selected Firm and requests a response to the audit findings from the Selected Firm, the Selected Firm shall be given a reasonable amount of time to provide a complete and accurate response to the Auditor. If overcharges are a part of the Auditor's findings, the Selected Firm has thirty (30) days from the date of notification to respond to such overcharges.
10. Resolution of an Audit: In the event there is a financial settlement to any audit, including any deemed resolution of overcharges, the Selected Firm shall provide the settlement amount to the University, in the manner directed by the University and agreed upon by the Selected Firm, within thirty (30) days from the date of agreed or deemed settlement. The Selected Firm shall not require the execution of a settlement agreement to bring resolution to any audit.

R. Contractual Claims Procedure

The Virginia Acts of Assembly of 2007, Chapter 943, Chapter 3, Exhibit P and its attachments requires contractors with the University to submit any claims, whether for money or other relief, in writing no later than 60 days after final payment; however, written notice of the contractors' intention to file such a claim must be given at the time of the occurrence or beginning of the work upon which the claim is based.

The University's procedure for deciding such contractual claims is:

1. Selected Firm must provide the written claim to:

Director of Procurement and Supplier Diversity
Services University of Virginia
Carruthers Hall
1001 North Emmet Street
P.O. Box 400202
Charlottesville, Virginia 22904-4202
2. Although Selected Firm may, if it chooses, attempt to resolve its claim by dealing with a University department other than the one stated in Section A above, Selected Firm must submit any unresolved claim in writing no later than 60 days after final payment to the Assistant Director of Procurement and Supplier Diversity Services if it wishes to pursue its claim.
3. Upon receiving the written claim, the Assistant Director of Procurement and Supplier Diversity Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Selected

Firm. If such discussion is to be held, the Assistant Director of Procurement and Supplier Diversity Services will contact Selected Firm and arrange such discussion. The manner of conducting such discussion will be as the Assistant Director and Selected Firm mutually agree.

4. The Assistant Director of Procurement and Supplier Diversity Services will mail his or her decision to Selected Firm within 60 days after receipt of the claim. The decision will state the reason for granting or denying the claim.
5. Selected Firm may appeal the decision to:

Senior Director of Procurement and Supplier Diversity Services
University of Virginia
Carruthers Hall
1001 North Emmet Street
P.O. Box 400202
Charlottesville, Virginia 22904-4202

Provide a written statement explaining the basis of the appeal within 15 days after Selected Firm's receipt of the decision.

6. Upon receiving the written appeal, the Director of Procurement and Supplier Diversity Services will review the written materials relating to the claim and decide whether to discuss the merits of the claim with Selected Firm. If such discussion is to be held, the Director of Procurement and Supplier Diversity Services will contact Selected Firm and arrange such discussion. The manner of conducting such discussion will be as the Director of Procurement and Supplier Diversity Services and Selected Firm mutually agree.
7. The Director of Procurement and Supplier Diversity Services will mail his or her decision to Selected Firm within 60 days after the Director of Procurement and Supplier Diversity Services receipt of the appeal. The decision will state the reasons for granting or denying the appeal.

Nothing in this procedure will preclude either party from filing a claim in any court of the Commonwealth of Virginia to seek legal or equitable remedy if a dispute should arise, in addition to such other remedies as are expressly provided in this Agreement. Selected Firm may not, however, file such claim unless and until it has complied fully with the procedure set forth in this provision.

S. Cooperative Procurement / Use of Agreement by Third Parties

It is the intent of this Agreement to allow for cooperative procurement. Accordingly, public bodies, public or private health or educational institutions, other public or private organizations or entities, including public-private partnerships, charitable organizations, health care provider alliances or purchasing organizations or entities, or with public agencies or institutions or group purchasing organizations of the several states, territories of the United States, or the District of Columbia may access this Agreement if authorized by Selected Firm.

Participation in this cooperative procurement is strictly voluntary. If authorized by

Selected Firm, this Agreement may be extended to the entities indicated above to purchase at fees in accordance with this Agreement. Selected Firm will notify the University in writing of any such entities accessing this Agreement. No modification of this Agreement or execution of a separate agreement is required to participate. Selected Firm will provide quarterly usage reports for all entities accessing this Agreement. Participating Entities will place its own orders directly with Selected Firm and will fully and independently administer its use of this Agreement to include contractual disputes, invoicing and payments without direct administration from the University. Entities participating shall provide Selected Firm with a single point of contact for all invoicing and accounts receivables. The University will not be held liable for any costs or damages incurred by any other Participating Entity as a result of any authorization by Selected Firm to extend this Agreement. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of this Agreement no matter the circumstances.

Use of this Agreement does not preclude any Participating Entity from using other agreements or competitive processes as the need may be.

T. The University's Authorized Representatives

The only persons who are or will be authorized to speak or act for the University in any way with respect to this Agreement are those whose positions or names have been specifically designated in writing to Selected Firm by the University's Director of Procurement and Supplier Diversity Services.

U. Purchasing Manual

This Agreement is subject to the provisions of the Commonwealth of Virginia "Purchasing Manual for Institutions of Higher Education and Their Vendors" and any subsequent revisions, which is available at this web site:
<https://vascupp.org/sites/vascupp/files/2020-09/hem.pdf>

V. Small, Women-owned and Minority-owned (SWaM) Business Reporting

Selected Firm will identify and fairly consider SWaM Firms for subcontracting opportunities when qualified SWaM Firms are available to perform a given task in performing for the University under the resulting Agreement. Selected Firm will submit a quarterly SWaM business report to the University by the 8th of the month following each calendar quarter, specifically the months of April, July, October, and January. Selected Firm will submit the quarterly SWaM business reports to:

Shannon Wampler
 Procurement Data Optimization Project
 Lead Phone: (434) 924-3173
 Email: saw2w@virginia.edu

The quarterly SWaM business reports will contain this information:

- i. SWaM Firm's name, address and phone number with which Selected Firm has contracted over the specified quarterly period.
- ii. Contact person at the SWaM Firm who has knowledge of the specified information.
- iii. Type of goods and/or services provided over the specified period of time.
- iv. Total amount paid to the SWaM Firm as it relates to the University's account.

Selected Firm's failure to provide SWaM reports on a quarterly basis which contain the information required by this section and/or Selected Firm's failure to comply with the plan for utilizing SWaM businesses submitted by Selected Firm as part of its proposal and/or negotiation response may be grounds for debarment pursuant to Section 9. G. 4 of the "Purchasing Manual for Institutions of Higher Education and their Vendors."

W. Goods and/or Services

During the term of this Agreement, Selected Firm will provide for the University the goods and/or services offered to the University by the Firm in its proposal and/or any addenda to its proposal which has been approved in writing by the University and as may be further specified by the University in writing when it selected the Firm.

X. Future Goods and/or Services

The University reserves the right to have Selected Firm provide additional goods and/or services that may be required by the University during the Term of this Agreement. Any such goods and/or services will be provided under the same terms and conditions of this Agreement. Such additional goods and services may include other products, components, accessories, subsystems or services provided by Selected Firm. These additional goods and services will be provided to the University at Favored Customer pricing.

Y. Reserved.

Z. Ordering Procedures

The University does not place verbal orders for the Goods and/or Services. The University may only place orders for the Goods and/or Services by issuing a formal written Purchase Order in advance of Selected Firm's provision of the Goods and/or Services. Accordingly, at the University's request, Selected Firm will issue a proposal/quotation listing the Goods and/or Services desired by the University and the corresponding fees and/or fee estimates.

Corresponding fees and/or fee estimates shall not exceed the contract pricing in this Agreement. After any necessary discussions and/or revisions, the University will issue a corresponding Purchase Order for a specified fee amount. This specified fee amount cannot be exceeded by Selected Firm unless a new formal written Purchase Order or Purchase Order revision is issued by the University authorizing a specific additional fee amount. Under no circumstances does the University authorize Selected Firm to provide the Goods and/or Services before receipt of a formal written Purchase Order corresponding to its proposal/quotation. If Selected Firm provides Goods and/or Services prior to receipt of a formal written Purchase Order, or incurs costs in excess of authorized purchase order fee amounts, it does so at its own risk.

AA. Marketing

The University encourages Selected Firm to appropriately and specifically market itself to applicable end-using University departments that may be interested in Selected Firm's Goods and Services. However, Selected Firm will not use non-specific mass marketing formats; such as, but not limited to, spam, emails and junk mail. In the event that Selected Firm engages in non-specific mass marketing formats, the University, in its sole discretion, may choose to terminate this Agreement.

BB. Compliance

Selected Firm will comply with all required applicable laws and industry standards in performing services under this Agreement. Any Selected Firm personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities.

CC. Reserved.DD. Reserved.EE. International Traffic in Arms Regulations (ITAR)

If Selected Firm is providing any items, data or services under this order that are controlled by the Department of State, Directorate of Defense Trade Controls, International Traffic in Arms Regulations (ITAR), it must notify (by sending an email to export-controls@virginia.edu), and receive prior written authorization from, the University's Office of Export Controls before delivery. The notification provided by the Selected Firm shall include the name of the University of Virginia point of contact, identify each ITAR-controlled commodity, provide the associated U.S. Munitions List (USML) category number(s), and indicate whether or not the determination was reached as a result of a commodity jurisdiction or self-classification process. Selected Firm agrees that if it fails to notify the University that it is providing ITAR-controlled items, data or services, it shall reimburse the University for any fines, legal costs and other fees imposed by the above- named regulatory agency for any violation of export controls regarding the provided items, data or services.

FF. License Requirements

Certain statutes and regulatory agencies require that some Firms be properly registered and licensed, or hold a permit, prior to performing specific types of services. It is Selected Firm's responsibility to comply with the rules and regulations issued by the appropriate regulatory agencies, and possess and maintain the appropriate licenses if applicable for the Goods and Services to be provided under this Agreement. A copy of any such applicable license and/or permit must be furnished upon request to the University or VASCUPP member institution. For example, if Selected Firm will be providing removal, repair, improvement, renovation or construction-type services they, or a qualified individual employed by the Firm, must possess and maintain an appropriate State of Virginia Class A, B, or C Contractor License (as required by applicable regulations and value of services to be performed) for the duration of this Agreement.

GG. Force Majeure

Neither Party will be deemed in default or otherwise liable hereunder due to its inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state, national or international ordinance or law or any executive, administrative, judicial or similar order, including orders from any governing body (which order is not the result of any act or omission to act which would constitute a default under this Agreement), or any failure or delay of any transportation, power, or other essential thing required, or similar causes beyond the Party's control (collectively, "force majeure"). Any delay in performance will be no greater than the event of force majeure causing the delay. If an event of force majeure continues uninterrupted for a period exceeding six calendar months, either Party may elect to terminate this Agreement upon notice to the other,

but such right of termination, if not exercised, will expire immediately upon the discontinuance of the event of force majeure.

HH. Promotional Activity

During the Term of the Agreement, Selected Firm may reference the University as a customer in sales and marketing materials and public statements (Promotional Materials), provided such Promotional Materials do not include opinions explicitly or implicitly attributed to the University about the quality of the goods and/or services provided to the University. In no event shall Selected Firm request that the University or any University employee endorse Selected Firm or Selected Firm's goods and/or services. Promotional Materials may include the name "University of Virginia" and University's approved institutional logo solely to identify accurately the University as an entity to whom Selected Firm provides goods and/or services. Furthermore, the University grants Selected Firm a limited, nonexclusive license to display the University's Marks solely as they are made available to Selected Firm in connection with Selected Firm's goods and/or services.

II. Governing Law

This Agreement will be governed and construed in all respects by the laws of the Commonwealth of Virginia, excluding its conflict of laws provisions.

JJ. Entire Agreement

This is the entire agreement between the University (including University employees and other End Users) and Selected Firm. The parties agree to the EULA attached hereto as Agreement Attachment 8.

KK. Agreement Signature

This Agreement may be executed in counterparts, each of which will be deemed an original, and both of which taken together will constitute one and the same document. Electronically transmitted signatures will be deemed originals for all purposes relating to the agreement.

LL. Insurance

Selected Firm shall procure and maintain for the duration of the contract, insurance against claims which may arise from or in connection with the performance of the work and the results of that work by the Selected Firm, its agents, representatives, employees or subcontractor. Beginning on the Commencement Date and continuing during the Initial Term of the Contract and any Renewals or extensions thereof, the Selected Firm, at the Selected Firm's expense, shall keep in force, with an insurance company with a current

A.M. Best's rating of no less than A minus: VII, one which is authorized to transact business in Virginia the following:

{ X } **Commercial General Liability (CGL):** providing CGL coverage on an "occurrence" basis, including for (X) bodily injury liability including: death, (X) property damage liability for damage to property of third parties, (X) personal injury liability, (X) advertising injury liability, (X) contractual liability, (X) products / completed operations liability with limits no less than Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) aggregate.

{ X } **Automobile Liability:** providing coverage on all vehicles (i.e., owned, non-owned, and hired) operated with combined minimum limits of liability of at least One Million

Dollars (\$1,000,000) per occurrence for bodily injury and property damage.

{ X } **Workers' Compensation:** providing coverage of at least the statutory amounts covering all employees, and employer's liability insurance with minimum limits of One Million Dollars (\$1,000,000) for each coverage part.

{ X } Professional Liability, including **Cyber Insurance:** providing coverage against information security and privacy breaches legal and forensic services, credit monitoring programs, website media content liability, crisis management and public relations and violations of Payment Card Industry compliance with an aggregate limits of liability of at least 5 Million Dollars (\$5,000,000)

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees, and agents are to be covered on the CGL policy with respect to insurable liability assumed under agreement.

Primary Coverage

For any CGL claims related to this contract, the Selected Firm's insurance coverage shall be primary insurance as respects the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees and agents. Any insurance or self-insurance maintained by the Commonwealth of Virginia, the Rector and Board of Visitors of the University of Virginia, its officers, employees and agents shall be excess of the Firm's insurance and shall not contribute with it.

Waiver of Subrogation

The Selected Firm will grant to University a waiver of any right to subrogation which any insurer of said Selected Firm may acquire against University by virtue of the payment of any loss under such insurance. The Selected Firm will agree to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not University has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any self-insured retentions must be declared to and approved by University.

Claims Made Policies

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least three (3)** years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Firm must purchase "extended reporting" coverage for a minimum of **three (3)** years after completion of work.

Verification of Coverage

The Selected Firm shall furnish University with certificates effecting coverage required by this clause. All certificates are to be received and approved by University before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Selected Firm's obligation to provide them.

Special Risks or Circumstances

University reserves the right to modify these requirements, including limits, based on the nature of the risk.

MM. Payment Terms and Acceptance

University shall pay Selected Firm within thirty (30) days of receipt of a correct invoice. All invoice terms will be deemed correct unless University advises Selected Firm in writing of a material error within 15 days following receipt. If University advises Selected Firm of a material error or disputed amount, (a) the Parties shall seek to resolve all such errors or disputes expeditiously and in good faith, and (b) all other amounts shall be paid by University by the due date.

The University will compute the payment date from the date of invoice.

University will have fifteen (15) days to inspect and accept any goods. Goods shall be deemed accepted if not rejected within that fifteen (15) day period. Notwithstanding the foregoing, University shall retain all rights and remedies outlined in the applicable Product Warranty.

NOTE: Each Consortium Member or Participating Entity may establish their own payment terms with the Selected Firms.

NN. University Marketplace / Electronic Procurement

If requested by the University, Selected Firm agrees to provide and maintain an electronic catalog in the University's Electronic Marketplace (the "Marketplace"). Catalogs can be hosted in the Marketplace or a punchout from the Marketplace to Selected Firm's website. The University requires the following from its catalog suppliers.

Hosted Catalog Firms will:

- Periodically update items, descriptions and pricing.
- Dell Apex Services or Apex subscription services means and includes any Platform as a Service, Infrastructure as a Service and storage-as-a-service or other subscription offerings made available by Selected Firm on a subscription basis and delivered to a Customer controlled site that Customer orders from Selected Firm are provided pursuant to the Cloud Services Terms of Services located at www.Dell.com/dellemcloudterms or University's separate signed cloud services agreement with Selected Firm, when applicable.
- Address pricing discrepancies within one business day.
- Invoice all items at catalog and/or quoted prices.

Punchout Catalog Firms will:

- Clearly notate shipping terms, return policy and cancellation policy in the punchout catalog.
- Provide training or help details in the punchout catalog.

- Allow customization of the punchout catalog with the University's marks, logos and/or necessary language.
- Agree that to the extent the terms and conditions of this Agreement are in conflict with those in the punchout catalog, this Agreement will take precedence.
- Provide an error message as connectivity interruptions arise.
- Have a privacy policy that complies or is similar to the Platform for Privacy Preferences Project (P3P) standards.

Selected Firm will:

- Ensure that the catalog data is maintained, updated and accurate.
- Invoice at catalog prices or lower.
- Negotiate freight terms for Marketplace purchases.
- Agree that all catalog content and the format in which catalog content is presented will be of a mutually acceptable nature.
- Disclose to the University all non-University revenue that is generated with the catalog.
- Register in eVA and maintain its registered status for the term of this Agreement. Additionally, maintain the necessary number of eVA sites for orders to be placed from the Marketplace.
- If necessary will maintain and update accurate Ship to addresses in its system.
- Provide reports as required by the University update and maintain its catalog in the system.
- Support a manual process for change orders.
- Encourage University user to utilize the University Marketplace for placing orders.

The University reserves the right to remove Selected Firm's catalog from its Marketplace at anytime during the term of this Agreement.

NOTE: Several Consortium Members maintain/use an on-line ordering system operated by an e-commerce supplier (e.g., Jaggaer, eVA, Ariba). If requested by the Consortium Member, Selected Firm will make commercially reasonable efforts to establish catalogs in these systems.

OO. Energy Star Products

To the maximum extent practicable in providing the Goods and Services under the Agreement, Selected Firm shall make available for purchase products that earn the Energy Star rating and meet the Energy Star specifications for energy efficiency. University may check whether the desired product qualifies for Energy Star status by checking the following link:

https://ebipowerbi.dell.com/Reports/powerbi/Sustainability/PRD/Sustainability_Analytics/Sustainability%20Report.

PP. Virginia's Freedom of Information Act (FOIA)

This Agreement is governed by and subject to the Commonwealth of Virginia's Freedom of Information Act (FOIA). All pricing information, consistent with the public interest and the underlying policy of the Commonwealth of Virginia, is open to the inspection of any qualified requestor and cannot be designated as confidential, proprietary or trade secret to avoid disclosure. Pricing information is also shared on a need-to-know basis both within the University and its affiliates and consultants for

purposes of operational review, transaction management, contract compliance & monitoring, benchmarking and performance improvement. Attempts to prevent disclosure of pricing information by designating it as confidential, proprietary or trade secret will be ignored. In addition, any non-price information considered by a firm to be proprietary or to constitute trade secret(s) is also subject to disclosure under FOIA, except that information provided by Selected Firm that constitutes proprietary information or trade secret(s), other than pricing information, may be exempted from disclosure if Selected Firm invokes the protections of Virginia Code Section 2.2-4342(F) in writing and follows its stated requirements prior to or upon submission of the information for which Selected Firm is seeking protection.

QQ. Customer Support

Selected Firm shall provide a single point of contact plus a backup for each Consortium Member. This individual may support multiple members. Members shall have access to their corresponding customer service representative during normal business hours of every business day (8am to 5pm local time).

RR. Partners/Resellers

Goods and Services available on this Agreement can be procured through Authorized and Approved Partners/Resellers. Only Partners/Resellers approved by the Selected Firm can be used. A list of these Partners/Resellers can be found at <https://www.delltechnologies.com/asset/en-us/solutions/oem-solutions/legal-pricing/vhepc-approved-resellers.pdf>.

Partners/Resellers may also include complementary solutions and services with the written approval of all parties (e.g. Selected Firm, University, Consortium, third parties). These goods and or services will be acquired under the Partner/Reseller's terms and conditions and are not subject to the terms and conditions of this agreement.

SS. Order Fulfillment

Selected Firm's Order Accuracy rate shall be maintained at 98% or greater. Order Accuracy rate is defined as "the number of items delivered as ordered divided by the total number of items delivered per calendar quarter." Order Fill rate shall be maintained at 95% or greater, evaluated quarterly. Order Fill rate is defined as "the number of items on an order filled completely as ordered divided by the total number of lines on an order." Selected Firm, within two (2) business days after receiving a purchase order, shall notify the University or relevant Consortium Member of any potential delivery delays. The following information regarding backorder(s) shall be provided:

- PO Number, if applicable
- Item ID
- Item Name & Description
- Reason for shortage as made available to Selected Firm
- Plan of action (when delivery may be expected or suggested replacement)

TT. Substitutions

No substitutions of alternate items for products ordered are permitted without the express prior written approval of the Member. Any and all remanufactured or refurbished products are not acceptable, in lieu of a new product, unless authorized by the University or relevant Consortium Member.

UU. Minimum Orders

No minimum order charges or conditions shall apply for any purchases made under this Agreement.

VV. Supplemental Charges

Selected Firm shall be required to state all supplemental charges that may be assessed in addition to the pricing for the goods and/or services provided including additional shipping charges, cost of goods, delivery, freight fuel surcharges, installation or any other charges incurred by the Member. If Selected Firm offers multiple pricing options (i.e.: drop ship, inside delivery, delivered and installed) they must be specified within a quote and explicitly accepted by the University or Consortium Member prior to order.

WW. Delivery

Deliveries to Consortium Members range from, but are not limited to: (1) one central receiving location, (2) multi-campus locations, (3) campus building(s), or (4) department(s). Frequency of delivery may range from: (1) daily, (2) weekly, (3) monthly, or (4) as needed to assure that institutions' needs are met. Delivery may be based on storeroom delivery, Just-in-Time agreements, drop shipments, and delivered and installed. Normal delivery of orders must be accomplished at established times as set by the Consortium Member. Order Fill rate shall be maintained at 95% or greater as defined in Section D, above. Selected Firm(s) shall have the capability of expediting the delivery of orders to assure no shortage of product during installation. Title and risk of loss shall pass to the Consortium Member at the F.O.B. destination point. The title and risk of loss of the goods shall not pass to a given Consortium Member until receipt of the goods at the point of delivery. All orders are to be shipped FOB Destination, freight, shipping, and transportation charges fully prepaid by the Selected Firm, unless special shipping instructions are requested. Orders may be placed that require special handling, which incur an additional charge. Examples of special delivery are "Inside Deliver", "Excessive Weight", or "Overnight Delivery". The cost for these orders will be provided by Selected Firm with the quote. Selected Firm will prepay these charges and include as a separate line item on the invoice. Selection of a carrier for shipment will be Selected Firm's option unless otherwise specified by the Consortium Member. If special delivery or handling charges are applicable they shall be pre-approved by the Consortium Member. Selected Firm shall maintain records evidencing the delivery of goods and upon request by the Consortium Member provide such proof of delivery.

XX. Packaging and Labeling

Shipments are to have packing and packaging which is environmentally sensitive and state of the art. Stuffing (e.g. "popcorn", etc.) is to be biodegradable. INSTAPAK will not be used.

Wrapping, boxing and crating are to be minimized. Selected Firm will make best efforts to ensure that recycled cardboard is to be used in place of new cardboard. Large shipments (skids, etc.) are to be shrink-wrapped. Pallets will be standard wood four-way. Selected Firm must work with OEMs, distributors and authorized resellers so that direct ship and pass through shipments are packaged with the same considerations.

Selected Firm is expected to look for cutting edge packaging innovations for delivery options, such as exchangeable packs, bags, or other similar containers that would

eliminate as much traditional packaging materials as possible.

Each packaged order shall have a packing label affixed indicating the order number, order date, ship to name & address, delivery zone (if requested), and any additional information requested by the ordering Member. In addition, each order shall have a packing list.

YY. Tracking Lost and Damaged Shipments

In the event that a third-party carrier or shipper contracted by the Selected Firm fails to deliver or delivers products incorrectly, upon receipt of notification from the Consortium Member, Selected Firm shall take immediate corrective action to make the correct delivery at no cost to Consortium Member. Should any action on the part of Selected Firm or a subcontractor cause visible damage to the facilities during transport, Selected Firm is required to immediately contact Member and forward a confirming damage report detailing the damages. Selected Firm shall be able to track all shipments and provide order status to Consortium Member.

ZZ. Evaluation Units

If requested, Selected Firm shall make available evaluation units of products, subject to manufacturer's evaluation program terms. It is preferred that units for evaluation be provided free of charge and that the quantity of any evaluation unit requested will be reasonable but sufficient to undertake an appropriate evaluation. Selected Firm shall provide Consortium Member with return instructions as appropriate.

AAA. Business Review Meetings

In order to maintain a partnership between the University and Selected Firm, the University may require business review meetings. These meetings shall be held on a quarterly basis, if not more frequently. The business review meeting shall include, but not be limited to, the following:

- Review of Selected Firm performance
- Review of minimum required reports (as described in the following section)
- Review of new technologies, industry trends

BBB. Reporting Requirements

1. Selected Firm will provide recommendations for cost reductions and process efficiencies regarding product offering, ordering, delivery, etc. throughout the Agreement term.
- 2.
3. Selected Firm will provide a single report containing purchasing data on all transactions (catalog and non-catalog) for the University and all Members. This data shall be submitted for each calendar quarter within 30 days after the end of each calendar quarter, and include the following:
 - a. University Name
 - b. University Name Shipping
 - c. Selected Firm Customer Number
 - d. PO Number
 - e. Selected Firm Order Number
 - f. Master Invoice Number
 - g. Invoice Number
 - h. Group Description
 - i. Product Description

- j. Brand Description
- k. Computer System Identification Number/Asset tag
- l. Manufacturer's Suggested Retail Price
- m. Item Number
- n. Item Long Name
- o. System Qty
- p. Order Qty
- q. Total Revenue Retail
- r. Total Revenue Discount
- s. Order Status Description
- t. Order Date
- u. Ship By Date
- v. Shipped Date
- w. Invoice Date

4. All reports submitted by Selected Firm to the University must be complete and accurate; the parties agree to evaluate the reports to allow for continued improvements. Should the University request a report and the Selected Firm is unable to provide a complete and accurate report for reasons beyond its control, the Selected Firm shall provide a report with an adjusted scope along with footnotes describing the limitations of the adjusted report. When data received by the Selected Firm, by report or otherwise, conflicts with data already submitted by a Selected Firm (e.g., reported list price is different from revised list price), both parties shall agree that the deemed correct data is the data that benefits the University the most.

CCC. Reserved

DDD. Consortium Membership Addendum

Each Consortium Member may negotiate their own Addendum with Selected Firm to meet specific Member requirements. Any such Addendum will incorporate this Agreement by reference but will be maintained and administered solely between the Consortium Member and Selected Firm. Additionally, each Consortium Member may negotiate their own payment terms and method with Selected Firm to meet their requirements.

EEE. SWaMfest

Selected Firm will support the University's SWaM goals by endeavoring to support the SWAMfest conference.

AGREEMENT ATTACHMENT 2

DATA PROTECTION ADDENDUM

This Data Protection Addendum ("Addendum") is entered into as of March 29, 2024, by and between Dell Marketing L.P. and EMC Corporation ("Selected Firm") and The Rector and Visitors of the University of Virginia ("UVA" or "University") (each a "Party" and collectively the "Parties").

WHEREAS, the Parties have entered into one or more agreements or arrangements (collectively, the "Underlying Agreement(s)") under which Selected Firm will create, obtain, transmit, use, maintain, process, or dispose of University Data (as defined in the Definitions Section of this Addendum) in order to fulfill its obligations to the University under the Underlying Agreement(s).

WHEREAS, this Addendum to the Underlying Agreement shall apply when Dell is notified in writing prior to an order where the provision of services (the "Services") by Selected Firm to the University involves the processing of Personal Data which is subject to Privacy Laws and Selected Firm acts as Processor on behalf of the University as the Controller. This Addendum does not apply where Selected Firm is the Controller or where a third party acts as Processor on behalf of the University, under an alternative form of data processing agreement.

WHEREAS, if Selected Firm, through its work with the University, may receive one of the University's designated "health care components" identified below, will receive, create, or come into non-incidental contact with individually identifiable health information of UVA patients or UVA Health Plan participants -- "Protected Health Information" as that term is defined in regulations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), at 45 C.F.R. Part 160.103 -- the Business Associate Addendum found at <https://suppliers.uvafinance.virginia.edu/resources/business-associate-addendum>, which will be negotiated between the parties, applies in addition to this Data Protection Addendum. Where noted herein, certain sections of the Business Associate Addendum replace sections of this Data Protection Addendum as regards Protected Health Information ("PHI").

WHEREAS, this Addendum sets forth the terms and conditions pursuant to which University Data will be protected by Selected Firm during the term of the Parties Underlying Agreement(s) and after its termination.

STANDARD PROVISIONS

1. Definitions

- a. "End User" means an individual authorized by the University to access and use the Services provided by Selected Firm under this Addendum.
- b. "Protected University Data" includes all data defined as Highly Sensitive, Sensitive, or Internal Use data in UVA's *IRM-003 Data Protection of University Information* policy (<http://uvapolicy.virginia.edu/policy/IRM-003>) that is not intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- c. "Securely Destroy" means taking actions that render data written on physical (e.g., hardcopy, microfiche, etc.) or electronic media unrecoverable by both ordinary and extraordinary means. These actions must meet or exceed those sections of the National Institute of Standards and Technology (NIST) SP 800-88, REV 1 guidelines relevant to data categorized as high security.

- d. "Security Breach" means the confirmed unauthorized access, use or disclosure that compromises or threatens to compromise the confidentiality, integrity, or availability of Personally ID University Data
- e. "Services" means any goods or services acquired by the University of Virginia from Selected Firm.
- f. "University Data" includes Protected University Data and any other information that is created, possessed or used by the University or is intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student, and personnel data.
- g. "Audit Trail" means a chronological record that reconstructs and examines the sequence of activities surrounding or leading to a specific operation, procedure, or event in a security- relevant transaction from inception to final result.
- h. "Processing" means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- i. "Processor" means an entity which processes the Personal Data on behalf of the Controller.
- j. "Subprocessor" means any Processor engaged by Selected Firm for the provision of the Services.
- k. "Controller" means an entity which, alone or jointly with others, determines the purposes and means of the processing of the Personal Data.

2. **Rights and License in and to the University Data**

The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of the University, and Selected Firm has a limited, nonexclusive license to use these data as provided in this Addendum solely for the purpose of performing its obligations hereunder. This Addendum does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property, except as expressly stated.

3. **Data Privacy**

- a. Selected Firm will use University Data only for the purpose of fulfilling its duties under this Addendum and will not share such data with or disclose it to any third party without the prior written consent of the University, except as required by this Addendum or as otherwise required by law.
- b. Protected University Data will not be stored outside the United States without prior written consent from the University.
- c. Selected Firm will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill Selected Firm obligations under this Addendum. Selected Firm will ensure that employees who perform work under this Addendum have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Addendum.
- d. The following provision applies only if Selected Firm will have access to the University's education records as defined under the Family Educational Rights and Privacy Act (FERPA): Selected Firm acknowledges that for the purposes of this Addendum it will be designated as a "school official" with "legitimate educational interests" in the University education records, as those terms have been defined under FERPA and its implementing regulations, and Selected Firm agrees to abide by the limitations and requirements imposed on school officials. Selected Firm will use the education records only for the

purpose of fulfilling its duties under this Addendum for University's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this Addendum, required by law, or authorized in writing by the University.

- e. Selected Firm may use Subprocessors with the University's general or specific consent. University agrees that Selected Firm may appoint Subprocessors.

4. Data Security, Integrity, and Confidentiality

- a. Selected Firm will take reasonable measures, including audit trail, to protect University Data to ensure the integrity and availability of University Data against deterioration or degradation of data quality and authenticity. If requested on an order, Selected Firm will be responsible during the terms of this Addendum, unless otherwise specified elsewhere in this Addendum, for converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.
- b. Selected Firm will store and process University Data in accordance with commercial practices, including appropriate administrative, physical, and technical safeguards, and audit trail, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will ensure the confidentiality, integrity and availability of University Data, and be no less protective than those used to secure Selected Firm's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved. Without limiting the foregoing, Selected Firm warrants that all electronic University Data will be encrypted in transmission (including via web interface) in accordance with latest version of Federal Information Processing Standards Publication (FIPS) Publication 140-2. If Selected Firm stores, transmits, or processes Protected University Data as part of this Addendum, Selected Firm warrants that the information will be stored in accordance with latest version of [National Institute of Standards and Technology Special Publication 800-171](#) or the International Organization for Standardization and the International Electrotechnical Commission 27002 (ISO/IEC 27002).
- c. Selected Firm will use reasonable, appropriate industry-standard and up-to-date security tools and technologies in providing Services under this Addendum.

5. Employee Background Checks and Qualifications

- a. Selected Firm shall ensure that its employees who will have potential access to University Data have passed reasonable and appropriate background screening and possess the qualifications and training to comply with the terms of this Addendum.

6. Security Breach

- a. Response. Upon becoming aware of a confirmed Security Breach, or of circumstances that are reasonably understood to suggest an actual or suspected Security Breach of University Data, Selected Firm will promptly notify the University consistent with applicable state or federal laws, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, Selected Firm will not provide notice of an actual or suspected Security Breach directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the University.
- b. Liability. If Selected Firm must under this Addendum create, obtain, transmit, use, maintain, process, or dispose of Protected University Data, the following provisions apply:
 - 1. In addition to any other remedies available to the University under law or equity,

Selected Firm will reimburse the University in full for all costs not covered by the Selected Firm's insurance incurred by the University in investigation and remediation of any Security Breach caused by Selected Firm, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Protected University Data exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach. Selected Firm's (including its suppliers) total liability arising out of each Order under this Addendum, is limited to the ("Liability Cap") in the Master Agreement Attachment 7. Selected Firm Shall not be liable for loss or corruption of data, or loss of use, or procurement of substitute products or services.

2. In addition to any other insurance coverage required by another contract/agreement with the University, Selected Firm will for the duration of the term of the Underlying Agreement, maintain at least \$1 million Cyber Liability coverage with insurance companies that hold at least an A- financial rating with A.M. Best Company. In no event, should Selected Firm construe these minimum required limits to be their limit of liability to the University.
3. The University must be named as an Additional Insured on the Cyber Liability Insurance, and the proper name is "The Commonwealth of Virginia, and the Rector and Visitors of the University of Virginia, its officers, employees and agents." Upon the University's request, Selected Firm will provide a Certificate of Insurance (COI).

7. Response to Legal Orders, Demands or Requests for Data

- a. Except as otherwise expressly prohibited by law, Selected Firm will:
 1. immediately notify the University of Selected Firm's receipt of any subpoenas, warrants, or other legal orders, demands or requests seeking University Data;
 2. consult with the University regarding its response;
 3. cooperate with the University's reasonable requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and
 4. provide the University with a copy of its response.
- b. If the University receives a subpoena, warrant, or other legal order, demand or request (including request pursuant to the Virginia Freedom of Information Act) seeking University Data maintained by Selected Firm, the University will promptly provide a copy to Selected Firm. Selected Firm will promptly supply the University with copies of data required for the University to respond in a timely manner, and will cooperate with the University's reasonable requests in connection with its response.

8. Data Transfer Upon Termination or Expiration

- a. Upon termination or expiration of this Addendum, Selected Firm will ensure that all University Data are securely returned or Securely Destroyed as directed by the University in its sole discretion. Selected Firm may defer Securely Destroying to extent that it cannot reasonably delete the data from its systems and Until such time that Selected Firm can Securely Destroy the data, the terms of the DPS will apply.
- b. Upon termination or expiration of this Addendum, and after any requested transfer of data, Selected Firm must Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which Selected Firm might have transferred University Data. If requested Selected Firm agrees to provide documentation of data destruction to the University.

- c. Selected Firm will notify the University of impending cessation of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and data and providing the University access to Selected Firm's facilities to remove and destroy University-owned assets and data. Selected Firm shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the University. Selected Firm will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the University. Selected Firm will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

9. Audits

- a. The University reserves the right in its sole discretion to perform audits of Selected Firm with regard to data protection at the University's expense to ensure compliance with the terms of this Addendum. Selected Firm shall reasonably cooperate in the performance of such audits. This provision applies to all agreements under which Selected Firm must create, obtain, transmit, use, maintain, process, or dispose of University Data.
- b. If Selected Firm must under this Addendum create, access, obtain, transmit, use, maintain, process, or dispose of Protected University Data or financial or business data which has been identified to Selected Firm as having the potential to affect the accuracy of the University's financial statements, Selected Firm will at its expense conduct or have conducted, at least annually, a:
 - i. As Audit, Selected Firm agrees to supply, upon University request and no more than once every 12 months, the Standardized Information Gathering questionnaire ("Security Questionnaire") and access to its recorded audit modules, when available, related to the security practices and posture of Selected Firm's organization. The Security Questionnaire is reviewed annually, mapped to Selected Firm's policies and standards, and updated with relevant and current US and international regulatory and privacy standards, such as, NIST 800-53r4, NIST CSF 1.1, CIS Top 20, or ISO 27001, where applicable. University may request to expand the scope of the Security Questionnaire to the extent the expansion is directly related to the products and services being provided by Selected Firm. Selected Firm may respond to such expansion request using Selected Firm's own discretion. For the avoidance of doubt, Selected Firm shall not be obliged to expand the scope of its Security Questionnaire in response to such a request.

10. Compliance

- a. Selected Firm will comply with all required applicable laws and industry standards in performing services under this Addendum. Any Selected Firm personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to Selected Firm upon request.
- b. Selected Firm warrants to its knowledge that the service it will provide to the University is fully compliant with all state and federal laws, regulations, industry codes, and guidance that may be applicable to the service, which may include:
 - 1. any applicable national, federal, state or local law, rule, directive or regulation relating to the privacy of personal information, including, without limitation, the

Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and its implementing regulations ("FERPA), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Privacy and Security Rules issued thereunder, the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), the Financial Modernization Act of 1999 ("Gramm-Leach-Bliley Act"), the Fair Credit Reporting Act as amended by the Fair and Accurate Credit Transactions Act, the Americans with Disabilities Act, and the Virginia Consumer Data Protection Act;

2. any privacy policy or practice applicable to any personal information that Customer or any User accesses, uses, collects, or maintains hereunder, including, without limitation any practice required in connection with the processing of credit card data, including the Payment Card Industry Data Security Standards (PCI-DSS); and
 3. Federal Export Administration Regulations, Federal Acquisitions Regulations, Defense Federal Acquisitions Regulations and Department of Education guidance.
- c. If the Payment Card Industry Data Security Standard (PCI-DSS) is applicable to Selected Firm service provided to the University, Selected Firm agrees to:
1. Store, transmit, and process University Data in scope of the PCI DSS in compliance with the PCI DSS; and
 2. Attest that any third-party providing services in scope of PCI DSS under this Addendum will store, transmit, and process University Data in scope of the PCI DSS in compliance with the PCI DSS; and
 3. Provide either proof of PCI DSS compliance or a certification (from a recognized third-party security auditing Firm), within 10 business days of the request, verifying Selected Firm and any third party who stores, transmits, or processes University data in scope of PCI DSS as part of the services provided under this Addendum maintains ongoing compliance under PCI DSS as it changes over time; and
 4. Store, transmit, and process any University Data in scope of the PCI DSS in a manner that does not bring the University's network into PCI DSS scope; and
 5. Attest that any third-party providing services in scope of PCI DSS under this Addendum will store, transmit, and process University Data in scope of the PCI DSS in a manner that does not bring the University's network into PCI DSS scope.


11. Survival

Selected Firm's obligations under Section 8 shall survive termination of this Addendum until all University Data has been returned or Securely Destroyed.

IN WITNESS WHEREOF, each of the undersigned has caused this Addendum to be duly executed in its name and on its behalf effective as of the Effective Date stated above herein.

ACCEPTANCE

**For the Rector and Visitors
of the University of Virginia**

DocuSigned by:

B80D8723BAC8463...

Name: Jennifer Wagner Davis

Title: Executive Vice President and Chief Operating Officer

Date: 3/29/2024

Agreement #: UVA-AGR-4046

For Selected Firm



Name: Katherine Castillo

Title: Paralegal Advisor

Date: 03/27/2024

AGREEMENT ATTACHMENT 3
PUBLICLY ACCESSIBLE
CONTRACT (PAC)
ADDENDUM

This Publicly Accessible Contract (PAC) Addendum is entered into as of March 29, 2024, by and between the Rector and Visitors of the University of Virginia (the "University"), on behalf of the Virginia Higher Education Procurement Consortium (the "Consortium") (collectively the "University"), and Dell Marketing L.P. and EMC Corporation ("Selected Firm").

TERM

The term of this Addendum is until March 28, 2029. This end date coincides with the corresponding Award Agreement's end date.

WITNESS

WHEREAS, the University and Selected Firm have executed an agreement, UVA-AGR-4046, dated March 29, 2024 (the "Award Agreement"), and included in the Award Agreement is a third party access / cooperative clause. Now therefore, the University and Selected Firm wish to express in this Addendum the specific terms that will allow third party access to the Award Agreement.

Accordingly, and in consideration of the mutual premises and provisions hereof, the parties hereby agree as follows:

I. Selected Firm will:

Pay the University 3% of all Dell-branded Products means products that are directly purchased and marked with the "Dell" brand.

Orders not eligible for the PAC fee include:

- (a) Dell-branded consumer products, including but not limited to Consumer Chrome, XPS, Vostro, Inspiron, Alienware. Other consumer products may be added in the future.
- (b) High Performance Computer Cluster (HPCC)
- (c) Supplier Services
- (d) APEX Branded and Other Subscription Based Services
- (e) All Third-party Products, Software and Services

- A. sales to accessing entities outside of the Consortium associated with the Award Agreement (as the "PAC Annual Fee"). The PAC Annual Fee will be paid in exchange for marketing services provided by the University and the Consortium described below in Section II.
- B. Fully support this marketing relationship by promoting the availability of the Award Agreement to non-Consortium Entities;

- C. Within 45 days provide quarterly sales reports following the relevant Dell Quarter detailing the amount of sales to each non-Consortium accessing entity; and
- D. University shall have 15 business days to review and advise of any discrepancies. In the event University believes there is a discrepancy, University must provide Selected Firm with specific order information related to the discrepancy. Notifications to Selected Firm regarding reporting discrepancies or address changes must be sent by electronic mail to US_HiEd_Rebates@dell.com.

II. The University/Consortium will:

- A. Promote the Award Agreement on its website and through other channels (e.g., conferences) to non-Consortium members
- B. Maintain an approved version of Selected Firm's logo on the Consortium website

III. Payment

- A. Payment of PAC Annual Fee (July 1-June 30) will arrive at the University no later than August 31 of each year. The University and Consortium will share the payments equally and allocate payments to the appropriate accounts.

In the event of early termination of the Award Agreement, this residual payment will arrive at the University no later than 45 calendar days from termination date of the Award Agreement.

- B. Payment of PAC Annual Fee will take the form of a check. Checks will be made payable to the University of Virginia and sent to:

Constance Alexander
Office Manager, Procurement and Supplier Diversity
Services University of Virginia, Carruthers Hall
PO Box 400202
1001 N. Emmet Street Charlottesville, VA 22904

IV. Notices

Any notice required or permitted to be given under this Addendum will be in writing and will be deemed duly given: (1) if delivered personally, when received; (2) if sent by recognized overnight courier service, on the date of the receipt provided by such courier service; (3) if sent by registered mail, postage prepaid, return receipt requested, on the date shown on the signed receipt; or (4) if sent by electronic mail, when received (as verified by the email date and time) if delivered no later than 4:00 p.m. (receiver's time) on a business day or on the next business day if delivered (as verified by sender's machine) after 4:00

p.m. (receiver's time) on a business day or on a non-business day. All such notices will be addressed to a party at such party's address or facsimile number as shown below.

If to the University:

Mark Cartwright
Senior Director, Procurement and Supplier Diversity
Services University of Virginia, Carruthers Hall
PO Box 400202
Phone: (434) 924-7174
Email: vfg2sc@virginia.edu
1001 N. Emmet Street Charlottesville, VA 22904

If to Selected Firm:


Dell Marketing L.P. ("Dell")
One Dell Way
Round Rock, Texas 78682
US_HiEd_Rebates@dell.com

IN WITNESS WHEREOF, the parties hereto have executed this Addendum.

ACCEPTANCE

**For the Rector and Visitors
of the University of Virginia**

For Selected Firm

DocuSigned by:

B80D8723BAC8463...

Name: Jennifer Wagner Davis

Title: Executive Vice President and Chief operating officer

Date: 3/29/2024



Name: Katherine Castillo

Title: Paralegal Advisor

Date: 03/27/2024

Agreement #: UVA-AGR-4046

AGREEMENT ATTACHMENT 4

CAVALIER COMPUTERS ADDENDUM

This Cavalier Computers Addendum ("Addendum"), is entered into as of March 29, 2024, by and between The Rector and Visitors of the University of Virginia (the "University"), Cavalier Computers, a University internal service provider (collectively the "University"), and Dell Marketing L.P. and EMC Corporation ("Selected Firm").

TERM

The term of this Addendum is until March 28, 2029. This end date coincides with the corresponding Award Agreement's end date.

WITNESS / BACKGROUND

This Addendum allows for Selected Firm to provide additional Goods and/or Services to the University via Cavalier Computers as described herein.

This Addendum is applicable only to the University of Virginia and does not apply to any additional Consortium Members or Participating Entities. To the extent this Addendum and the Award Agreement are in conflict, the terms of this Addendum will prevail.

Selected Firm will provide Goods and/or Services to the University via both Cavalier Computers and the University Marketplace as described herein.

I. CAVALIER COMPUTERS

A. Scope

Cavalier Computers, as the University's designated authorized and primary computer reseller ("Computers"), will provide services such as: Selected Firm-assisted marketing of Computers via direct mail and e-commerce to students, faculty, and staff for both institutional and personal use; serving as a central point of acquisition and pre- and post-sales support and service for Computers; and order-taking and distribution of Computers to University departments. The University desires Selected Firm's active engagement in optimizing the use of Cavalier Computers in selling/marketing Computers. Accordingly, the University will consider any other potential roles for Cavalier Computers if proposed by Selected Firm during the term of this Addendum. Selected Firm asserts that it will use its corporate efforts in working with the University to maximize Cavalier Computers sales volume and customer/user satisfaction. To that end, such efforts will include, but not be limited to: Selected Firm's responsiveness to sales, service, support and logistics issues as well as timely presentation/proposal of advantageous computer configurations. It will also provide flexible warranty options on all models. Selected Firm's Account Executive will be available to speak to potential users to promote Computers. This includes, but is not limited to, participation in new student orientation, LSP conferences, and other technology events.

Payment for Computers will be made via institutional purchases, leasing agreements or personal funds. These transactions will be coordinated through Cavalier Computers. With the assistance of Cavalier Computers, Selected Firm will create and maintain two "Premier" web pages (User Groups I and II) for all on-line Computer purchases. These pages will have real-time University retail pricing for selected bundles, upgrades, and the entire Selected Firm catalog. The User Group I departmental page and the User Group II student page will both be accessed via Cavalier Computers' website. Both User Group pages will collect orders and include customer, payment, and delivery information. Orders will be sent electronically to Cavalier Computers for processing. The website will allow customers to view order detail and estimated shipping date. Selected Firm will also provide customers with the capability of tracking their order. This tracking must not contain Cavalier Computers' information, such as Purchase Order Number or cost.

The University seeks to create a working relationship with Selected Firm that will help the University attain its goals as defined herein. While the procurement of specific goods and services outlined in this Addendum will form the basis for the University's contractual relationship with Selected Firm, and while the University does not seek or intend to form a joint venture or partnership, the University encourages Selected Firm to be creative during the term of this Addendum in identifying potential points of interaction that could expand and strengthen this relationship. Such interaction should include assistance in identifying strategies to plan for the migration to forthcoming new operating systems.

B. Goods and Services

Two different University client bases may purchase Computers: 1) User Group 1 – Department and 2) User Group II – Personal Use (to include students). Selected Firm will provide Computers to both User Groups.

Selected Firm will provide the Goods and Services, which will include, but not limited to, these components:

1. Hardware and Software Configurations
 - a. For each User Group, Selected Firm will provide Computers with the best value, functionality, and feature set possible. Selected Firm will work with the University to refine and finalize future Computer configurations during the term of this Addendum, as technology and user needs evolve.
 - b. Orders for Computers will occur periodically throughout the term of this Addendum. It is understood that over the term of this Addendum, models and/or configurations will change. New images, devised by the University, will need to be created as a result. Price points for Computers will consistently meet or exceed the contractually established discounts.
 - c. All orders for Computers under this Addendum will be coordinated by Cavalier Computers, in consultation with University procurement staff and Selected Firm as necessary. As such, the Selected Firm shall

ensure that a copy of all quotes for goods and/or services under this Addendum, and all correspondence relating to those quotes, be submitted to cavcomp-dept@virginia.edu. All quotes and correspondence should include reference to both the corresponding cost to Cavalier Computers, and the relevant cost to the applicable end user/requestor.

- d. Selected Firm shall ensure that pricing for specific Computer configurations is consistently applied across University Departments, at the lowest possible pricing. The only exception to this obligation will be large quantity purchases or competitive requirements that may result in lower pricing than that referenced immediately above.
- e. Computers may be leased. Accordingly, Selected Firm will make leasing available to the University.
- f. The University reserves the right to procure for all User Groups and University community members a range of additional Goods and Services and/or Future Goods and Services, which may include but not be limited to nonstandard computer configurations, peripherals, servers, printers, off-site data storage and training services.

2. Personnel

Selected Firm will provide these "Key Personnel" who will directly interact with Cavalier Computers:

- a. *Account Executive*, with the overall responsibility for the relationship, and for ensuring that: Computers are readily available; prices are adhered to; product life- cycles are communicated; and regular meetings (phone, web and in-person) are held with the University; among other tasks.
- b. *Service Manager*, responsible for ensuring that all warranty issues are dealt with promptly, spares for the University parts depot are available, and that any questions pertaining to service or support are answered promptly.
- c. *Inside Sales Representative*, responsible for processing orders, giving order status, updating Premier pages, quoting special pricing as requested, and responsible for ensuring that all ordering, delivery, receiving, service and support procedures are established, documented and adhered to, among other tasks.
- d. *Account Executive (Consumer Division)*, responsible for product life-cycle communication, processing orders, giving order status, and quoting special pricing as requested.

3. Meetings and Events

In the event that representatives, employees, or agents of the Selected Firm will host or participate in a virtual or on-site meeting including staff, faculty, or students, or affiliates of the University, the Selected Firm's Key Personnel shall provide advance notice to the Contract Administrator(s) prior to the scheduled meeting or event. Notice should be provided no later than five (5) business

days prior to the scheduled visit, and should include the following information:

- a. Date and time of the visit
- b. Purpose of the visit

The University reserves the right to approve, deny, or reschedule the meeting or event if the proposed date, time, or purpose are not suitable to the University. All meetings and events, both virtual or on-site, must include a Contract Administrator or delegate.

4. Marketing & Promotion

Any marketing or promotional materials intended for distribution to the University and its faculty, staff, students, or affiliates, including University or University student initiatives, shall be submitted to the Contract Administrator(s) for review and approval prior to distribution. Such review will be conducted in coordination with both Parties, as will any approval prior to distribution. The University reserves the right to require changes to any marketing or promotional materials prior to distribution.

5. Service Metrics

Selected Firm will assist Cavalier Computers in meeting the service level objective that is purchased with the device.

6. Warranty

- a. All computers and peripherals purchased under this Addendum will be covered by a full on-site warranty for parts and labor, starting from the date of receipt of the computer at the University. The length of warranty will be flexible from one to five years from the customer's date of receipt at the University. Some warranty options may not be available on all models. As noted below, accidental damage coverage for all laptop computers must be offered.
- b. All on-site warranty service will be performed or coordinated by Cavalier Computers. If Cavalier Computers is not currently an authorized service center for Selected Firm, the cost of obtaining such certification must be borne by Selected Firm. In accordance with this provision, Selected Firm will reimburse Cavalier Computers in full for materials, time and labor costs involved in warranty repairs to Computers. In addition, Selected Firm agrees to waive all Warranty Parts Direct (WPD) enrollment fees and certification costs for 20 University-affiliated technicians. Selected Firm will pay Cavalier Computers a minimum \$95 reimbursement fee for warranty repair work.

7. Notebook Computer Accidental Damage Coverage

For every notebook sold, Selected Firm can supply accidental damage coverage. This coverage will be for the same term as the conventional warranty, and will

result in repair or replacement of the damaged unit when a valid claim is made. This coverage is included with ProSupport Plus and will match the term of the warranty. If the device is not entitled with ProSupport Plus, then coverage can be offered at an additional cost.

8. Reserved.
9. Delivery Logistics
 - a. Freight terms for all orders will be FOB destination. Selected Firm will deliver Computers as specified by Cavalier Computers.
 - b. Selected Firm will offer real-time monitoring of shipments, including delivery details such as: lead times; freight carrier to be used; method of checking delivery status; procedure for damaged shipments; specification to the selected carrier that they will provide delivery notification via phone, etc.
10. Software Image
 - a. For each Computer sold, Selected Firm will install a University (or otherwise- produced) software image on the Computer's hard disk. This image will incorporate the operating system, productivity software and other applications and configurations.
 - b. For each laptop and desktop Computer sold, Selected Firm will supply a software restoration process, which will easily return each system to its original shipping condition. This "software restoration process" will include the University-supplied software image.
 - c. For each model of Computer sold to User Group I or User Group II, Selected Firm will provide to the University an Evaluation Unit at no charge. This Evaluation Unit will be used to create the University software image and will remain the property of the University after the image-creation process is complete. For each separate hardware configuration sold to User Group I or User Group II, Selected Firm will provide one complete Production Unit (with the factory-installed image) as a quality-control test bed at no charge to the University. Should testing of the complete Production Unit fail University approval, Selected Firm will correct the problem(s) and supply a replacement Production Unit at no charge to the University. The original non-functioning Production Unit will be returned to Selected Firm at its expense.
 - d. It is essential that image production and testing be done in a timely and extremely responsive manner. To facilitate this, the University prefers an image production mechanism that is domestic, as opposed to off-shore.
11. Reserved.
12. Reserved.

C. Invoicing

Selected Firm will submit one original invoice referencing the correct purchase order number or limited purchase order number to Cavalier Computers at this email address: cavaliercomputers-ap@virginia.edu

Physical Mailing Address:

University of Virginia Cavalier Computers
P. O. Box 400189
Charlottesville, Virginia 22904-4197

D. Contract Administrators

The individuals named below will serve as the Contract Administrators and will be the points of contact at Cavalier Computers for day-to-day operations under this Addendum. The Contract Administrators cannot approve amendments or global price changes to this Addendum; however, they can approve Computer model configurations. Selected Firm will channel all communications through:

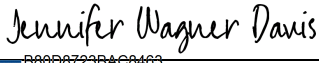
Ronald Stevenson / Tim Fitzgerald (alternate)
Cavalier Computers
University of Virginia
400 South Emmet Street, 4th Floor
P.O. Box 400819
Charlottesville, VA 22904-4819
Phone: (434) 982-2156
Fax: (434) 924-4447
E-mail: crs2c@virginia.edu; tjf9a@virginia.edu (alternate)

The Contract Administrators will act as alternate points of contact for each other. Selected Firm will not make any commitments or comments, or actions on behalf of the University without the explicit direction of the Contract Administrator(s). The University reserves the right to change its Contract Administrator(s), upon notice to Selected Firm.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum.

ACCEPTANCE

**For the Rector and Visitors
Firm of the University of Virginia**

DocuSigned by:


Name: Jennifer Wagner Davis

Title: Executive Vice President and Chief Operating Officer

Date: 3/29/2024

Agreement #: UVA-AGR-4046

For Selected



Name: Katherine Castillo

Title: Paralegal Advisor

Date: 03/27/2024

NOTE: Some goods and/or services procured from the Selected Firm may require a Statement of Work that does not follow this template.

AGREEMENT ATTACHMENT 5

Sample Statement of Work ("SOW")

This Statement of Work ("SOW") is prepared for _____ (i.e., University department/school/etc.) and is entered into pursuant to the Agreement by and between Selected Firm and the Rector and Visitors of the University of Virginia (Agreement#: UVA-AGR-4046) of which the terms and conditions are incorporated as part of this SOW.

This SOW defines and specifies the Services to be performed and/or Work Product to be delivered by Selected Firm, as well as compensation to be paid for such Services and Work Product by the University, all in accordance with the terms and conditions of the Agreement.

1. Description of Services to be Provided:

2. Assumptions (if any):

Note: No terms or conditions contrary to any of the listed Contractual Provisions in Agreement Attachment 1 should be introduced in this Statement of Work.

3. Fees:

Note: A prepayment/down payment is not authorized. Payments may, however, be tied to project milestones associated with a Statement of Work.

No payment terms outside of the University's two standard terms will be accepted. Preferred language for invoicing is as follows: "The University agrees to pay the Selected Firm per the terms selected upon registration with the University's payment system and upon confirmed receipt of invoice."

The University issued Purchase Order, referencing this SOW, serves as the acceptance of this SOW.

AGREEMENT ATTACHMENT 6
GOODS & SERVICES / PRICING – FEES – DISCOUNTS

Dell Branded Products & Services / Discounts & Pricing

Product Description	Dell-Branded Products	Discount Category	Minimum Discount Off List
Client Computing			
Business Class Desktop, Thin Clients	OptiPlex, Precision Desktops, Wyse	A	34
Business Class Laptop, Rugged	Latitude, Precision Notebooks, Commercial Chrome	A	34
	Tablets	S	
VR/AR Systems	Cloud Products	A	3
Monitors and Displays, Peripherals, Collaboration Solutions	Displays, Projectors/Monitors/Other Electronics	S	10
	Customer Kits	A	
Spare Parts	Spare Parts	U	0
Printer	Printer Accessories, Parts, and Toner	F	1.5
Consumer Computing			
Consumer Class Gaming and Performance Desktop & Laptops	Alienware Desktops, XPS Desktops	Z	12
	Alienware Notebooks, XPS Notebooks	S	
Consumer Class Desktop & Thin Clients	Inspiron Desktops, Vostro Desktops	Z	12
Consumer Class Laptops	Inspiron Notebooks, Vostro Notebooks	S	12
	Consumer Chrome	A	
Enterprise Computing			
Edge Computing	Edge Software	S	40
Telecom Solutions	Telecom	A	40
Servers, High Performance Computing - Machine Learning, Artificial Intelligence	PowerEdge	A	40
Storage	Storage High End, Storage Mid-Range, Storage Entry, Storage Integrated Offer, Storage Unstructured, Dell Storage PS, Dell Storage SC, Dell Storage OEM, Dell EMC	S	40
Converged Systems	Converged Infrastructure	S	25
Hyper-Converged Systems	Hyper Converged Infrastructure	S	25
Networking	Dell Networking, OEM Networking	S	25
Data Protection	Data Protection Appliance, Data Protection Software	S	25
Replication, Business Continuity Solutions, Compliance Solutions	Software - Storage, Software - Server and Other	A	15
Security, Encryption	Data Security Solutions	S	15
IoT Solutions	Internet of Things	A	15

Services			
ProDeploy for Client, ProDeploy for Enterprise, ProSupport for Client, ProSupport for Enterprise, Converged Support Services, Residency/Staffing Services, Non-Tied Services, Consultancy Services, Partner Delivered Services, Assessment Services, Windows as a Service, Migration Services Data (Enterprise), Migration Services Workloads, Migration Services Client, Performance/Assessment Services, Software Upgrade Services, Hardware Expansion Services, Data Ensure Services, Project Management, Autopilot Enrollment, Managed Services (Help Desk, etc.), Cyber Security Consulting, Asset Recovery Services	Services - i.e. System Tied and Non-Tied (POS and APOS), Deployment, VSOE, Custom, etc. <i>*Where a Dell-branded product is comprised of both hardware and services, the contract discount percentage for the hardware will also apply to the tied services.</i>	Z, Z1, ZS	5*
Factory Configuration Services, Image Build and Deployment	CFI / Configuration Services <i>* Where a Dell-branded product is comprised of both hardware and services, the contract discount percentage for the hardware will also apply to the tied services.</i>	R	5*
Cloud Design and Implementation	APEX Branded Solutions (incl. FlexOnDemand and Subscription/Consumption Based Offering/Solutions/Modular Managed Services where applicable)	N/A	*N/A – Customized Offering

*APEX Branded solutions are specialty solutions and have no SKU's and/or corresponding retail price list.

Third Party Solutions will be offered at the following discounts:

Product Description	Discount Category	Minimum Discount Off List
Third Party Products - Mainstream	M	3
Third Party Products – Non-Discountable	X	0.5

AGREEMENT ATTACHMENT 7

DELL GENERAL TERMS

Definitions.

1.1 "Affiliate" means with respect to Suppliers, Dell Inc. or Dell Inc.'s direct or indirect subsidiaries; and with respect to Customer, a legal entity that is controlled by, controls, or is under common control with Customer. "Control" means more than 50% of the voting power or ownership interests.

1.2 "Customer" means the Rector and Visitors of the University of Virginia.

1.3 "Delivery" for Equipment occurs when Supplier provides the Equipment to a carrier at Supplier's designated point of shipment. "Delivery" for Software and Independent Software occurs either when Supplier provides physical media to a Supplier-designated carrier at Supplier's designated point of shipment, or the date Supplier notifies Customer that Software or Independent Software is available for electronic download.

1.4 "Documentation" means Supplier's then current, generally available user manuals and online help for Products.

1.5 "Order" means: (a) a Customer purchase order that references a Supplier quote and, if applicable, contract code; (b) Supplier order forms executed by Customer; (c) Customer's order of Products or Services, through either www.Dell.com or other online process; or (d) Customer's order of Products or Services through an authorized Dell reseller].

1.6 "Products" means collectively: (a) "Equipment" (which is the Supplier-branded hardware that Supplier provides to Customer under the AGREEMENT); and (b) "Software" (which is Suppliers-branded generally available application, microcode, firmware and operating system software that Supplier licenses to Customer under the AGREEMENT); and (c) "Independent Software" (which is Supplier's Supplier-branded software that can operate on hardware other than Equipment). Terms applicable to specific Products are further discussed in the Product Schedules referenced below ("Product Schedules"). Products exclude Services and Third-Party Products.

1.7 "Providers" means entities (other than Customer) whose components, subassemblies, software, services, or some combination of these items have been incorporated into Products, Services, or both.

1.8 "Service Agreements" means service contracts, including service descriptions available at www.Dell.com/servicecontracts/global, service briefs, statements of work, services specifications and any other similar mutually agreed documents.

1.9 "Services" means collectively: (a) services for the support and maintenance of Products ("Support Services") set forth in a Service Schedule referenced in Section 9 below, and in applicable Product Schedules; and (b) consulting, installation, implementation and other services that are not Support Services ("Professional Services") further discussed in the Service Schedule referenced in Section 9 below.

1.10 "Supplier(s)" means EMC Corporation ("EMC") and Dell Marketing L.P. ("Dell")

1.11 "Software Release" means any subsequent, generally available version of Software or Independent Software provided after initial Delivery of Software or Independent Software and does not mean a new Product. "

1.12 "Third Party Products" means hardware, software, or services that are not "Dell" branded, "EMC" branded, or "Dell EMC" branded.

2. Buying Products and Services.

2.1 Quotes and Orders. Orders are subject to credit approval and are subject to Supplier acceptance. Acceptance of one Order is independent from any other Order. Quoted prices are effective until the expiration date of the Supplier's quote but may change due to shortages in materials or resources, increase in the cost of manufacturing, or other factors. Orders may contain charges for shipping and handling.

2.2 Changed or Discontinued Products or Services. Supplier may revise or discontinue Products, Services, and Third Party Products at any time, including after Customer places an Order, but prior to Supplier's shipment or performance. However, Dell branded, EMC branded, and Dell EMC branded Products will materially meet or exceed all published specifications for the Products. Parts used in repairing or servicing Products may be new, equivalent-to-new, or reconditioned.

2.3 Cancellation, Returns and Acceptance. Orders are subject to availability and are cancellable only by Supplier except as expressly permitted in a Product Schedule. Supplier is not responsible for pricing, typographical or other

errors in any offer and may cancel Orders affected by such errors. Customer may only return Products to the Supplier that are permitted to be returned pursuant to the return policy located at www.Dell.com/returnspolicy. All Equipment, Software and Independent Software are deemed accepted by Customer upon Delivery, however, Customer retains all rights and remedies set forth in the applicable Product warranty.

2.4 Taxes. Customer is responsible for payment of any sales, use, value added, GST and any other similar taxes or governmental fees associated with Customer's Order. Customer is not responsible for taxes based on Supplier's net income, gross revenue or employment obligations. Customer must also pay all freight, insurance and applicable taxes (which may include but shall not be limited to import or export duties, sales, use, value add and excise taxes). If Supplier is obligated by applicable law to collect and remit any taxes or fees, then Supplier will add the appropriate amount to Customer's invoices as a separate line item.

If Customer qualifies for a tax exemption, Customer must provide Supplier with a valid certificate of exemption or other appropriate proof of exemption. If Customer is required by law to make a withholding or deduction from payment, Customer will make payments to Supplier net of the required withholding or deduction, and will provide to Supplier satisfactory evidence (e.g., official withholding tax receipts) that Customer has accounted to the relevant authority for the sum withheld or deducted. If Customer does not provide the information within 60 days of remittance to the applicable tax authority, Supplier will charge Customer for the amount that Customer deducted for the transaction.

2.5 Orders Submitted Through Channel Partners. If Customer's purchase is made through a reseller, then the foregoing sections 2.1, 2.3, and 2.4 do not apply and all credit, invoicing, payment, returns, ordering and cancellation terms for the purchase will be as agreed between Customer and the reseller.

2.8 Third Party Products. Supplier may offer to supply Third Party Products that are provided by a third party manufacturer/supplier, including without limitation under Supplier's "Extended Technologies Complete" program, Supplier's "Brokerage" program or Supplier's Software & Peripherals (S&P) program, or such other programs as Supplier may operate from time to time, and may include offerings from Supplier Affiliates using different brands other than "Dell" or "Dell EMC". Notwithstanding any other provisions herein, such Third Party Products are subject to the standard license, services, warranty, indemnity and support terms of the third party manufacturer/supplier (or an applicable direct agreement between Customer and such manufacturer/supplier), to which Customer shall adhere. Even if support fees are invoiced through Supplier, such Third Party Products are not supported by Supplier and Customer shall contact such third party directly for support. Any warranty, damages or indemnity claims against Supplier in relation to such Third Party Products are expressly excluded.

3. Software License Terms.

Independent Software is subject to the terms stated in Product Schedule 1 to this Attachment ("Infrastructure Product Terms"). However, if no such Infrastructure Product Terms are included in the Agreement or if the software provisions contained in the Infrastructure Product Terms were removed in their entirety by mutual agreement among Supplier and Customer then Independent Software is subject to the terms in **Agreement Attachment 8: Dell End User License Agreement**. Software that Supplier provides pre-installed on or that only operates on Equipment is subject to the end user license agreement that is included in or with the Software (e.g., in the box for the Product or in the Software's installer interface). If there is no end user license agreement included in or with the Software, then the Software is subject to the applicable end-user license agreement in **Agreement Attachment 8: Dell End User License Agreement**.

3.1 Services Software. "Services Software" is software that Supplier may make available to Customer in connection with Services. Services Software may be hosted by Supplier or installed on Customer's computers. Customer agrees that it shall (a) only use the Services Software in connection with the Supplier's Services; (b) use any Services Software hosted by Supplier in a lawful manner, without interfering with other Supplier customer's use of the Services Software, and without attempting to disrupt the security or operation of the network or systems used to provide the Services Software; and (c) not misappropriate, disclose or otherwise violate Supplier's or its Providers' intellectual property rights in the Services Software. It may be necessary for Supplier to perform scheduled or unscheduled repairs or maintenance, or remotely patch or upgrade the Services Software, which may temporarily degrade the quality of the Services or result in a partial or complete outage of the Services Software. **Customer agrees that the operation and availability of the systems used for accessing and interacting with the Services Software, including telephone, computer networks, and the internet, or to transmit information, can be unpredictable and may, from time to time, interfere with or prevent access to or use or operation of such Services Software. Supplier shall not be liable for any such interference with or prevention of Customer's access to or use of the Services Software.**

3.2 Third Party Software License Terms. Software for which Supplier is not the licensor ("Third Party Software") may come with its own license terms ("Separate License Terms"), such as a: (a) "click-to-accept" agreement included as part of the installation or download process; (b) "shrink-wrap" agreement included in the Product packaging; or (c) a notice indicating that by installing or using a Product or the component, the related license terms apply. The Separate License Terms govern Customer's use of Third Party Software. **Suppliers provide Third Party Software "AS IS",**

make no express warranties, and disclaim all implied warranties, including merchantability, fitness for a particular purpose, title and non-infringement as well as any warranty arising by statute, operation of law, course of dealing or performance or usage of trade.

4. Equipment Warranty, Exclusions and Disclaimers.

4.1 Equipment Warranty. The warranties for Equipment are stated in the applicable Product Schedules to the Agreement.

4.2 Equipment Warranty Exclusions. Equipment warranties do not cover problems that arise from: (a) accident or neglect by Customer or any third party; (b) any third party items or services used with the Equipment or other causes beyond Supplier's control; (c) installation, operation or use not in accordance with Supplier's instructions or applicable Documentation; (d) use in an environment, in a manner or for a purpose for which the Equipment was not designed; (e) modification, alteration or repair by anyone other than Supplier or its authorized representatives; or (f) causes attributable to normal wear and tear. Supplier has no obligation for: (1) Software installed or used beyond the licensed use, or (2) Equipment that Customer moved from the Installation Site without Supplier's consent when applicable, or (3) Product whose original identification marks have been altered or removed or (4) for any Software for which payment has not been received. Products and Services are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, such as any application in which the failure of the Products or Services could lead directly to death, personal injury, or physical or property damage (collectively, "High-Risk Activities"). Suppliers expressly disclaim any express or implied warranty of fitness for High-Risk Activities.

4.3 Equipment Warranty Disclaimer. Other than the warranties set forth in this Section 4 and the Product and Service Schedules, and to the maximum extent permitted by applicable law, Suppliers and Affiliates, and their Providers: (a) make no other express warranties; (b) disclaim all implied warranties, including merchantability, fitness for a particular purpose, title and non-infringement; and (c) disclaim any warranty arising by statute, operation of law, course of dealing or performance or usage of trade.

5. Termination or Suspension.

5.1 Reserved.

5.2 Suspension or Modification of Services. Supplier may suspend, terminate, withdraw, or discontinue all or part of the Services when Supplier believes, in its reasonable judgment, that Customer is involved in any fraudulent or illegal activities.

5.3 Termination. Supplier may terminate the Agreement, a Service Agreement, or license for Software or Independent Software: (a) for a material breach by the other party that is not cured within 30 days or other time period as the parties agree of the breaching party's receipt of written notice of the breach. In addition, Supplier may terminate the Agreement or one or more Service Agreements or software licenses with 10 days' written notice if: (a) Customer does not make payment as required by the Agreement or the applicable Product or Service Schedule (where the payment is not subject to a good faith dispute); (b) Customer fails to make the payment within 10 days or other time period as the parties agree after receiving written notice of the past due amount; (c) Customer purchased through a reseller and, as applicable, (c)(1) the agreement between Customer and the reseller expires or is terminated; (c)(2) the agreement between Supplier and the reseller expires or is terminated; or (c)(3) the reseller is delinquent on its payment obligations to Supplier. Supplier may terminate the Agreement and some or all of the Schedules immediately if Customer is acquired by or merged with a competitor of Supplier or any of its Affiliates. Termination of a Service Agreement will not terminate other Service Agreements, and termination of all Service Agreements will not terminate this Agreement.

5.4 Reserved.

6. Indemnity.

6.1 Supplier Indemnity. Supplier will: (a) defend Customer against any third party claim that Products or Support Services (but excluding Third Party Products, any Products provided for evaluation or without charge pursuant to a Schedule, and open source software) infringe that party's patent, copyright or trade secret enforceable in the country where Customer purchased the Product from Supplier ("Claim"); and (b) indemnify Customer by paying: (1) the resulting costs and damages finally awarded against Customer by a court of competent jurisdiction to the extent that such are the result of the third party Claim; or (2) the amounts stated in a written settlement negotiated and approved by Supplier.

In addition, should any Product or Support Service become, or in Supplier's opinion be likely to become, the subject of such a Claim, Supplier may, at its expense and in its discretion: (a) obtain a right for Customer to continue using the affected Product or Support Service; (b) modify the affected Product or Support Service to make them non-infringing; (c) replace the affected Product or Support Service with non-infringing substitutes; (d) provide a reasonable depreciated or pro rata refund for the affected Product; or (e) discontinue the Support Services and refund

the portion of any prepaid Support Service fees that correspond to the period of Support Services discontinuance. Except as otherwise provided by law, this section 6 states Customer's exclusive remedies for any third party intellectual property claim relating to Products or Support Services, and nothing in this Agreement or elsewhere will obligate Supplier to provide any greater indemnity.

6.2 Exclusions from Indemnity. Supplier has no obligation under section 6.1 above: (a) if Customer is in material breach of this Agreement (excluding breaches for failure to pay Supplier in a timely fashion); or (b) for any Claim resulting or arising from:

- (1) any combination, operation or use of a Supplier-branded Product or Support Service with any other products, services, items or technology, including Third Party Products and open source software;
- (2) use for a purpose or in a manner for which the Product or Support Service was not designed, or use after Supplier notifies Customer to cease such use due to a possible or pending Claim;
- (3) any modification to the Product or Support Service made by any person other than Supplier or its authorized representatives;
- (4) any modification to the Product or Support Service made by Supplier pursuant to instructions, designs, specifications or any other information provided to Supplier by or on behalf of Customer;
- (5) use of any version of a Product when an upgrade or newer iteration of the Product or Support Service made available by Supplier would have avoided the infringement;
- (6) services provided by Customer (including Claims seeking damages based on any revenue Customer derives from Customer's services); or
- (7) any data or information that Customer or a third party records on or utilizes in connection with the Products or Support Services.

6.3 Customer Indemnity. To the extent permitted by the laws of the Commonwealth of Virginia, the Customer will be responsible for the acts or omissions of its agents and employees causing harm to persons not a party to this agreement. Nothing herein will be construed as a waiver of the sovereign immunity of the Commonwealth of Virginia..

6.4 Indemnification Process. A party's duty to defend and indemnify under this section is contingent upon the party seeking indemnity: (a) sending prompt written notice of the Claim to the party providing indemnity and taking reasonable steps to mitigate damages; (b) granting to the party providing indemnity the sole right to control the defense and resolution of the Claim (in the case of Customer, such granting to be to the extent permitted by the laws of the Commonwealth of Virginia); and (c) cooperating with the party providing indemnity in the defense and resolution of the Claim and in mitigating any damages.

6.5. Excluded Data. Excluded Data" means: (a) data that is classified, used on the U.S. Munitions list (including software and technical data) or both; (b) articles, services, and related technical data designated as defense articles and defense services; and (c) ITAR (International Traffic in Arms Regulations) related data. Customer acknowledges that products and services provided under the Agreement are not designed to process, store, or be used in connection with Excluded Data. Customer is solely responsible for reviewing data that will be provided to or accessed by Suppliers to ensure that it does not contain Excluded Data. Furthermore, products in their default configurations may not be optimized to process, store or transmit personally identifiable information that is subject to heightened security requirements as a result of Customer's internal policies or practices or by law. Customer is solely responsible for compliance with heightened security requirements mandated by its own internal policies and by law.

7. Limitation of Liability.

7.1 Limitations on Damages. **The limitations, exclusions and disclaimers stated below apply to all Disputes (as defined below in the Section titled "Governing Law; Informal Dispute Resolution; Attorney's Fees"). The terms of this Section are agreed allocations of risk constituting part of the consideration for Suppliers' and its Affiliates' sale of products and services to Customer and will apply even if there is a failure of the essential purpose of any limited remedy, and regardless of whether a party has been advised of the possibility of the liabilities.**

- A. Limitation on Direct Damages. **Except for Customer's obligations to pay for products and services, Customer's violation of the restrictions on use of products and services or Supplier's or its Affiliates' intellectual property rights, or a party's indemnity obligation stated in the Section above titled**

“Indemnity”, each party’s total liability arising out of any Dispute or any matter under this Agreement, is limited to an amount not to exceed 10 million US Dollars (“Liability Cap”). Notwithstanding anything otherwise set forth above, Supplier (and its suppliers) shall have no liability for any direct damages resulting from Customer’s use or attempted use of Third-Party Software, Free Software or Development Tools, all defined in the EULA described in clause 3 above and Agreement Attachment 8:, or Third Party Products.

- B. Disclaimer of Certain Other Damages. **Except for Customer’s payment obligations and violation of Suppliers’ or its Affiliates’ intellectual property rights, neither Supplier nor Customer has liability to the other for special, consequential, exemplary, punitive, incidental or indirect damages, or for lost profits, loss of revenue, loss or corruption of data, loss of use or procurement of substitute products or services.**

7.2 Regular Backups. Customer is solely responsible for its data. Customer must backup its data before Supplier performs any remedial, upgrade, or other work on Customer’s systems. If applicable law prohibits exclusion of liability for lost data, then Supplier will only be liable for the cost of commercially reasonable and customary efforts to recover the lost data from Customer’s last available backup.

7.3 Limitation Period. Except as stated in this Section, all claims must be made within the period specified by applicable law. If the law allows the parties to specify a shorter period for bringing claims, or the law does not provide a time at all, then claims must be made within 18 months after the cause of action accrues.

8. Confidentiality.

8.1. “Confidential Information” is any information, technical data, or know-how furnished, whether in written, oral, electronic, website-based, or other form, by the discloser to the recipient that: (a) is marked, accompanied or supported by documents clearly and conspicuously designating the documents as "confidential", "internal use" or the equivalent; (b) is identified by the discloser as confidential before, during or promptly after the presentation or communication; or (c) should reasonably be known by recipient to be confidential.

8.2. This Agreement imposes no obligation upon a recipient with respect to information designated as confidential which: (a) the recipient can demonstrate was already in its possession before receipt from the discloser; (b) is or becomes publicly available through no fault of the recipient or its Representatives (defined below); (c) is rightfully received by the recipient from a third party who has no duty of confidentiality; (d) is disclosed by the discloser to a third party without a duty of confidentiality on the third party; or (e) is independently developed by the recipient without a breach of the Agreement.

8.3. If a recipient is required by a law, regulation, court order, or government order to disclose Confidential Information, to the extent permitted by law, the recipient agrees to give the discloser reasonable notice so that the discloser may contest the disclosure or seek a protective order. Recipient will use Confidential Information only for the purpose of and in connection with the evaluation of a potential, or continuation of, a business transaction or relationship between the parties. Recipient may disclose Confidential Information to its directors, officers, employees and employees of its Affiliates, as well as its and its Affiliates’ contractors, advisors and agents, so long as those individuals have a need to know in their work for recipient in furtherance of the potential or continued business transaction or relationship and are bound by obligations of confidentiality at least as restrictive as those imposed on recipient in this Agreement (collectively, “Representatives”). Recipient will use the same degree of care, but no less than reasonable care, as the recipient uses with respect to its own similar information to protect the Confidential Information. Recipient may only disclose Confidential Information as authorized by this Agreement. The terms of this Agreement do not restrict the right of recipient to independently design, develop, acquire, market, service or otherwise deal in, directly or indirectly, products or services competitive with those of the discloser so long as the recipient does not use any of the discloser’s Confidential Information for those activities. Unless the parties otherwise agree in writing, a recipient’s duty to protect Confidential Information expires 3 years from the date of disclosure. However, subject to the terms of this Section, the obligation to protect technical information about a discloser’s current products and services and all information about possible unreleased products or services never expires. Upon the discloser’s written request, recipient will promptly return or destroy all Confidential Information received from the discloser, together with all copies. Notwithstanding the above, recipient’s professional advisors (e.g., lawyers and accountants) may retain in confidence one file copy of their respective work papers and final reports in accordance with their professional and ethical obligations.

9. Miscellaneous.

9.1 References. Supplier may identify Customer as a user of Products, Services or both, as applicable.

9.2 Customer and System Data. In connection with Supplier’s performance or Customer’s use of the Services and Service Software, Supplier may obtain, receive and/or collect data, including system-specific data (collectively, the “Data”). Customer grants Suppliers: (a) a non-exclusive, worldwide, royalty-free, perpetual and irrevocable license to use, compile, distribute, display, store, process, reproduce or create derivative works of the Data solely to provide the Services or use the Service Software; (b) a license to aggregate and use the Data in an anonymous manner in support

of Supplier's marketing and sales activities; and (c) the right to copy and maintain the Data on Supplier's or its suppliers' servers as necessary to provide the Services. Customer represents and warrants that it has obtained all rights, permissions and consents necessary to use and transfer the Data within and outside of the country in which Customer is located.

9.3 Responsibility. Supplier may use its Affiliates or other qualified subcontractors to provide Services to Customer, but Supplier remains responsible to Customer for the performance of those Services.

9.4 Severability. If any part of the Agreement or document that incorporates the Agreement by reference is held unenforceable, the validity of all remaining parts will not be affected.

9.5 Privacy Statements. For information about Supplier's Privacy Statements, please read Supplier's global and country-specific privacy policies at www.Dell.com/Privacy. These policies explain how Suppliers treat Customer personal information and protects Customer privacy.

9.6 Trade Compliance. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States, the European Union and other applicable jurisdictions (collectively, "Applicable Trade Laws"). Products and Services are for Customer's own/internal use, and may not be used, sold, leased, exported, imported, re-exported, or transferred except in compliance with the Applicable Trade Laws. Customer represents and warrants that it is not the subject or target of, or located in a country or territory that is the subject or target of economic sanctions under the Applicable Trade Laws. For further information about geographical restrictions and compliance with Applicable Trade Laws, visit www.dell.com/tradecompliance

9.7 Customer Responsibility. Customer agrees that it will obtain all necessary rights, permissions and consents associated with: (a) technology or data (including personal data) that Customer and its Affiliates provide to Supplier or its Affiliates, and (b) non-Supplier software or other components that Customer and its Affiliates direct or request that Supplier or its Affiliates use with, install, or integrate as part of the Supplier's Products and Services.

9.8 U.S. Government Restricted Rights. The software and documentation provided with the products and services are "commercial products" as defined in Federal Acquisition Regulation ("FAR") Section 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as these terms are used in FAR 12.212 and Defense Federal Acquisition Regulation Supplement ("DFARS") Section 227.7202, as applicable. Consistent with FAR 12.212 and DFARS Section 227.7202, all U.S. Government end users acquire the software and documentation with only those rights set forth herein.

9.9 Reserved.

9.10 Hardware, Software and Service Schedules, may be included and attached to this Agreement or introduced and attached to this Agreement upon express agreement of Supplier(s) and Customer. Hardware, Software and Service Schedules may relate to Hardware, Services and Software provided by a Supplier or an Affiliate of Supplier. The list of Product and Services Schedules attached to this Agreement as of the Effective Date include:
Product Schedules:

Product Schedule 1 to Agreement – Infrastructure Product Terms

Product Schedule 2 to Agreement – Networking Product and Server Product Terms

Product Schedule 3 to Agreement – Client Product Terms

Service Schedules:

Service Schedule A to Agreement – General Support Services Terms

Service Schedule B to Agreement – General Professional Services Terms

9.12 Conflicts. If there is a conflict between any Service Agreement and the Agreement, the terms of the Service Agreement will take precedence. In the event of any conflicts between a Product or Service Schedule and the General Terms, the Product or Service Schedule will prevail. In the event that a subject is addressed in both the Supplier Software license agreement provided in or with the Software and the Agreement or in any Product or Service Schedule, then the corresponding provision of the Supplier Software license agreement will prevail. No party is relying upon the representations of statements of the other that are not fully expressed in this Agreement, and each party expressly disclaims reliance upon any representations or statements not expressly set forth in this Agreement. Any claims by any party of fraud in the inducement of this Agreement or any Supplier quote or Customer Order based on any statements, representations, understandings or omissions, whether oral or written, that are not fully expressed in this Agreement or the applicable Supplier's quote are expressly waived and released. Dell Apex Services or APEX subscriptions means and includes any Platform as a Service, Infrastructure as a Service and storage-as-a-service offerings, or other subscriptions made available by Supplier on a subscription basis and delivered to a Customer controlled site that Customer orders from Supplier are provided pursuant to the

Cloud Services Terms of Services located at www.Dell.com/dellemccloudterms or Customer's separate signed cloud services agreement with Supplier, when applicable.

Product Schedule 1 to Agreement

Infrastructure Product Terms

This Schedule states terms that apply specifically to Infrastructure Products. The General Terms are incorporated by reference into this Schedule. If there is a conflict between this Schedule and the General Terms, this Schedule controls.

1. Definitions.

All definitions set forth in the General Terms apply to the Infrastructure Products, in addition to the definitions stated below.

1.1 "Infrastructure Products" means Equipment that comprises data storage and converged function data management products and their related Software, including but not limited to PowerMAX/VMAX, Unity, SC, Vblock, VxBlock, VxRack and VxRAIL Products and Independent Software (e.g., backup and recovery software).

1.2 "Installation Site" means the shipping address or other location identified on Supplier's quote or other Supplier-prepared document as the Equipment site of installation, use, or both.

1.3 "Product Notice" means the information related to Equipment, Software, Independent Software and Services posted at an EMC website at the time of the Supplier quote, currently located at www.dellemc.com/en-us/customer-services/product-warranty-and-service-descriptions.htm. To locate the applicable information related to the SC Series Products, please see the applicable service description listed at www.Dell.com/servicecontracts/global. The Product Notice informs Customer of Infrastructure Product-specific use rights and restrictions, unit of measure (if any), warranty periods, warranty upgrades and Support Services terms. The Product Notice in effect as of the date of Supplier's quote will apply to Infrastructure Products and is deemed incorporated into that quote and related Customer purchase order by this reference. Upon request, Supplier will provide a copy of the applicable Product Notice or attach it to the relevant Supplier quote.

1.4 "Support Services" when used in this Schedule and applied to Infrastructure Products means the services identified on the table located at www.emc.com/collateral/warranty-maintenance/h4276-emc-prod-warranty-maint-table.pdf. Support Services for SC Series Products are stated at www.Dell.com/servicecontracts/global. Support Services for Infrastructure Products that are "Converged Infrastructure Products" are stated at <http://www.dellemc.com/en-us/converged-infrastructure/support/support-service-descriptions.htm>

2 Independent Software Licensing.

2.1 General License Grant. Subject to Customer's compliance with the terms of the Agreement, Supplier grants to Customer a non-exclusive, non-transferable (except as stated in section 3A ("Movement of Software") below) license to use the Independent Software and Documentation during the period of the license for Customer's internal business operations. Unless otherwise indicated in this Agreement or the applicable Supplier quote or invoice, licenses for Independent Software are perpetual for use of object code only and commence on Delivery. Use of Independent Software may require Customer to complete Supplier's then-current product registration process and input a license key. Software Releases are subject to the license terms applicable to Independent Software. Supplier reserves all rights not expressly granted.

2.2 Copying Permitted. Customer may copy the Independent Software and Documentation as necessary to install and run the quantity of copies licensed and for backup and archival purposes.

2.3 License Restrictions. Without the applicable Supplier's prior written consent, Customer must not, and must not allow any third party to: (a) use Independent Software in an application services provider, service bureau or similar capacity; (b) disclose to any third party the results of any comparative or competitive analyses of Independent Software done by or on behalf of Customer; (c) make available Independent Software to anyone other than Customer's employees or contractors who will use the Independent Software in a manner permitted by this Agreement; (d) transfer or sublicense Independent Software or Documentation to an Affiliate or any third party; (e) use Independent Software in conflict with the terms and restrictions specified in this Schedule and Service Schedules and the Supplier quote or invoice; (f) except to the extent permitted by applicable law, modify, translate, enhance or create derivative works from the Independent Software, or reverse assemble or disassemble, reverse engineer, decompile or otherwise attempt to derive source code from the Independent Software; (g) remove any copyright or other proprietary notices on or in any copies of Independent Software; (h) violate or circumvent any technological use restrictions in the Independent Software; (i) use the Independent Software to create a competitive offering; or (j) create Internet "links" to the Independent Software or "frame" or "mirror" the Independent Software.

2.4 **Records and Audit.** During the Independent Software license term and for 2 years after its expiration or termination, Customer will maintain accurate records of its use of the Independent Software sufficient to show compliance with this Agreement. During this period, Supplier or its auditors may request that Customer certify in writing that its use of the Independent Software is in compliance with this Agreement, audit Customer's use of Independent Software to confirm compliance, or both. Supplier will provide Customer with reasonable notice and conduct the audit during Customer's normal business hours and will not unreasonably interfere with Customer's business activities when performing the audit. Supplier may conduct no more than one audit in any 12 month period. Customer must reasonably cooperate with the audit and must, without prejudice to Supplier's other rights, promptly procure additional licenses needed to put Customer in compliance with the Agreement. All information provided by Customer during such audit shall be Customer's Confidential Information.

2.5 **Termination of License.** Supplier may terminate licenses for cause if Customer breaches the terms governing use of Independent Software and fails to cure within 30 days after receipt of Supplier's written notice of breach. Customer must cease all use, and return or certify destruction of, all terminated Independent Software licenses.

2.6 **Licensing Models.** Supplier licenses Independent Software for use only in accordance with the commercial terms and restrictions of the Independent Software's relevant software licensing model, which are stated in the Product Notice, the Supplier quote or both. For example, the licensing model may provide that Independent Software is licensed for use solely: (a) for a certain number of licensing units; (b) on or in connection with a certain piece of equipment, CPU, network or other hardware environment; or (c) for a specified amount of storage capacity.

3 Additional Terms for Infrastructure Products.

3.1 **Movement of Software.** If Customer is current in the payment of the applicable Support Services fee, Customer may, to the extent technologically compatible and not otherwise prohibited by the licensing terms, discontinue all use of the Software or Independent Software on the hardware or network environment for which it was originally licensed and begin the corresponding use of that Software or Independent Software on a different, Customer-owned or controlled hardware or network environment, provided that Customer: (a) gives Supplier advance, written notice of the move; and (b) pays the applicable transfer fee, upgrade fee or both that Supplier may assess for the move.

3.2 **Equipment Replacements.** All replaced Equipment (or portions of Equipment) from any Infrastructure Products will become Supplier's property upon Customer's receipt of the corresponding replacement. Customer must return the replaced Equipment (or portions of Equipment) promptly upon Supplier's request. If Customer does not return the replaced Equipment or replaced portions within 15 days after receipt of Supplier's request, then Customer must pay Supplier's then-current spare parts list price for the Equipment or portions that Customer failed to return.

3.3 **Installation.** Customer must ensure that: (a) the Installation Site meets the specifications for Infrastructure Products including, without limitation, the Equipment's specifications for power and cooling; (b) the surfaces over which the Equipment will travel at Customer's location between the carrier delivery point and the final location at the Installation Site meet the weight specifications for the Equipment; and (c) Supplier has the contact information for a responsible single point of contact at the Installation Site.

4 Warranties.

The limited warranties stated below are subject to the exclusions and disclaimer stated in section 6 of the Agreement.

4.1 **Equipment and Software Media Warranty.** Unless stated otherwise in the Product Notice, Supplier warrants to Customer that: (a) Equipment and upgrades installed into that Equipment, when purchased from Supplier and operated with normal usage and regular recommended service; and (b) any physical media for Software or Independent Software, will be free from material defects in materials and workmanship, and will perform substantially in accordance with the applicable Documentation until the expiration of the warranty period stated in the Product Notice or, for SC Series Products, stated in Supplier's quote. Unless otherwise noted on the Product Notice or Supplier quote, the warranty coverage for the microcode, firmware and operating system software that enables Equipment to perform as described in its Documentation will be no less than that which applies to the applicable Equipment. To the extent specified on the Product Notice and unless stated otherwise in the quote, Support Services in the form of the Support Option (as defined in Service Schedule A to this Agreement) noted on the Product Notice are included free of charge during the warranty period for Equipment. In some cases, Supplier may offer an upgrade option for Support Services during the Equipment warranty period for separate purchase.

A. **Equipment Warranty Duration.** The warranty period for Equipment is stated on the Product Notice unless the Supplier quote provides a different warranty period. This Equipment warranty commences upon Delivery. Upgrades to Equipment are warranted in the same manner as the Equipment in which the upgrades are installed from Delivery of the upgrade until the end of the warranty period for the Equipment into which the upgrades are installed.

B. **Software Media Warranty Duration.** The warranty for any physical media for Software and Independent

Software is 90 days and commences upon Delivery.

C. **Equipment and Software Media Warranty Remedies.** If Customer notifies Supplier of a warranty claim during the applicable warranty period, then Supplier will, at its option, either remedy the non-compliance or replace the affected Equipment with new or refurbished parts at Supplier's discretion or applicable Software or Independent Software media. If Supplier is unable to repair or replace the affected Equipment or media within a reasonable time, then Customer will return the Equipment or media to Supplier, and Supplier will give Customer a refund of the amount Customer paid for the affected Equipment or media as depreciated on a straight-line basis over a five year period. Customer must return to Supplier the applicable defective Equipment or media, or portions of those items. Returned items become Supplier's property. If Customer receives a replacement but does not return the defective item to Supplier, then Customer must pay Supplier's then-current spare parts price for the replacement item. Supplier has no liability under these warranty terms for defects in Equipment and media after expiration of the applicable warranty period. This section states Supplier's entire liability and Customer's exclusive remedies under warranties for the Equipment and Software and Independent Software media described in section 4.1 and its subsections.

4.2 **Independent Software Warranty, Duration and Remedy.** Supplier warrants to Customer that the Independent Software will, for ninety days following Delivery ("Independent Software Warranty Period"), substantially conform to the applicable Documentation. This limited warranty is not transferable. Customer must report errors to Supplier during the Independent Software Warranty Period to invoke this warranty. In response to Customer's error notice, Supplier will, at its own expense, either replace that Independent Software or correct any reproducible error. If Supplier determines that it is reasonably unable to correct the error or replace the Independent Software, Supplier will refund to Customer the amount Customer paid for that Independent Software, and Customer's license for that Independent Software will terminate. This section states Supplier's sole obligation and Customer's exclusive remedy under the Independent Software warranty. This disclaimer of warranty may not be valid in some jurisdictions, and Customer may have warranty rights under law which may not be waived or disclaimed. Any law-based warranty extends only for 30days from the date of Delivery (unless local law provides a different duration).

A. **Independent Software Warranty Exclusions.** Independent Software warranties do not cover problems that arise from: (a) Customer's or a third party's accident or neglect; (b) any third party items or services with which the Independent Software is used or other causes beyond Supplier's control; (c) installation, operation or use not in accordance with Supplier's instructions or applicable Documentation; (d) use in an environment, in a manner or for a purpose for which the Independent Software was not designed; or (e) modification, alteration or repair by anyone other than Supplier or its authorized representatives. Supplier has no obligation for Software installed or used beyond the licensed use; for Equipment that Customer moved from the Installation Site without Supplier's consent when applicable; or whose original identification marks have been altered or removed.

B. **Independent Software Warranty Disclaimer.** **Other than the warranties set forth in this section and the Product and Service Schedules, and to the maximum extent permitted by applicable law, Suppliers and their Affiliates, and their Providers: (a) make no other express warranties; (b) disclaim all implied warranties, including merchantability, fitness for a particular purpose, title and non-infringement; and (c) disclaim any warranty arising by statute, operation of law, course of dealing or performance or usage of trade.**

5 Evaluation, Rental and Loan Transactions for Infrastructure Products.

5.1 **General.** This section 5 applies unless Customer has a specific agreement with Supplier for the purpose of evaluating, renting or loaning Infrastructure Products, in which case the specific agreement will apply. The Agreement applies to "Evaluation Products" (meaning Infrastructure Products that Supplier makes available directly to Customer for a limited period of time at no charge to enable Customer to evaluate the Infrastructure Products prior to making a final decision on licensing or purchasing), "Loaned Products" (meaning Infrastructure Products that Supplier makes available directly to Customer for a limited period of time at no charge), subject to the following provisions, and "Rental Products" (meaning Infrastructure Products that Supplier makes available directly to Customer for a limited period of time at a specific charge for that period of time).

5.2 **Schedule Content.** The Infrastructure Products, period of use, Installation Site and other transaction-specific conditions will be stated in an evaluation, loan or rental schedule referencing this Agreement.

5.3 **Right to Use.** Customer may use Evaluation Products and Loaned Products free of charge. Customer may use Evaluation Products solely for the purpose of evaluating those Products and not in a production environment. Customer may use Rental Products for Customer's lawful internal business purposes for an agreed upon monthly rental fee. **Evaluation, Loaned and Rental Products are provided "AS IS" and without any warranty.** If Customers put any Customer data into Evaluation, Loaned or Rental Products, then Customer is responsible for backing up that data.

5.4 **Title.** Supplier retains title to Evaluation, Loaned and Rental Products. Notwithstanding any deviating terms in a "click-to-accept" or "shrink wrap" license, all licenses to use Software and Independent Software expire at the end of the evaluation, loan or rental period.

5.5 Risk of Loss. The risk of loss or damage to any Evaluation, Loaned and Rental Product passes to Customer upon Delivery and remains with Customer until these Products arrive at Supplier's specified return location. Customer is solely responsible for Customer's data and bears all risk of data loss. Customer is also responsible, at its cost, for de-installation of any data storage devices placed into Customer's existing Infrastructure Products and for erasure of any data stored in Evaluation, Loaned, and Rental Products. Customer must provide reasonable insurance coverage for Evaluation, Loaned and Rental Products during the period it bears the risk of loss.

5.6 Return. Customer must promptly return Evaluation, Loaned and Rental Products upon expiration of the agreed period or within 30 days of Supplier's notice of termination for convenience, whichever occurs first. Supplier will automatically invoice Customer for the purchase price of any Evaluation, Loaned or Rental Products that Customer does not return on time. Before Customer returns Evaluation, Loaned and Rental Products to Supplier, Customer must permanently erase any Customer data that Customer put in those Products. Customer may purchase Evaluation Products any time prior to the end of the evaluation period.

5.7 Exclusion. The SC brand storage products are not subject to the terms of this section 5. Customer should contact the applicable Supplier sales representative regarding evaluation of the SC brand storage products.

Product Schedule 2 to Agreement Networking Product and Server Product Terms

This Schedule states terms that apply specifically to Networking Products and Server Products. The General Terms are incorporated by reference into this Schedule. If there is a conflict between this Schedule and the General Terms, this Schedule controls.

1. Definitions.

All definitions set forth in the General Terms apply to the Networking Products and Server Products, in addition to the definitions stated below.

1.1 "Configuration and Deployment Services" means: (a) standard deployment services, such as Basic Deployment Services, ProDeploy or ProDeploy Plus services, as described in the corresponding Service Descriptions, available at www.Dell.com/servicecontracts/global; or (b) standard configuration services, including the service features and offerings described in the corresponding Service Agreement(s), available at www.Dell.com/servicecontracts/global or from the Supplier sales representative, as applicable, such as Static and Dynamic Imaging, Asset Tagging, Asset Reporting, standard System Configuration services (BIOS Settings, Hard Drive Partitioning, Application Installation and Operating System Settings). Configuration and Deployment Services for Networking Products and Server Products are subject to the applicable Service Agreement(s).

1.2 "Networking Products" means the Dell branded Equipment and Software, including Networking Products listed at www.Dell.com/en-us/work/shop/networking/sc/networking-products purchased in a standard configuration, unless otherwise specified in any applicable Product-specific Documentation or Service Agreement(s), as set forth on the Supplier quote.

1.3 "Server Products" means the Dell-branded Equipment and Software, including select PowerEdge Products listed at www.Dell.com/en-us/work/shop/dell-poweredge-servers/sc/servers.

1.4 "Support Services" when used in this Schedule and applied to Networking Products and Server Products, means services to be performed by or on behalf of Supplier necessary to repair a defect in materials or workmanship of the applicable Product(s), and as further defined and described in the applicable Service Agreement(s).

2. Warranties.

The limited warranties for the Equipment portion of Networking Products and Server Products are found at www.Dell.com/warrantyterms or in the applicable Documentation.

3. Additional Terms.

3.1 Service Agreements. Support Services and the Configuration and Deployment Services are subject to the additional terms contained in the applicable Service Agreement(s). If there is a conflict between the terms of this Schedule, the General Terms of the Agreement and any Service Agreement(s), the following order of precedence will apply: (a) the Service Agreement; (b) this Schedule; and (c) the General Terms.

3.2 Whole Unit Replacement, Failure to Return and Service Part Ownership. If Supplier determines that a component of the defective Networking Product or Server Product is one that is easily removed and replaced or disconnected and reconnected, or if the Supplier analyst determines that the Networking Product or Server Product is one that should be replaced as a whole system, Supplier reserves the right to send Customer a component or whole replacement Networking Product or Server Product, as applicable. If Supplier delivers either a whole replacement Networking

Product, Server Product, or a component of either to Customer, Customer must return the defective Networking Product, or Server Product, or component, as applicable, to Supplier within 10 days of receiving the replacement, unless Customer has purchased "Keep Your Hard Drive" for the affected Networking Product or Server Product. In that event, Customer may retain the respective hard drive(s). Supplier will own all Supplier components removed from the Networking Products or Server Products and whole Networking Products or Server Products that Customer returns to Supplier. If Customer keeps a component or whole Networking Product or Server Product after Supplier has replaced it, then Customer must pay Supplier the then-current retail price for the component or whole Networking Product or Server Product, as applicable, that Customer keeps (except for hard drives from Networking Product or Server Products covered by "Keep Your Hard Drive" service). Supplier will invoice Customer for the whole Networking Product, Server Product, or components that Customer keeps and Customer will pay Supplier's invoice within 10 days of receipt. If Customer does not pay Supplier's invoice within 10 days after receipt, in addition to any other legal rights and remedies available to Supplier, Supplier may terminate the applicable Service Description by providing written notice to Customer. Supplier uses and Customer expressly authorizes the use of new and reconditioned parts made by various manufacturers in performing repairs.

3.3 Parts Stocked and Mission Critical Parts. Supplier currently stocks parts in various locations throughout the world. Selected parts may not be stocked in the location closest to Customer's site. If a part that is needed to repair the Product is not available from a Supplier facility near Customer's location and must be transferred from another facility, it will be shipped as soon as is commercially reasonable. Certain Supplier parts locations stock mission critical parts, as Supplier determines, to supply parts for same business day response times. A mission critical part is one that, upon failure, may prevent the Product from performing its basic functions. Supplier may ship these parts using overnight delivery. In order to receive parts on a 2 or 4 hour basis, Customer must purchase a corresponding Support Service Agreement that supports mission critical parts delivery, and the Product must be located within the Supplier designated supported coverage area.

Other Service Exclusions. In the course of performing Support Services, Supplier will not be responsible for: (a) providing performance assistance or administrative assistance, installation, de-installation, relocation, preventative maintenance, training assistance, remote administration or any activities or services not expressly described in the applicable Service Agreement(s); (b) providing media replacement, operating supplies, cosmetic accessories or parts such as frames, and cover or support on those items; (c) removing malicious software; (d) providing data backup; (e) providing advanced wireless networking or remote installation, setup, or optimization and configuration of applications beyond those described in the Service Agreement(s); (f) scripting, programming, database design and implementation, web development or recompiled kernels; (g) repairing damage or defects in Networking Products and Server Products which are purely cosmetic and do not affect device functionality; (h) providing repairs that are necessary because: (1) Customer previously installed a Customer replaceable unit; or (2) someone other than Supplier or an authorized service provider previously altered, adjusted or repaired the Networking Product or Server Product.

Product Schedule 3 to Agreement

Client Product Terms

This Schedule states terms that apply specifically to Client Products. The General Terms are incorporated by reference into this Schedule. If there is a conflict between this Schedule and the General Terms, this Schedule controls.

1. Definitions.

All definitions set forth in the General Terms apply to the Client Products, in addition to the definitions stated below.

1.1 "Client Products" means the Dell-branded commercial computer products intended for use by a single user, and generally include notebook, desktop and tablet platforms listed at www.dell.com, for example: Dell OptiPlex™, Latitude™, Venue™, Inspiron™, Precision™, Vostro™, XPS™, Gateway Edge, Embedded PCs, Dell Wyse™, Dell printers, and Dell monitors as listed on the Supplier quote, and in a standard configuration unless otherwise stated on the Supplier quote.

1.2 "Configuration and Deployment Services" means: (a) standard deployment services, such as Basic Deployment Services, ProDeploy or ProDeploy Plus services, as described in the corresponding Service Descriptions, available at www.Dell.com/servicecontracts/global; or (b) standard configuration services, including the service features and offerings described in the corresponding Service Agreement(s), available at www.Dell.com/servicecontracts/global or from the Supplier sales representative, as applicable, such as Static and Dynamic Imaging, Asset Tagging, Asset Reporting, standard System Configuration services (BIOS Settings, Hard Drive Partitioning, Application Installation and Operating System Settings). Configuration and Deployment Services for Client Products are subject to the applicable Service Agreement(s).

1.3 "Support Services" when used in this Schedule and applied to Client Products, means services to be performed by or on behalf of Supplier necessary to repair a defect in materials or workmanship of the applicable Client Product(s), and as further defined and described in the applicable Service Agreement(s).

2. Client Equipment Warranty.

The limited warranties for the Equipment portion of Client Products are found at www.Dell.com/warrantyterms or in the applicable Documentation for the specific Client Product.

3. Additional Terms.

3.1 Changes to or Cancellation of Orders. Customer may only change or cancel an order for Client Product(s) up until the time Supplier begins manufacturing the Products.

3.2 Service Agreements. Support Services and the Configuration and Deployment Services are subject to the additional terms contained in the applicable Service Agreement(s). If there is a conflict between the terms of this Schedule, the General Terms of the Agreement, and any Service Agreement(s), the following order of precedence will apply: (a) the Service Agreement(s); (b) this Schedule; and (c) the General Terms.

3.3 Removable Media. Customer is responsible for removing any removable media such as SIM cards, CDs or PC cards before returning Client Products or parts from Client Products, regardless of whether an onsite technician is also providing assistance. Supplier will have no liability for lost programs or other software installed on the Client Products prior to Supplier performing any Support Services, loss of system use or network use, damaged or lost removable media, or data or voice charges incurred as a result of Customer failing to remove SIM cards or other removable media inside Client Products that Customer returns to Supplier. Supplier will not be responsible for the restoration or reinstallation of any programs or data. When returning Client Products or part of a Client Product, Customer will only include the Client Product or part that the Supplier Support Services technician requested.

3.4 Whole Unit Replacement, Failure to Return, and Service Part Ownership. If Supplier determines that a component of the defective Client Product is one that is easily disconnected and reconnected, or if the Supplier analyst determines that the Client Product is one that should be replaced as a whole Client Product, Supplier reserves the right to send Customer a component or whole replacement Client Product, as applicable. If Supplier delivers either a whole replacement Client Product or a component of a Client Product to Customer, Customer must return the defective Client Product or component to Supplier within 10 days of receiving the replacement, unless Customer has purchased "Keep Your Hard Drive" for the affected Client Product. In that event, Customer may retain the applicable hard drive(s). Supplier will own all Supplier components removed from the Client Products and whole Client Products that Customer returns to Supplier. If Customer keeps a component or whole Client Product after Supplier has replaced it, then Customer must pay Supplier the then-current retail price for the component or whole Client Product, as applicable, that Customer keeps (except for hard drives from Client Products covered by "Keep Your Hard Drive" service). Supplier will invoice Customer for the whole Client Product or components that Customer keeps and Customer will pay Supplier's invoice within 10 days of receipt. If Customer does not pay Supplier's invoice within 10 days after receipt, in addition to any other legal rights and remedies available to Supplier, Supplier may terminate the applicable Service Description by providing written notice to Customer. Supplier uses and Customer expressly authorizes the use of new and reconditioned parts made by various manufacturers in performing repairs and in providing replacement parts. The obligation to return Supplier components removed from the Client Products does not apply to Customers that retain hard drives who have purchased "Keep Your Hard Drive" for the affected Client Product. In that event, Customer's service levels and obligations are governed by the Keep Your Hard Drive Service Agreement.

3.5 Parts Stocked and Critical Parts. Supplier currently stocks parts in various locations throughout the world. Selected parts may not be stocked in the location closest to Customer's site. If a part that is needed to repair the Client Product is not available from a Supplier facility near Customer's location and must be transferred from another facility, it will be shipped as soon as is practical and commercially reasonable. Certain Supplier parts locations stock critical parts, as determined by Supplier, to supply parts for same business day response times. A critical part is one that, upon failure, may prevent the Client Product from performing its basic functions. Supplier may, in its discretion, ship these parts using overnight delivery. In order to receive parts on a 2 or 4 hour basis, Customer must purchase a corresponding Service Agreement that supports same day response times for critical parts delivery and the Product must be located within the Supplier-designated supported coverage area. Parts Supplier deems non-critical include, but are not limited to: software, media drives, modems, speakers, sound cards, zip drives, monitors, keyboards and mice.

3.6 Other Service Exclusions. In the course of performing Support Services, Supplier will not be responsible for: (a) providing performance, training, or administrative assistance, installation, deinstallation, relocation, preventative maintenance, remote administration or any activities or services not expressly described in the applicable Service Agreement(s); (b) providing media replacement, operating supplies, cosmetic accessories or parts such as frames, and cover or support on those items; (c) direct third party product support or collaborative assistance of versions not currently supported by the manufacturer, vendor or partner; (d) support for the hardware, software or both preinstalled or post-installed by a third party OEM, unless it is covered by a separate Service Agreement between Supplier and Customer; (e) removing malicious software; (f) providing data backup; (g) providing advanced wireless, networking or remote installation, setup or optimization and configuration of applications beyond those described in the Supplemental Services Term; (h) repairing damage or defects in Client Products that are purely cosmetic and do not affect device functionality; and (i) providing repairs that are necessary because: (1) Customer previously installed a Customer

replaceable unit; or (2) someone other than Supplier or an authorized service provider previously altered, adjusted or repaired the Client Product.

3.7 Transferability. Customer has the limited right to transfer Software on a permanent basis as part of the sale or transfer of the hardware system on which the Software is loaded, provided that: (a) Customer retains no copies of any version of the Software; and (b) the transfer includes the most recent update and all prior versions of the Software.

3.8 Terms Applicable to Dell Wyse Products.

A. Use Rights and Restrictions. Dell Wyse Windows Embedded Thin Clients are intended to be used as thin clients only and not as personal computers. Dell is not responsible for and will not warrant, support, repair or replace any thin client device or component that is not used for its intended purpose. As an example, and without limitation, any operation of a Dell Wyse Windows Embedded Thin Client with the write filter turned off during regular use (except as required for image upgrades, applying security patches, registry changes and application installation) is beyond the scope of the intended purpose, will prematurely wear out the Flash/SSD storage and will invalidate the thin client product warranty. In addition, enabling the Windows Page File is beyond the scope of the intended purpose and will invalidate the thin client product warranty.

B. Adobe and Microsoft Software. Certain Dell Wyse Thin Clients include software that is subject to the license terms for Adobe Systems Incorporated/Adobe Systems Software Ireland Limited located at https://www.adobe.com/products/eulas/pdfs/PlatformClients_PC_WWEULA-MULTI-20110809_1357.pdf. Adobe and Flash are trademarks or registered trademarks of Adobe Systems Incorporated in the United States, other countries or both. Certain Dell Wyse Thin Clients may also include software that is licensed by Microsoft under terms that prohibit Customer from locally running Desktop Functions on Thin Client Devices. For purposes of these terms, "Thin Client Device" means a Customer system that depends heavily on some other computer (such as a server) to fulfill its computational roles; and "Desktop Functions" means consumer or general purpose tasks or processes (such as using word processing, spreadsheet or slide show presentation software) performed exclusively or primarily by a PC device.

Service Schedule A to Agreement

General Support Services Terms

This Schedule states the terms governing the provision of Support Services that apply to all Products other than Pivotal Products during or after the applicable warranty period and are supplemented by terms stated in the Product Schedules attached to this Agreement (as applicable to the Product type) or the applicable Service Agreement(s) for Networking, Server and Client Products only. The General Terms are incorporated by reference into this Schedule. If there is a conflict between this Schedule and the General Terms, this Schedule controls. If there is any conflict between this Schedule and a Product Schedule, the Product Schedule controls.

1. Definitions.

All definitions set forth in the General Terms and in the Product Schedules apply to this Schedule, in addition to the definitions stated below.

1.1 "Customer Support Tools" means any software or other tools Supplier makes available to Customer to enable certain service features of Products (as applicable) and to enable Customer to perform various self-maintenance activities.

1.2 "EMC Service Area" means the area that is within: (a) 100 drivable miles of an EMC service location for Infrastructure Products; and (b) the same country as the EMC service location.

1.3 "Maintenance Aids" mean any hardware, software or other tools, other than Customer Support Tools, that Supplier uses to perform diagnostic or remedial activities on Products.

1.4 "Time and Materials Service" means any maintenance or support service that Supplier provides but is not part of fixed-fee Support Services or other Supplier generally available service-related offering using a preestablished fee. Supplier charges separately for Time and Materials Services on a time and materials basis and may include a separate set of Time and Materials terms and conditions.

2. Support Services.

2.1 Scope. The contents of Support Services for each Product (the "Support Option") are set forth in the Product Notice or the Service Agreement(s), and unless otherwise indicated in the Product Notice or Supplemental Support Terms, consist of: (a) for Infrastructure Products, using commercially reasonable efforts to remedy failures of Infrastructure Products to remedy failures to perform substantially in accordance with Supplier's applicable Documentation; (b) for Client Products, Server Products and Networking Products, using commercially reasonable efforts to repair or replace defects in workmanship or materials; (c) providing English language (or, where available, local language) help line service via telephone or other electronic means; and (d) enabling Customer to download Software Releases and Documentation updates that makes generally available at no additional charge to other purchasers of Support Services for the applicable Product. Supplier reserves the right to change the scope of Support Services for Infrastructure Products on 60 days' prior written notice to Customer, and to change the scope of Support Services for Server Products, Networking Products and Client Products without notice.

2.2 Additional Support. Supplier reserves the right to charge for Support Services performed outside the time frames of the applicable Support Option as a Time and Materials Service. Except to the extent that Support Services are independent of the Equipment's location, Supplier will have no obligation to provide Support Services for Infrastructure Products with respect to Equipment that is outside the EMC Service Area. Support Services do not apply to any Software other than the current and the immediately prior Software Release. Support Services are subject to Supplier's then-current "End-of-Service-Life" policy for the respective Product, if applicable. Supplier will have no obligation to provide Support Services for Software and Independent Software problems that cannot be reproduced at Supplier's facility or via remote access to Customer's facility. Support Services do not include the supply of Equipment upgrades, if any, needed to utilize new features or functionality in a Software Release.

2.3 Exclusions. Support Services do not cover a problem that would have been excluded from coverage pursuant to section 4.2 ("Equipment Warranty Exclusions") of General Terms had the problem arisen during the warranty period of the affected Product.

2.4 Reinstatement of Support. Customer may request that Supplier reinstate Support Services for a Product for which Support Services have lapsed. Supplier may do so at its discretion and reinstatement will be subject to a certification at Supplier's then-current Time and Materials Service rates and conditions. Once the Product is certified, Support Services will commence when Customer pays: (a) the charge for the above-described Time and Materials Service; (b) the amount Supplier would have normally charged had Support Services been in effect during the period of the lapse or discontinuation; and (c) the charge for the next 12 months of the newly-commenced Support Services.

3. Customer Responsibilities.

3.1 Cooperation. Customer will: (a) promptly notify Supplier when a Product fails and provide Supplier with sufficient details so that Supplier can reproduce the failure; (b) allow Supplier remote and on-site (when Supplier deems necessary) access to the Product to provide Support Services; and (c) furnish necessary facilities (which for on-site access means suitable work space, computers, power, light, phone, internet network availability, software and equipment reasonably required by Supplier) in compliance with all applicable laws and regulations, as well as information and assistance required to provide Support Services. Customer will provide Supplier with timely access to and use of all Customer proprietary and third party equipment, software and systems required for Supplier to perform its obligations under this Agreement. With respect to all third party hardware or software operated by or on behalf of Customer, Customer warrants that it shall, at no expense to Supplier, obtain all consents, licenses and sublicenses necessary for Supplier to perform under the Service Agreement(s). Customer shall pay any fees or other costs associated with obtaining such consents, licenses and sublicenses.

3.2 Service Agreements. Unless a specific number of authorized contacts are indicated on the Product Notice or the applicable Service Agreement(s) require that the Customer be in physical possession of the Equipment at the time a support request is submitted, Customer will designate in writing a reasonable number of authorized contacts, as Customer and Supplier may determine, who will initially report problems and receive Support Services from Supplier. Each Customer representative will be familiar with Customer's requirements and will have the expertise and capabilities necessary to permit Supplier to fulfill its obligations. Customer will provide changes to authorized support contacts to Supplier in writing.

4. Additional Terms.

4.1 Maintenance Aids and Spare Parts for Equipment. Customer authorizes Supplier to store Maintenance Aids and spare parts at the Installation Site and agrees that these items are only for Supplier's use. Customer will not, and will not authorize any third party to, use these items. Supplier is authorized, upon the conclusion of the Support Services or at any other time, upon reasonable notice to Customer, to enter the Installation Site, or to use remote means to remove or disable Maintenance Aids and spare parts, as applicable. Customer will reasonably cooperate in this effort.

4.2 Customer Support Tools. Supplier may choose to make Customer Support Tools available to assist Customer in performing various maintenance or support related tasks. Customer will use Customer Support Tools only in accordance with terms under which Supplier makes them available.

4.3 Service Data. In connection with the performance and use of the Services, and Supplier's remote support capabilities detailed in section 4.8 ("Remote Support Capability") below, Supplier may obtain and receive, data or information, including data specific to the Product and Service, such as Product diagnostics, configurations, usage characteristics, performance data and deployment location (collectively, "Service Data"). Customer acknowledges and agrees that Supplier will: (a) use, compile, display, store, process, reproduce or create reporting and other Services-related materials from the Service Data solely to provide the Services, including remotely accessing Products to install, maintain, monitor, support, receive alerts and notifications from and change certain internal system parameters of Products in Customer's environment in fulfillment of Supplier's Support Services obligations; (b) provide Customer with visibility to Customer's actual Product usage and consumption patterns and make recommendations to Customer regarding improvements to Customer's environment and utilization of the Services; (c) utilize the Service Data in connection with predictive analytics and usage intelligence to consult with and assist Customer, directly or through the Supplier channel partner involved in supplying Products to Customer, to optimize Customer's future planning activities and requirements; (d) aggregate and use the Service Data in an anonymous manner with that of others in the development and improvement of future products; and (e) copy and maintain the Service Data on Supplier's systems as necessary to provide the Support Services. Supplier agrees that the Service Data is subject to the confidentiality provisions in this Agreement.

4.4 Data Security Options. Customer must, at its own cost, permanently erase of all information, including without limitation all personally identifiable, confidential and any other protected or sensitive information placed on Products before returning Products to Supplier for trade-in, repair, or disposal. Customer must use a method that does not cause damage to Products or any replaced parts or other items that Customer provides to Supplier for repair, trade-in or disposal. Supplier offers data erasure services and Supplier provides the descriptions and charges associated with Supplier's then current data erasure services upon request. Supplier has no responsibility for any information that Customer fails to erase that is on items sent to Supplier.

4.5 Proactive Product Changes. Supplier may, at its expense, implement changes to the Products upon reasonable notice to Customer: (a) when the changes do not adversely affect interchangeability or performance of the Products; (b) when Supplier reasonably believes the changes are required for purposes of safety or reliability; or (c) when Supplier is required by law to do so. Customer will give Supplier reasonable access to the Products for these purposes.

4.6 Software Releases. When Customer begins using a Software Release for a particular Product, Customer must remove and make no further use of all prior Software Releases for that Product. Customer must protect the prior

Software Releases from disclosure or use by any third party. Customer is authorized to retain a copy of each Software Release that Customer properly obtains for archive purposes and use them as a temporary backup if the current Software Release becomes inoperable. Customer will use and deploy Software Releases only in accordance with terms of the original license for Software and Independent Software.

4.7 Change of Equipment Location or Configuration. Customer may change the Installation Site or configuration of a Product under Support Services only after written notice to Supplier, and subject to the terms and conditions on this sub-section. If the new location is in a different country, the move is subject to Supplier's prior written approval and additional fees may apply. Customer will promptly notify Supplier of any changes to the configuration, or movement of Equipment by anyone other than Supplier. To determine if the Product remains eligible for Support Services, Supplier reserves the right to inspect and evaluate the changes in configuration or location of affected Equipment, and to re-certify the Equipment at Supplier's then current Time and Materials Service conditions and rates. Additional charges, if any, related to changes in configuration or location of Equipment will apply from the date the change took place.

4.8 Remote Support Capability. As part of Support Services, Supplier makes various remote support capabilities available for certain Products in accordance with its then-current policies and procedures. Supplier's warranty and Support Services fees are based on the availability and use of the remote support capabilities. Customer may elect not to activate or to disable remote support capabilities, but Customer must notify Supplier of this election without undue delay. If Customer chooses to disable or to not activate the remote support capabilities, then, with regard to all Products affected by this choice: (i) Supplier may assess Customer a surcharge in accordance with Supplier's then-current standard rates; and (ii) agreed response times or other agreed service levels (if any) will no longer apply.

4.9 Alterations and Attachments to Equipment. For Infrastructure Products, Supplier does not restrict Customer from making alterations to, or installing other products in or with, the Equipment at Customer's expense. For Client Products, Server Products and Networking Products, Customer may only install Third Party Products or components that Supplier provides or otherwise authorizes for installation in those Products. If Customer installs items contrary to the immediately preceding sentence, then Supplier may not be able to provide Support Services. For all Products, Customer is responsible for any inspection fees, additional charges, or both resulting from the activities described in this section. If the alterations or attachments prevent or hinder Supplier from performing Support Services, then Customer will, upon Supplier's request, take corrective action. Customer's failure to take appropriate corrective action will be deemed a breach of this Schedule.

4.10 Transfer of Equipment to Secondary Purchasers. If Customer decides to sell, assign or otherwise transfer the use, ownership or both of Equipment to a "Secondary Purchaser" (meaning a bona fide end user that: (a) is not considered, in Supplier's reasonable discretion, to be a competitor of Supplier; and (b) has not had prior disputes with Supplier), to the extent Supplier resources reasonably permit, Supplier will make available to Customer, as a Time and Materials Service, de-installation services. In addition, and to the extent Supplier resources reasonably permit, Supplier will make available to the Secondary Purchaser: (a) Equipment installation and re-certification services as a Time and Materials Service; and (b) Support Services for Equipment that Supplier has determined and notified the Secondary Purchaser meets Supplier's certification criteria upon receipt of payment of Supplier's then current Support Services fees. A Secondary Purchaser of Infrastructure Products must obtain the appropriate Software license from Supplier and pay any applicable Software license fees.

4.11 Software Support Services affected by Change in Equipment Status. For Software used on or operated in connection with Equipment that ceases to be covered by Support Services or the Supplier Equipment warranty, Supplier reserves the right to send Customer written notice that Supplier has either chosen to discontinue or change the price for Support Services for the Software (with the price change effective as of the date the applicable Equipment ceases to be covered). If Supplier sends a discontinuation notice, or if Customer rejects or does not respond to the notice of a proposed price change within 30 days after receipt, Customer will be deemed to have terminated the Software Support Services for its convenience and the terms of section 7.3 B below will apply.

4.12 Third Party Product Provided to Supplier. If Customer provides or makes available Third Party Products, including any intellectual property developed by Customer, for Supplier to use in connection with Services, Customer: (a) authorizes Suppliers to use the Third Party Products as needed to provide the Support Services; (b) warrants that it has all consents, licenses and sublicense rights as may be necessary to make these Third Party Products available to Suppliers; and (c) agrees that Suppliers are not liable to Customer if Supplier's authorized use causes warranties or other services contracts for these Third Party Products to become void.

5. Pricing.

The fee for Support Services for Products will be as set forth on the applicable Supplier quote. Additions to the Products on the Supplier quote may result in additional Support Services fees. Supplier will charge and invoice for Time and Materials Service in accordance with terms governing each Time and Materials Service engagement.

6. Support Services Warranty.

6.1 Support Services. Supplier will perform the labor portion of Support Services in a workmanlike manner in accordance with generally accepted industry standards. Customer will notify Supplier of any failure to perform as stated in the prior sentence as soon as reasonably possible, and in no event more than 10 days after the date on which the failure first occurs. A replacement part receives the remainder of the warranty or Support Services coverage applicable to the Infrastructure Product containing the replacement part.

6.2 Customer Remedies. Customer's exclusive remedy and Supplier's entire liability under the warranty stated in sub-section A above will be for Supplier to, at its option: (a) use reasonable efforts to (1) re-perform the deficient labor services within a reasonable time; or (2) replace any replacement parts that become defective during the remainder of the warranty or Support Services coverage applicable to the Product containing the replacement part, or 60 days after installation, whichever occurs later; and (b) if, after reasonable efforts, Supplier is not able to correct the deficiencies, then Customer has the right to terminate for breach in accordance with section 7.3 B below.

6.3 No Further Warranties. **Except as expressly stated in the Agreement or the applicable Schedules, and to the maximum extent permitted by applicable law, with regard to Products, Support Services and any other items, Services, or matters arising under this Schedule, Supplier (including its Providers) makes no other express warranties, written or oral, and disclaims all implied warranties. Insofar as permitted under applicable law, all other warranties are specifically excluded, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and any warranty arising by statute, operation of law, course of dealing or performance or usage of trade. Supplier and its Providers do not warrant that the Software will operate uninterrupted or that it will be free from defects or that it will meet Customer's requirements.**

7. Term and Termination.

7.1 Software Support Services Term. Support Services for Software and Independent Software that Customer orders at the same time as the license for those items commence on Delivery and continue for the period specified on the Supplier quote. Renewals of these Support Services commence and expire in accordance with the dates on the applicable Supplier quote.

7.2 Equipment Support Services Term. Support Services (including Support Option upgrades, if applicable) for Equipment are provided during the warranty period. Renewals of Equipment-related Support Services will commence and expire in accordance with the dates on the applicable Supplier quote. Support Services for hardware upgrades installed into Equipment are coterminous with the Support Services that are then in effect for the Equipment into which such upgrades are installed.

7.3 Termination for Convenience. In addition to the term and termination provisions stated in the General Terms, the following apply to Support Services:

A. By Supplier. If Supplier terminate Support Services for its convenience, Customer's sole remedy and Supplier's sole obligation will be to refund to Customer the portion of any prepaid Support Services fee that corresponds to the period between the effective date of the termination for convenience and the end of the then-current Support Services period.

B. By Customer. If Customer terminates Support Services for Infrastructure Products for its convenience, Customer's sole remedy and Supplier's sole obligation will be to grant Customer a credit that corresponds to the period between the effective date of the termination for convenience and the end of the then-current Support Services period for any Support Services. Customer may only use the credit against future purchases of Products or Support Services from Supplier. Supplier may reduce the credit to recapture unearned discounts (meaning discounts to a Support Services fee that were based on a Customer obligation that can no longer be fulfilled due to the termination). If Customer terminates Support Services for Client Products, Networking Products or Server Products, Customer will not receive any credit for unused Support Services.

7.4 Termination for Breach. In addition to the term and termination provisions stated in General Terms, either Supplier or Customer may terminate the Support Services for a specific Product if a party materially breaches this Schedule and fails to cure the breach within 30 days' receipt of written notice specifying the failure. If Supplier terminates the Support Services for Customer's material uncured breach, that termination will be without further liability for Supplier and without any obligation to refund any fees already paid for Support Services. If Customer terminates for Supplier's uncured material breach, Customer's sole remedy and Supplier's sole obligation will be, at Customer's election, to either issue a credit for use against current or future purchases of Products or Support Services or grant a refund for that portion of any prepaid Support Service fee that corresponds to the period between the effective date of the termination for breach and the end of the then-current Support Services period.

AGREEMENT ATTACHMENT 8

Dell End User License Agreement

This End User License Agreement (“EULA”) is between the individual consumer or business entity that will use the Software (“You”) and the applicable entity identified in the “Licensor Table” located at www.dell.com/swlicensortable (“Licensor”).

This EULA governs Your use of: (a) the object code version of Dell branded software that is preinstalled on Dell hardware or otherwise provided to You pursuant to a purchase contract, quote, order form, invoice or online procurement process (each, an “Order”); (b) associated software license keys, if any (“License Keys”); (c) updates to such software (“Updates”); (d) the documentation for such software; and (e) all copies of the foregoing (collectively, “Software”). If You accept this EULA, or if You install or use the Software, then You agree to this EULA unless You already have a signed agreement with Dell Marketing L.P. or one of its affiliates (“Dell”) that includes licensing terms that govern Your use of the Software (“Pre-Existing Agreement”). If You accept this EULA or install or use the Software on behalf of a business entity, then You represent that You have authority to take those actions, and this EULA will be binding on that business entity unless the entity already has a Pre-Existing Agreement. If You do not agree to this EULA, do not install or use the Software.

If You are a business entity and You purchase Software from a third party (“Reseller”) who sublicenses the Software to You under the terms of an agreement between You and such Reseller (a “Sublicense Agreement”), then the terms of Your Sublicense Agreement with the Reseller shall govern Your use of the Software and not this EULA. Resellers may only grant rights, and must pass through conditions, consistent with this EULA. Thus, even though Your Sublicense Agreement is between you and the Reseller, by installing or using the Software, You acknowledge and agree that: (a) any license rights in the Sublicense Agreement that are greater than the license rights in this EULA shall not apply; (b) any license conditions in this EULA that are not contained in the Sublicense Agreement apply to You; (c) the limitations of liability set forth in this EULA will apply in favor of Licensor, its affiliates and suppliers despite the existence of a Sublicense Agreement; and (d) Licensor is a third-party beneficiary of the Sublicense Agreement and is entitled to exercise and enforce all of the Reseller’s rights and benefits under that Sublicense Agreement.

If You purchase Software as an individual consumer, nothing in this EULA affects your statutory rights if the laws of your state or country do not permit it to do so.

1. License Grant.

1.1. Right to Use. Subject to and in consideration of your full compliance with the terms and conditions of this EULA, Licensor grants to You a personal, non-exclusive license to use the Software during the

period stated in the applicable Order (if no period is specified, You may use the Software perpetually). If You are an individual consumer, this license grant allows You to use the Software in connection with Your own personal use. If You are a business entity, this license grant allows You to use the Software in connection with the internal business operations of Your entity. In addition, You may make a reasonable number of copies of the Software solely as needed for backup or archival purposes. Additional license terms for certain Software may be included in the Offering Specific Terms Table located at www.dell.com/offeringspecifictterms (“OST Table”), and additional terms for Software that is licensed to You for a limited time (“Subscription Software”) are located at www.delltechnologies.com/subscription_terms (“Subscription Terms”).

1.2. Third Party Use. If You are a business entity, You may allow Your contractors (each, a “Permitted Third Party”) to use the Software solely for the purpose of providing services to You, provided that such use is in compliance with this EULA. You are liable for any breach of this EULA by any Permitted Third Party.

1.3. Rights Reserved. The Software is licensed and not sold. Except for the license expressly granted in this EULA, Licensor, on behalf of itself and its affiliates and suppliers, retains all rights in and to the Software and in all related materials (“Works”). The rights in these Works are valid and protected in all forms, media and technologies existing now or hereafter developed. Any use of Works other than as expressly set forth herein is strictly prohibited.

1.4. Ownership. Licensor, on behalf of itself and its affiliates, retains ownership of the Works and all related intellectual property rights. If Software is provided to You on removable media (e.g., CD, DVD or USB drive), You may own the media on which the Software is recorded.

2. License Conditions.

2.1. You and Your Permitted Third Parties must do the following:

- A. Run the Software only on the hardware for which it was intended to operate, when applicable;
- B. Use License Keys (if applicable) only from Licensor or an authorized Dell License Key provider;
- C. Treat the Software as Dell confidential information;
- D. Use the Software only on as many computers or devices that You purchased, in such configurations permitted by Dell or Licensor, and/or in accordance with the applicable unit of measure, each as may be specified on Your Order. For Software licensed via a unit of measure, the terms and descriptions of each unit of measure are located at www.delltechnologies.com/UOM_terms (“UOM Terms”);
- E. Abide and be responsible for compliance with the export control and economic sanctions laws of the United States, the European Union, and other applicable jurisdictions (collectively, “Applicable Trade Laws”). Software may not be used, sold, leased, exported, imported, re-exported, or transferred except

in compliance with the Applicable Trade Laws. You represent and warrant that You or Your Permitted Third Parties are not the subject or target of, or located in a country or territory that is the subject or target of economic sanctions under the Applicable Trade Laws. For further information about geographical restrictions and compliance with Applicable Trade Laws, visit www.dell.com/tradecompliance; and

F. Comply with all Third Party Terms (as defined in Section 5 below).

2.2. Except as otherwise permitted by this EULA or by mandatory law (meaning a law that the parties cannot change by contract), You must not, and must not allow Your Permitted Third Parties, to do the following:

- A. Modify or remove any proprietary notices or markings on or in the Software;
- B. Transfer License Keys to any other person or entity;
- C. Download Updates from Licensor or an authorized provider unless You have a valid support agreement;
- D. Install Updates on Enterprise Products (e.g., server, networking, storage, integrated solutions, and data protection appliances) that have gone end of service life unless Licensor otherwise agrees in writing;
- E. Install and operate counterfeit versions of Software (i.e. software provided by anyone other than Dell or an authorized representative of Dell) on Dell hardware;
- F. Violate or circumvent any technological use restrictions in the Software;
- G. Sell, loan, rent, lease, sublicense, distribute or encumber (e.g., by lien, security interest, etc.) the Software;
- H. Use any trademarks or service marks of Licensor, its affiliates or suppliers;
- I. Provide access to the Software or allow use by any third party, other than Permitted Third Parties, without Licensor's prior written consent;
- J. Copy, republish, upload, post or transmit the Software in any way;
- K. Modify or create derivative works based upon the Software, or decompile, disassemble, reverse engineer, or otherwise attempt to derive source code from the Software, in whole or in part;
- L. Attack or attempt to undermine the security, integrity, authentication or intended operation of the Software;
- M. Use the Software on a service bureau, rental or managed services basis;
- N. Create or permit others to create Internet "links" to the Software or "frame" or "mirror" the Software on any other server, wireless or Internet-based device;
- O. Use the Software to create a competitive offering;
- P. Use the Software to create other software, products or technologies unless the Software contains Development Tools as described in Section 7;
- Q. Share or publish the results of any benchmarking of the Software without Dell's prior written consent;

R. Use the Software for high risk activities, including without limitation online control systems, or use in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communications systems, air traffic control, life support, weapons systems or in any other device or system in which function or malfunction of the Software could result in death, personal injury or physical or environmental damage;

S. Use the Software for activities related to weapons of mass destruction, including but not limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or support of missile projects, or chemical or biological weapons; and

T. Assign this EULA, or any right or obligation under this EULA, or delegate any performance, without Dell's prior written consent, unless You are transferring the Software in accordance with the Transferability Section 3 below. Even if Dell consents to an assignment, You remain responsible for all obligations under this EULA that You incurred prior to the effective date of the assignment.

3. Transferability. If You are an individual consumer, You may transfer the Software on a permanent basis as part of the sale or transfer of the hardware system on which the Software is loaded, provided that You retain no copies of any version of the Software. If You are a business entity, You may not transfer the Software to another person or entity without the express written permission of Dell, unless allowed by applicable law stating that transfer may not be restricted (note that a transfer fee may be charged by Dell).

4. Compliance Verification. If You are a business entity, You must: (a) maintain and use systems and procedures that allow You to accurately track Your use of the Software; (b) certify to Dell in writing, at Dell's request, that Your use of Software fully complies with this EULA, indicating the number of Software licenses deployed at that time; and (c) cooperate fully and timely with Dell and its auditors if Dell notifies You that it will conduct an audit to confirm Your compliance with this EULA. Any such audit will be conducted during normal business hours. If Dell determines that You have over-deployed Software, You agree to immediately purchase licenses at the then-current list price to bring Your use into compliance. If You over-deployed Software by 5% or more, then You agree to pay the total cost of the audit, in addition to any other liabilities You may have.

5. Third Party Software. "Third Party Software" is software, including open source software, that is contained in or provided with the Software and is licensed by a third party under its own terms of use ("Third Party Terms"). Third Party Software is governed solely by the applicable Third Party Terms and not by this EULA. Third Party Terms may be provided with the Third Party Software or may be included in the OST Table. For certain open source software, the applicable Third Party Terms may entitle You to obtain the corresponding source files. You may find corresponding source files for such open source software at [//opensource.dell.com/](https://opensource.dell.com/) or in the "About" or "Read Me" file of Software, or other locations that Licensor may specify.

6. Free Software. “Free Software” means Software that is provided to You without additional charge (e.g., scripts that enable customer installation; code that enables You to monitor Your use of Dell products; etc.). You may only use Free Software on or with equipment or in the operating environments for which Dell has designed that Free Software to operate. Licensor may terminate any license to Free Software at any time in its sole discretion. You may not transfer Free Software to anyone else.

7. Development Tools. If the Software includes development tools, such as scripting tools, APIs or sample scripts (collectively “Development Tools”), and unless there is a separate agreement between You and Dell or Licensor for the Development Tools, You may use such Development Tools to create new scripts and code for the purpose of customizing Your use of the Software (within the parameters set forth in this EULA and in the Development Tools themselves) and for no other purpose.

8. Evaluation Software. This EULA does not license use of Software for evaluation purposes (“Evaluation Software”) except to the extent these terms may be invoked by the separate license terms and conditions accompanying that Evaluation Software.

9. Support Services Not Included. If You purchase maintenance and support for Software, such services are identified in Your Order and will be provided under a separate services agreement.

10. Termination. For Subscription Software, this EULA automatically terminates at the end of Your subscription period unless You renew Your rights. Licensor may terminate this EULA if You or a Permitted Third Party commits a material breach of this EULA and fails to cure such breach within thirty (30) days following Your receipt of notice of the breach from Dell. This right to terminate applies accordingly if Dell or the Reseller from whom You made Your purchase does not receive timely payment for the licenses to the Software or for the hardware on which the Software is loaded, if any. When this EULA terminates, all licenses granted automatically terminate and You must immediately cease use of the Software and return or destroy all copies of the Software. Except as otherwise agreed by Dell, You will not get a refund from Dell if this EULA is terminated. Rights and obligations under Sections of this EULA that, by their nature should survive, will survive termination, as well as obligations for payment.

11. Warranty Disclaimer. Under this EULA, Licensor provides neither any warranties for the Software nor does it provide support for the Software. Your rights under any warranties and any support entitlements for Software acquired for a fee are solely between You and the Reseller or Dell entity from whom You procured the Software and related support, and are defined under the commercial terms agreed between You and such selling entity. Accordingly, except as otherwise offered by Dell, the Software is provided by Licensor under this EULA “As Is” without any warranties or conditions. To the maximum extent permitted by applicable law, Licensor, on behalf of itself and its affiliates and suppliers: (a) makes no express warranties or conditions related to the Software; (b) disclaims all implied warranties and conditions related to the Software, including merchantability, fitness for a

particular purpose, title, and non-infringement; and (c) disclaims any warranty or condition arising by statute, operation of law, course of dealing or performance, or usage of trade. Licensor does not warrant uninterrupted or error-free operation of the Software. This Section does not affect or modify any of the statutory warranty rights that are available to consumers.

12. Limitation of Liability.

12.1. Limitations on Damages. The limitations, exclusions and disclaimers set forth in a Pre-Existing Agreement or Dell Terms of Sale that applies your Order (in each case, the “Order Terms”) shall apply to all disputes, claims or controversies (whether in contract, tort or otherwise) between You and Licensor or Dell related to or arising out of: (a) this EULA; (b) the breach, termination or validity of this EULA; or (c) any Orders (each, a “Dispute”). In the absence of applicable Order Terms, the terms set forth in this Section shall apply to all Disputes.

The terms of this Section are agreed allocations of risk constituting part of the consideration for Licensor’s licensing of Software to You and will apply even if there is a failure of the essential purpose of any limited remedy, and regardless of whether a party has been advised of the possibility of the liabilities. If applicable law prohibits any portion of the limits on liability stated below, the parties agree that such limitation will be automatically modified, but only to the extent required to make the limitation compliant with applicable law.

A. Limitation on Direct Damages. Except for Your obligation to pay for the Software, or for Your violation of the License Grant and License Conditions set forth herein or of Licensor’s or Dell’s intellectual property rights, the total liability of You and Licensor (including Licensor’s affiliates and suppliers) arising out of any Dispute is limited to the amount You paid for the Software that is the subject of the Dispute, but excluding amounts received as reimbursement of expenses or payment of taxes. Notwithstanding anything otherwise set forth above, Licensor and its affiliates have no liability for any direct damages resulting from Your use or attempted use of Third Party Software, Free Software or Development Tools.

B. Disclaimer of Certain Other Damages. Except for Your obligation to pay for the Software, or for Your violation of the License Grant and License Conditions set forth herein or of Licensor’s or Dell’s intellectual property rights, neither You nor Licensor (including Licensor’s affiliates and suppliers) shall have any liability under this EULA for special, consequential, exemplary, punitive, incidental or indirect damages, or for lost profits, loss of revenue, loss or corruption of data, loss of use or procurement of substitute products or services.

12.2. Regular Backups. You are solely responsible for Your data. You must back up Your data before Licensor or a third party performs any remedial, upgrade or other work on Your production systems. You

acknowledge that it is a best practice to have more than one back up copy of Your data. If applicable law prohibits exclusion of liability for lost data, then Licensor will only be liable for the cost of the typical effort to recover the lost data from Your last available back up.

12.3. Limitation Period. Except as stated in this Section, all claims must be made within the period specified by applicable law. If the law allows the parties to specify a shorter period for bringing claims, or the law does not provide a time at all, then claims must be made within 18 months after the cause of action accrues.

13. Additional Terms.

13.1. Notices. The parties will provide all notices under this EULA in writing. Unless provided otherwise in an Order, You must provide notices to the local Dell entity in Your Order, or, if Your Order is not with a Dell entity, by e-mail to Dell_Legal_Notices@dell.com.

13.2. Waiver and Severability. Failure to enforce a provision of this EULA will not constitute a waiver of that or any other provision of this EULA. If a court of competent jurisdiction determines that any part of this EULA or document that incorporates this EULA by reference is unenforceable, that ruling will not affect the validity of all remaining parts.

13.3. Modifications. This EULA may only be modified in writing signed by both parties; provided, however, that Licensor may, in its sole discretion, update the Licensor Table, the OST Table, the UOM Terms and the Subscription Terms at any time. Any changes that Licensor makes to the Licensor Table, the OST Table, the UOM Terms or the Subscription Terms will only apply to Orders that occur after Licensor posts those changes online.

13.4. Governing Law and Jurisdiction. If You obtained the Software directly from Dell, then the governing law and jurisdiction provisions set forth in Your Order Terms shall apply to this EULA. Otherwise the following shall apply:

A. Subject to Section 13.4 D and 13.5, if You are domiciled in the United States or Canada: (1) this EULA and any Dispute is governed by the laws of the State of Texas (excluding the conflicts of law rules) and the federal laws of the United States; and (2) to the extent permitted by law, the state and federal courts located in Texas will have exclusive jurisdiction for any Dispute. Both parties agree to submit to the personal jurisdiction of the state and federal courts located within Travis or Williamson County, Texas, and agree to waive any and all objections to the exercise of jurisdiction over the parties by those courts and to venue in those courts.

B. Subject to Section 13.4 D, if You are domiciled outside of the United States or Canada: (1) this EULA

and any Dispute is governed by the substantive laws in force in the country in which the Licensor is located (as indicated in the Licensor Table located at www.dell.com/swlicensortable), without regard to its conflict of law rules; and (2) the exclusive place of jurisdiction for any Dispute shall be in such country.

C. In any event, neither the U.N. Convention on Contracts for the International Sale of Goods, nor the Uniform Computer Information Transaction Act shall apply to this EULA or any Dispute.

D. If You are an individual consumer, this Section 13.4 does not deprive You of the protection afforded to You by the provisions of mandatory consumer protections laws that are applicable to You, nor does it prevent you from seeking remedies or enforcing your rights as a consumer under such laws.

13.5. Dispute Resolution and Binding Individual (non-class) Arbitration. Reserved.

13.6. Third Party Rights. Other than as expressly set out in this EULA, this EULA does not create any rights for any person who is not a party to it, and no person who is not a party to this EULA may enforce any of its terms or rely on any exclusion or limitation contained in it.

13.7 Entire Agreement. You acknowledge that You have read this EULA, that You understand it, that You agree to be bound by its terms, and that this EULA, along with the Order Terms into which this EULA may be incorporated (as applicable), is the complete and exclusive statement of the agreement between You and Licensor regarding Your use of the Software. All content referenced in this EULA by hyperlink is incorporated into this EULA in its entirety and is available to You in hardcopy form upon Your request. The pre-printed terms of Your purchase order or any other document that is not issued or signed by Licensor or Dell do not apply to Software. You represent that You did not rely on any representations or statements that do not appear in this EULA when accepting this EULA.

(Dell EULA rev 25OCT2023)