MIDWESTERN HIGHER EDUCATION COMPACT

Vendor: Dell
Contract Number: MHEC-04152022
Primary Solution Area: End User Devices; Infrastructure & Networking; Cloud Solutions
Contract Status: Active
Current Term: April 15, 2022 through June 30, 2029
Lead Public Agency: Midwestern Higher Education Compact (MHEC)
Last Updated: May 2026

MHEC administers competitively solicited cooperative technology agreements that eligible organizations may use, subject to their own statutes, policies, procurement authority, and internal approval requirements.

Contract Highlights and Documentation: https://mhec.org/what-we-do/contracts/technology/dell-technologies/ Laptops, desktops, workstations, deployment, asset management, and support.

MHEC Contact
Nathan Sorensen
Senior Director of Government Contracts
nathans@mhec.org
www.mhec.org
(612) 677-2767

Administrative Notice
This cover page is provided for administrative convenience. It does not amend, modify, interpret, or supersede the executed master agreement, amendments, exhibits, attachments, pricing documents, solicitation documents, or other incorporated contract documents. Each participating organization is responsible for determining its own eligibility, procurement authority, scope fit, funding approval, legal requirements, and local ordering process. If this cover page conflicts with the executed master agreement documents, the executed master agreement documents control.

Docusign Envelope ID: 04EF998B-5BF1-8300-824C-31034B69D838

AMENDMENT #3
MASTER AGREEMENT
BETWEEN
MIDWESTERN HIGHER EDUCATION COMMISSION
AND
DELL MARKETING L.P.
EFFECTIVE APRIL 15, 2022, through JUNE 30, 2029

This Amendment #3 ("Amendment") to the Master Agreement, MHEC-04152022 ("Agreement"), is entered into by the Parties to the Agreement to amend and modify the Agreement by and between the Midwestern Higher Education Commission ("MHEC") and Dell Marketing L.P. ("Dell" or "Supplier"). MHEC and Supplier may be referred to collectively as the "Parties" or individually as a "Party."

WHEREAS, the Parties entered into the Master Agreement dated April 15, 2022; and

WHEREAS, the Parties now desire to amend the Agreement to reflect South Dakota's withdrawal from the Midwestern Higher Education Compact.

Now, therefore:

1. RECITAL AMENDMENT. Effective July 1, 2026, the first recital of the Agreement that identifies the MHEC Member States is hereby deleted in its entirety and replaced with the following:

   "Whereas, the Midwestern Higher Education Compact (Compact) is an interstate compact of eleven Midwestern states, such states being Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, and Wisconsin (Member States); and MHEC, a nonprofit 501(c)(3), is a statutorily created governing body of the Compact established for the purposes, in part, of determining, negotiating and providing quality and affordable services for the Member States, the entities in those Member States, and the citizens residing in those Member States; and"

2. SOUTH DAKOTA ELIGIBILITY. Effective July 1, 2026, as a result of South Dakota's withdrawal from the Midwestern Higher Education Compact, South Dakota shall no longer be considered a MHEC Member State for purposes of the Agreement, and entities located in South Dakota shall not be eligible to initiate new purchases, Orders, purchase orders, Quotes, Statements of Work, Service Level Agreements, Schedules, participating addenda, cooperative usage arrangements, or other purchasing activity under the Agreement.

For avoidance of doubt, any purchase order, executed contract, Order, Quote, Statement of Work, Service Level Agreement, Schedule, or other legally binding agreement fully executed by a South Dakota entity under the Agreement prior to July 1, 2026, may continue through the full term of the applicable agreement, unless otherwise terminated pursuant to the Agreement or the applicable ordering document.

South Dakota entities shall not be eligible to access the Agreement indirectly through resellers, affiliates, other higher education compacts, or third-party purchasing arrangements.

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3. NO OTHER CHANGES. Except as expressly amended by this Amendment #3, the Agreement shall remain unchanged and in full force and effect. In the event of a conflict between the terms found elsewhere in the Agreement and this Amendment #3, this Amendment #3 shall control.

This Amendment #3 is hereby executed by the Parties' authorized representatives set forth below and shall be effective upon the later date of signatures hereto ("Effective Date").

Midwestern Higher Education Commission

Signed by:
Susan Heegaard
F12C8485BF0B4B5...

Signature

Susan Heegaard

Name

President

Title

June 29, 2026 | 2:24 PM PDT

Date

Dell Marketing L.P.

Signed by:
Katherine Castillo
18F85FDBD106464...

Signature

Katherine Castillo

Name

Paralegal Advisor

Title

July 6, 2026 | 8:03 AM CDT

Date

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AMENDMENT #2
MASTER AGREEMENT
BETWEEN
MIDWESTERN HIGHER EDUCATION COMMISSION
AND
DELL MARKETING L.P.
EFFECTIVE APRIL 15, 2022, through JUNE 30, 2029

Whereas, this Amendment #2 ("Amendment") is entered into by and between the Midwestern Higher Education Commission (MHEC) and Dell Marketing L,P. (Dell or Supplier), contract number MHEC-04152022.

Whereas, the parties entered into the Master Agreement dated April 15, 2022 (the Agreement) and the parties now desire to amend the terms of the Agreement.

Now, therefore:

1. Section **8. PAYMENT PROVISIONS B. Return Policy** of the Agreement shall be deleted in its entirety and replaced with the following:

   " B. Return Policy. Subject to Section 8A. of this Master Agreement, all Products and Third-Party Products will be deemed to be accepted upon delivery. Procuring Eligible Organization may only return Products to Dell that are permitted to be returned as set forth in Exhibit B."

2. Section **48. ADMINISTRATIVE REPORTING AND FEES** of the Agreement shall be deleted in its entirety and replaced with the following:

   "48. ADMINISTRATIVE REPORTING AND FEES

   On a calendar-quarterly basis (where quarter one is January 1 – March 31 and the quarter one report is due by April 30), Dell will, in a timely manner, make available to MHEC utilization reports and information generated by this Master Agreement, reflecting net Product and Service sales to Eligible Organizations. The information and reports shall be accompanied with a check payable to the Midwestern Higher Education Commission for an amount equal to one and one quarter percent (1.25%) of the net Product and Service sales for that quarter period (the "Fee"). MHEC may, from time to time, provide a written request to Dell to change the percentage of the Fee; however, such change shall not be effective unless and until both parties have expressly agreed to the revised percentage in writing. Any change in the Fee may also require a change in the Product or Service pricing."

3. **EXHIBIT B. U. S. Return Policy** shall be deleted and replaced with the following attached **Exhibit B**.

   "Exhibit B – U. S. Return Policy"

Except as expressly set forth herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event of a conflict between the terms of this Amendment #2 and the Agreement, the terms of this Amendment #2 shall govern.

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IN WITNESS WHEREOF, the parties have caused this Amendment #2 to be executed by their duly authorized representatives as of the dates set forth below.

Midwestern Higher Education Commission	**Dell Marketing L.P.**
DocuSigned by: Susan Heegaard F12C8486BF0B4B5...	Signed by: Katherine Castillo EF2B3C7C02A446F...
Signature	Signature
Susan Heegaard	Katherine Castillo
Name	Name
President	Paralegal Advisor
Title	Title
June 23, 2025 | 11:20 AM PDT	June 23, 2025 | 11:41 AM CDT
Date	Date

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Exhibit B – U. S. Return Policy

U.S. Return Policy

Direct (applies only to purchases directly from Dell)

Dell values its relationship with you and offers you the option to return most products you purchase directly from Dell. For all purchases not made directly from Dell, please check the return policy of the location from which you purchased your product. Note: If your purchase qualifies for a promotion offered by Dell that extends the return period for a specific product, the return rights and obligations included with the promotion will apply to your purchase.

30 Day Return Period for Certain Products and Accessories: Unless you have a separate agreement with Dell, or except as provided below, all hardware, accessories, peripherals and parts may be returned if requested and approved by Dell within 30 calendar days from the date on the packing slip or invoice for a refund or credit of the purchase price paid. Note that your refund or credit may be reduced by the amount of shipping and handling fees and any applicable restocking fees (as further described below). Any product returned to Dell without prior authorization from Dell will be considered an unauthorized return, and you will not receive a refund or credit for the product and Dell will not ship the product back to you. For instructions about requesting a return, see "How to Return a Product" below. **All approved returns must *be* received by Dell within 30 calendar days of the return approval date otherwise the amount of refund or credit may be reduced or eliminated if the product(s) are returned late**.

Exceptions to Dell's 30-Day Return Period:

Software may not *be* returned at any time, unless the software being returned is:

1. Application software or operating systems installed by Dell on a returnable system which is being returned within the applicable return period; or
2. Media-based software that is unopened and still in its sealed package or, if delivered electronically, software that you have not accepted by clicking to agree to applicable terms.

Additional products not eligible for return at any time:

1. **Dell EMC**-branded products (Dell and non-Dell branded enterprise products, including servers, data storage, data protection, converged infrastructure, hyperconverged infrastructure, and networking products)
2. **Dell Wyse**™ and Wyse-branded products
3. Non-Dell-branded enterprise hardware and software products
4. Customized products
5. Gift Cards (except where required by law)
6. APEX.

- Unless you have specifically agreed otherwise in your written agreement with Dell,

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there is no right of return for software purchased under any type of volume license arrangement.

- Dell reserves the right to deny any returns in circumstances involving repeated returns, violation of the Dell Terms of Sale or other impermissible activity.

Restocking Fees: Unless the product is defective or the return **is** a direct result of a Dell error, Dell may charge a restocking fee of **15%** of the purchase price paid less shipping and handling, plus any applicable sales tax, which would be applied through a total reduced refund or credit.

Promotional Items: If you return a purchased item that qualified you for a discount, promotional item or promotional card (for example, buy a service, get a computer half off; buy a computer, get a free printer; buy a TV, get a promotional gift card) and either (i) do not also return the discounted or promotional item or (ii) have already redeemed the promotional card, Dell may deduct the value of the discount, promotional item or redeemed card from any refund or credit you receive for the return of the purchased item.

How to Return a Product: Before returning a product, you MUST first contact Dell customer service and obtain a Credit Return Authorization (CRA) number before the end of the applicable return period. Dell will not accept returns without a CRA number. To find the appropriate phone number or to send an email to customer service to request a CRA number, go to www.dell.com/contactus or see the "Contacting Dell" or "Getting Help" section of your customer documentation. To initiate a return online, please click here.

NOTE: You MUST follow these steps when returning a product:

- Ship the product to Dell. Please note that all approved returns must be received by Dell within 30 days of the date that Dell issues the return authorization and instructions.
  Ship back all products you are seeking to return to Dell and for which you received a CRA number. For partial returns, your refund or credit may be less than the invoice or individual component price due to bundled or promotional pricing or any unadvertised discounts or concessions.
  Return the products in their original packaging, in as-new condition, along with any media, documentation and any other items that were included in your original shipment.
- For customers returning a TV, the TV must be returned in the original packaging it was received in (including box and protective cushioning). If you do not have the original packaging, you must provide separate packaging.
  For commercial customers, you must ship the products at your expense, and make sure the shipment is insured, or accept the risk of loss or damage during shipment.

Upon receipt of your return, Dell will issue a credit or refund of the purchase price paid, which may be reduced by the amount of shipping and handling fees and any applicable restocking fees subject to this policy.

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Changes to Dell Return Policy: In the event of any conflict between Dell's global return policy and this Exhibit B, the terms of this agreement shall prevail.

Note about operating systems:

Systems configured with an Intel® 8th-generation or later CPU are designed to run optimally with the Microsoft Windows 11 operating system. Removing the factory-installed operating system to run a non-Windows 11 operating system (such as Windows XP or Windows 10) may make the product ineligible for return to Dell for a refund. It also can cause system instability and performance issues that your warranty, support, or service agreements may not cover.

REV. 18JUNE2025

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AMENDMENT #1
MASTER AGREEMENT
BETWEEN
MIDWESTERN HIGHER EDUCATION COMMISSION
AND
DELL MARKETING L.P.
EFFECTIVE APRIL 15, 2022, though JUNE 30, 2029

Whereas, this Amendment #1 ("Amendment") is entered into by and between the Midwestern Higher Education Commission (MHEC) and Dell Marketing L,P. (Dell or Supplier), contract number MHEC-041512022.

Whereas, the parties entered into the Master Agreement dated April 15, 2022 (the Agreement) and the parties now desire to amend the terms of the Agreement.

Now, therefore:

1. Section **1. DEFINITIONS Update.** The definition for **Services** in Section 1 of the Agreement shall be deleted in its entirety and replaced with the following:

"Services: refers to the Services offered by Dell under this Master Agreement for a) End User Computing and Peripherals, b) Device Lifecycle Management, and c) Associated Services including but not limited to: pre-implementation design, installation/de-installation, migration, optimization, maintenance, technical support, training, and IT as a Service (services accessible over the internet). Dell may incorporate changes to their service offering; however, any changes must be within the scope of the End User Computing and Peripherals, Device Lifecycle Management, and Associated Services MHEC-RFP-10282021 award. Examples of these services include but are not limited to the following:

1. Support Services: such as warranty services, maintenance, installation, de-installation, factory integration, (software or equipment components), and recycling/disposal.
2. Training and certification.
3. Professional Services: such as assessments, disaster recovery planning and support, services desk/help desk, software and any other directly related technical support and/or IT related service required for the effective operation of a product offered or supplied.
4. IT-as-a-Service and Cloud related Services: (e.g. APEX Custom Services, Flex on Demand Services, APEX Branded Services, etc.) , refers to the delivery of a variety of hybrid services and applications accessible on demand over the internet whereby the end user pays fees based upon consumption or subscription including but not limited to:
    A. Software-as-a-Service (SaaS): refers to a software delivery method that provides access to software and its functions remotely as a web-based service
    B. Infrastructure-as-a-Service (IaaS): refers to computer infrastructure, such as virtualization, being delivered as a service.
    C. Platform-as-a-Service (PaaS): refers to a computing platform being delivered as a service.

Docusign Envelope ID: 5D702048-F2CD-4854-9C22-027299DC9C96

D. Storage-as-a-Service: refers to a storage model where an entity rents or leases storage space.

E. Disaster Recovery-as-a-Service (DRaaS) refers to backup and restore data services.

F. PC as a Service (PCaaS) – refers to PC technology, software, and PC lifecycle services

5. Managed Services refers to ongoing monitoring, management, provisioning, and optimization of hyper-converged infrastructure systems.

Some Services may require additional contract terms and conditions. Eligible Organizations acquiring on-site Support, on-site Training, Professional, or IT-as-a-Service and Cloud related Services (e.g. APEX Custom Services, Flex on Demand Services, APEX Branded Services, etc.) shall negotiate and enter into separate written agreement with the Supplier, including, as applicable, service level agreements (including any such master agreements for Supplier's various APEX Custom, Flex on Demand Service, and APEX Branded Services offerings; see Exhibits C, D, and F, respectively), statements of work, and other terms and conditions specific to their Purchase Orders under the contract."

2. Section **4. MASTER AGREEMENT TERM** of the Agreement shall be deleted in its entirety and replaced with the following:

"4. MASTER AGREEMENT TERM

This Master Agreement shall be effective on April 15, 2022 and shall remain in effect until June 30, 2029 (Term Ending Date) unless otherwise terminated pursuant to the terms of the Master Agreement. Eligible Participants may procure Products and Services from Supplier under the terms of this Master Agreement at any time during the duration of the Agreement."

3. Section **8. PAYMENT PROVISIONS B. Return Policy** of the Agreement shall be deleted in its entirety and replaced with the following:

" B. Return Policy. Subject to Section 8A. of this Master Agreement, all Products and Third-Party Products will be deemed to be accepted upon delivery. Procuring Eligible Organization may only return Products to Dell that are permitted to be returned are set forth in Exhibit B and at https://www.dell.com/en-us/lp/return-policy "

4. Section **14. SERVICE PRICING E and F** of the Agreement shall be deleted in its entirety and replaced with the following:

"E. Dell may offer a direct or indirect flexible consumption-based models as an alternative flexible payment solution under a separate Subscription Agreement ("SA") with Dell, as provided under Exhibit F. Any flexible payment solutions will be subject to the terms and conditions of the SA only. Eligible Organizations shall negotiate the terms and conditions of such flexible payment-solution with Dell Financial Services L.L.C. ("DFS") directly, including, but not limited to, the SA, any flexible consumption schedule ("Schedule"), and any other documentation that may be required for such transaction. Dell offers state and local governments a variety of consumption-based payment solutions under the SA that are designed to help optimize IT spend and solve business challenges. The Parties recognize that the SA and any Schedule entered into by the

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Parties thereunder are separate and independent agreements between the Eligible Organization and Dell, with the terms thereof constituting the entire agreement for such flexible consumption. To the extent of any conflict or inconsistency between the terms of the SA and the terms of this Agreement, the terms, and conditions of the SA will prevail for consumption-based offerings only. The SA, sample Schedules, and any other documentation that may be applicable are attached as Exhibit F.

F. Any purchase by Procuring Eligible Organizations of IT-as-a-Service is pursuant to the terms of the Dell Services Description accompanying the Services and the Services Acceptable Use Policy, are set forth in Exhibit C."

5. **EXHIBITS** delete all exhibits and replace with the following attached **Exhibits A, B, C, D, E, and F**.

"Exhibit A – Discount Category Pricing

Exhibit B – U. S. Return Policy

Exhibit C – Cloud Service Offerings Agreement, Data Processing Addendum, Acceptable Use Policy

Exhibit D – Dell Offerings – Subscriptions

Exhibit E –Leasing and Finance Information

- Dell Financial Services L.L.C. Master Lease Agreement and Lease Schedules – Public Entity
- Dell Financial Services L.L.S. Master Lease Agreement and Lease Schedules – Private/Commercial Entity
- Pharos Financial Services Master Lease Agreement and Lease Schedules – Public Entity
- Pharos Financial Services Master Lease Agreement and Lease Schedules – Private/Commercial Entity
- Dell Financial Services L.L.C. Payment Agreement – Public Entity
- Dell Financial Services L.L.C. Payment Agreement – Private/Commercial Entity
- Pharos Financial Services Payment Agreement – Public Entity
- Pharos Financial Services Payment Agreement – Private/Commercial Entity
- Dell Financial Service L.L.C. Framework Subscription Agreement and Schedules – Public Entity
- Dell Financial Services L.L.C. Framework Subscription Agreement and Schedules – Private/Commercial Entity
- Dell Financial Services L.L.C Framework Lease Agreement and Lease Schedules – Private/Commercial Entity

Docusign Envelope ID: 5D702048-F2CD-4854-9C22-027299DC9C96

- Pharos Financial Service L.P. Framework Lease Agreement and Lease Schedules – Private/Commercial Entity

Exhibit F – APEX Subscriptions Agreement and APEX Subscriptions Order”

Except as set forth above, the Agreement shall remain as stated. In the event of a conflict between the terms found in the Agreement and this Amendment #1, this Amendment #1 shall control.

This Amendment #1 is hereby executed by the parties’ authorized representatives set forth below, and effective upon the date of signatures hereto (Effect Date)

Midwestern Higher Education Commission	**Dell Marketing L.P.**
DocuSigned by: Susan Heegaard F12C8485BF0B4B5...	Signed by: Katherine Castillo EF2B3C7C02A446F...
Signature	Signature
Susan Heegaard	Katherine Castillo
Name	Name
President	Paralegal Advisor
Title	Title
March 28, 2025 | 1:19 PM PDT	March 28, 2025 | 3:08 PM CDT
Date	Date

MASTER AGREEMENT
BETWEEN
MIDWESTERN HIGHER EDUCATION COMMISSION
AND
DELL MARKETING L.P.
EFFECTIVE APRIL 15, 2022, through JUNE 30, 2025

THIS AGREEMENT, and amendments and supplements thereto, is made between the Midwestern Higher Education Commission (hereinafter MHEC) located at 105 Fifth Avenue South, Suite 450 Minneapolis, MN 55401, for the benefit of the Eligible Organizations located in the MHEC member states, and Dell Marketing L.P., (hereinafter Dell or Supplier) One Dell Way, Round Rock TX, 78682. For purposes of this Master Agreement MHEC and Dell are referred to collectively as the "Parties" or individually as "Party".

Whereas, the Midwestern Higher Education Compact (Compact) is an interstate compact of twelve Midwestern states, such states being Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin (Member States); and MHEC, a nonprofit 501(c) (3), is a statutorily created governing body of the Compact established for the purposes, in part, of determining, negotiating and providing quality and affordable services for the Member States, the entities in those Member States, and the citizens residing in those Member States; and

Whereas, MHEC has established a Technology Initiative for the purpose of which is to determine, negotiate and make available quality and affordable technology products and services to the not-for-profit and public education related entities in the MHEC Member States; and

Whereas, MHEC has entered into separate agreements with the New England Board of Higher Education (NEBHE) and the Southern Regional Education Board (SREB) and the Western Interstate Commission for Higher Education (WICHE) respectively to allow entities in the NEBHE Member States, SREB Member States, and the WICHE Member States access MHEC's Technology Initiative contracts, including this Master Agreement; and

Whereas, NEBHE Member States refers to any state that is a member, or affiliate member of NEBHE. Current NEBHE Member States are: Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island, and Vermont.

Whereas, SREB Member States refers to any state that is a member or an affiliate member of SREB. Current SREB Member States are: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and

Whereas, WICHE Member States refers to any state that is a member or an affiliate member of WICHE. Current WICHE Member States are: Alaska, Arizona, California, Colorado, Hawai'i, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming and U.S. Pacific Territories and Freely Associated States; and

Whereas, Dell offers certain quality technology related products and services; and

Whereas, MHEC conducted a competitive sourcing event for End User Computing and Peripherals, Device Lifecycle Management, and Associated Services MHEC-RFP-10282021, dated October 28, 2021, and upon completion of the competitive process Dell received an award; and

Therefore, in consideration of mutual covenants, conditions, and promises contained herein, MHEC and Dell agree as follows:

1. DEFINITIONS

Resellers: refers to marketing agents, agents or order fulfillers authorized by Dell to provide Products and Services under this Master Agreement. Dell will list Resellers on an internet site accessible to MHEC, its Member States and Eligible

Organizations. Dell will provide to MHEC the general criteria used to authorize agents. At any time during the term of this Master Agreement should MHEC protest the inclusion of a firm on this list pursuant to commercially justifiable cause, Dell may require that firm to undergo re-approval.

Dell branded Products: refers to any information technology Products that are made available under this agreement and are marked with the "Dell" brand, including all standard configurations thereof, but does not include any of the following items: (i) accessories or parts added to the Dell branded hardware products (ii) accessories or parts that are not installed in the Dell factory; or (iv) Third Party Software and Peripheral products.

Documentation: refers to the any documentation made available by Dell to Procuring Eligible Organization relating to any Equipment or Software purchased as well as any manuals relating to the Equipment or Software.

Deliverables: refers to the tangible materials, including reports, studies, base cases, drawings, findings, software, manuals, procedures, and recommendations that Dell delivers to Procuring Eligible Organization under a Statement of Work.

Eligible Organizations: This Master Agreement shall be the framework under which Eligible Organizations can acquire solution offerings consisting as defined in section Products and acquire Services as defined in section Services from Dell. Eligible Organizations shall include:

1. All not-for-profit private and public institutions and/or systems of higher education (colleges, universities, community colleges, technical institutions and equivalent institutions;
2. All K-12 schools and school districts;
3. All city, county, and other local governments; and
4. All state governments and their departments.

Eligible Organizations shall also include all not-for-profit private and public institutions and/or systems of higher education; K-12 schools and districts; city, county, and other local governments; and state governments and their departments located within the following other education Compacts in the country; the New England Board of Higher Education (NEBHE), the Southern Regional Education Board (SREB), and the Western Interstate Commission for Higher Education (WICHE).

Equipment: refers to Dell's full catalog of a) end user computing and peripherals, b) device lifecycle management, and c) associated services made available for sale by Dell to Eligible Organizations under this Master Agreement.

Large Order Negotiated Pricing: refers to the prices or additional discounts that may be offered to specific Eligible Organizations under defined additional terms and conditions. Selection and pricing of large order negotiated pricing shall be by mutual agreement of the Eligible Organization and Supplier. Large Order Negotiated Pricing shall apply only to those items that meet the applicable additional terms and conditions negotiated by Supplier and the Eligible Organization.

Promotional Prices: refers to special prices that may be offered nationally or regionally under this Master Agreement to a specific category of customers intended to include similarly situated public entity and institutional Eligible Organizations for defined time periods and in similar quantities under defined terms and conditions.

Order: refers to an Eligible Organization's purchase order or other ordering document evidencing its intent to procure Products or Services from Supplier under the terms and conditions of this Master Agreement.

Procuring Eligible Organization: refers to an Eligible Organization which desires to purchase under this Master Agreement and has executed an Order.

Products: refers to the full line of information technology Equipment, Software and Documentation Dell makes available under this Master Agreement.

Retail Price List: refers to the Dell's retail price list and is a complete list of Products and Services with the corresponding retail prices for those Products and Services made available for purchase by Eligible Organizations under this Master

Agreement. The Retail Price List contains an item number, item description and the retail price for each Product. Retail Price List is set forth online at http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf and may be modified at any time.

Services: refers to the Services offered by Dell under this Master Agreement for a) End User Computing and Peripherals, b) Device Lifecycle Management, and c) Associated Services including but not limited to: pre-implementation design, installation/de-installation, migration, optimization, maintenance, technical support, training, and IT as a Service (services accessible over the internet). Dell may incorporate changes to their service offering; however, any changes must be within the scope of the End User Computing and Peripherals, Device Lifecycle Management, and Associated Services MHEC-RFP-10282021 award. Examples of these services include but are not limited to the following:

1. Support Services: such as warranty services, maintenance, installation, de-installation, factory integration, (software or equipment components), and recycling/disposal.
2. Training and certification.
3. Professional Services: such as assessments, disaster recovery planning and support, services desk/help desk, software and any other directly related technical support and/or IT related service required for the effective operation of a product offered or supplied.
4. IT-as-a-Service and Cloud related Services: (e.g. APEX Custom Services, Flex on Demand Services, APEX Branded Services, etc.) , refers to the delivery of a variety of hybrid services and applications accessible on demand over the internet whereby the end user pays fees based upon consumption or subscription including but not limited to:
    A. Software-as-a-Service (SaaS): refers to a software delivery method that provides access to software and its functions remotely as a web-based service
    B. Infrastructure-as-a-Service (IaaS): refers to computer infrastructure, such as virtualization, being delivered as a service.
    C. Platform-as-a-Service (PaaS): refers to a computing platform being delivered as a service.
    D. Storage-as-a-Service: refers to a storage model where an entity rents or leases storage space.
    E. Disaster Recovery-as-a-Service (DRaaS) refers to backup and restore data services.
    F. PC as a Service (PCaaS) – refers to PC technology, software, and PC lifecycle services
5. Managed Services refers to ongoing monitoring, management, provisioning, and optimization of hyper-converged infrastructure systems.

Some Services may require additional contract terms and conditions. Eligible Organizations acquiring on-site Support, on-site Training, Professional, or IT-as-a-Service and Cloud related Services (e.g. APEX Custom Services, Flex on Demand Services, APEX Branded Services, etc.) shall negotiate and enter into separate written agreement with the Supplier, including, as applicable, service level agreements (including any such master agreements for Supplier's various APEX Custom, Flex on Demand Service, and APEX Branded Services offerings; see Exhibits C and D, respectively), statements of work, and other terms and conditions specific to their Purchase Orders under the contract.

Software: refers to Dell's full offerings of a) end user computing and peripherals related software, b) device lifecycle management related software, and c) associated services related software made available under this Master Agreement. Software shall mean software, library, utility, tool, or other computer or program code, each in object (binary) code form, as well as the related media, printed materials, online and electronic documentation and any copies thereof. Software shall include updates, upgrades, maintenance releases, revisions, and enhancements to the licensed software. Software may include Software accessed by Eligible Organization through the Internet or other remote means (such as websites,

portals, “hosted” and “cloud-based” solutions). Dell may incorporate changes to their Software offering; however, any changes must be within the scope of the End User Computing and Peripherals, Device Lifecycle Management, and Associated Services MHEC-RFP-10282021 award.

System Software: means Software that provides basic hardware functionality and provides a platform for applications to run (e.g., firmware and BIOS software), and any Software specifically designated by Dell as System Software the purpose of which is to operate and manage the Products in which it is embedded.

Application Software: means computer programs that are designed to perform specialized data processing tasks for the user and any Software specifically designated by Dell as Application Software.

Supplier: refers to Dell or a Reseller.

Third-Party Products: refers to any Equipment (“Third-Party Equipment”) or Software (“Third-Party Software”) other than parts that are Dell branded or originally listed as components of Dell branded Products. Third Party Software is not considered components of Dell branded Products.

Third-Party Services: refers to any Services performed by someone other than Dell or its subcontractors.

2. DUE DILIGENCE

Notwithstanding MHEC’s role in entering into this Master Agreement and any additional efforts by MHEC, Eligible Organization acknowledges and agrees that:

A. Eligible Organization is solely responsible for its own due diligence regarding any Master Agreement;
B. MHEC is not responsible for, and makes no representation or warranty, regarding the appropriateness of any Master Agreement for the Eligible Organization specifically;
C. MHEC has not made any legally binding representations regarding Suppliers Products, or Services and that MHEC does not guarantee or warrant the Products or Services of Supplier; and
D. MHEC is not responsible for the actions or omissions of Supplier.

Issues of interpretation and eligibility for participation are solely within the authority of the procurement and statutory rules and regulations applicable to the Eligible Organization. The Eligible Organization is responsible for assuring it has the authority to place Orders under this Master Agreement.

3. QUANTITY GUARANTEE

This Master Agreement is not a purchase order, nor does it guarantee any purchases to be made by any Eligible Organization. This Master Agreement is not an exclusive agreement. MHEC and Eligible Organizations may obtain information technology products and services from other sources during the term of the Master Agreement.

4. MASTER AGREEMENT TERM

This Master Agreement shall be effective on April 15, 2022 and shall remain in effect until June 30, 2025 (Term Ending Date) unless otherwise terminated pursuant to the terms of the Master Agreement. The Agreement may be mutually renewed for four (4) additional years, unless one party terminates in writing ninety (90) days prior to the Term Ending Date anniversary. Eligible Participants may procure Products and Services from Supplier under the terms of this Master Agreement at any time during the duration of the Agreement or any renewal thereof.

5. ORDER OF PRECEDENT

Where the terms and conditions of this Master Agreement are in conflict with an Eligible Organization’s state and/or institutional laws or regulations, the Eligible Organization and Dell may enter into an addendum to amend the terms and conditions of this Master Agreement to conform to the Eligible Organization’s state and/or institutional laws or regulations. Likewise, a Procuring Eligible Organization and Dell may enter into an addendum to supplement or modify

this Master Agreement for specific Products or Services. The terms and conditions of the addendum shall only be applicable between the Eligible Organization that entered into the addendum and Dell.
In the event of any conflict among these documents, the following order of precedence shall apply:

A. Mutually agreed upon Statement of Work ("SOW") or Service Level Agreement ("SLA");
B. License terms applicable to the software license or software service purchased hereunder;
C. Executed addendum, not to include Purchase Orders, between Eligible Organization and Dell;
D. The terms and conditions of this Master Agreement or any MHEC-Dell addenda to this Master Agreement and its Exhibits; and
E. The list of Products and Services contained in the Order.

6. SCOPE OF WORK

Procuring Eligible Organizations shall purchase from Supplier, and Supplier shall distribute to Procuring Eligible Organizations Products and Services in accordance with the terms of this Master Agreement. All Eligible Organizations are qualified to purchase under this Master Agreement, including those Eligible Organizations currently under a separate agreement with Supplier. Accordingly, Supplier shall provide Products or Services only upon the issuance and acceptance by Supplier of a valid Order. Orders may be issued to purchase any Products, or any Services listed on the Retail Price List. A Procuring Eligible Organization may purchase any quantity of Products or Services listed in Dell's Retail Price List at the prices stated herein. For Large Order Negotiated Pricing, Supplier and Eligible Organization may negotiate quantity discounts below the Products and Services Pricing for a given purchase order. As it sees fit, Supplier may offer under this Master Agreement discounts that result in prices below those listed in the Product and Services Price List. Dell is solely responsible for fulfillment of the responsibilities under the terms and conditions of this Master Agreement. Notwithstanding anything to the contrary contained in this Master Agreement or Order under the Master Agreement, MHEC shall not be liable for any Eligible Organization that executes an Order under this Master Agreement. An Eligible Organization shall not be responsible for any other Eligible Organization that executes its own Order under this Master Agreement.

7. PURCHASING UNDER MASTER AGREEMENT

A. **Products:** Procuring Eligible Organization shall purchase from Supplier the Products listed on the Retail Price List under the terms and conditions of this Master Agreement by delivering to Supplier an Order. The Order should include: (i) Procuring Eligible Organization by name and address; (ii) the quantity, and description of the Product that Procuring Eligible Organization desires to purchase or license; (iii) the price of the Product in accordance with this Master Agreement; (iv) the "bill-to" address; (v) the "ship-to" address; (vi) the requested delivery dates and shipping instructions; (vii) a contact name and telephone number; and (viii) reference to this Master Agreement. Supplier must notify Procuring Eligible Organization if it intends to substitute any item(s) that has been ordered by the Procuring Eligible Organization using this contract; the Procuring Eligible Organization will then have the option to cancel the order if such substitute item is not acceptable.
B. **Services**: Procuring Eligible Organization shall purchase from Supplier the Services listed on the Retail Price List under the terms and conditions of this Master Agreement by delivering to Supplier an Order. The Order should include: (i) Procuring Eligible Organization by name and address; (ii) the description of the Service(s); (iii) the price of the Service in accordance with this Master Agreement; (iv) the "bill-to" address; (v) the requested performance dates; (vi) a contact name and telephone number; and (vii) reference to this Master Agreement.
C. Each Order that is accepted by Supplier will become a part of this Master Agreement as to the Products and/or Services listed on the Order only; no additional terms or conditions will be added to this Master Agreement as a result of the acceptance of the Order, nor will such terms affect any purchase. An Order from an Eligible Organization accepted by Supplier is binding.
D. Procuring Eligible Organization may request in writing a change or cancellation of an Order that Supplier has previously accepted up until the time Supplier has begun manufacturing the Products or preforming the Services.
E. Supplier will accept a purchasing card for order placement in addition to accepting a purchase order. In addition, nothing in this section precludes any agreements for the use of electronic purchase orders and Supplier will

provide electronic commerce assistance to Eligible Organization, if desired, for the electronic submission of purchase orders, purchase order tracking and reporting. The use of any purchasing card or electronic purchase orders may be subject to limitations and/or additional fees set forth by Supplier and agreed to by Procuring Eligible Organization.

F. **Product- and Service-Specific Terms:** Scope and details of Services and Product-specific terms are specified in the applicable standard service description that is attached to or referred in a Schedule or Quote, or is made available through the then-current Supplier website for product- or service-specific terms, currently located at www.dell.com/offeringspecificterms. Such standard descriptions are from time to time referred to as "Service Description(s)", "Product Notices" or "Service Briefs." The version of the applicable document that is effective as of the date of the applicable Quote, shall be deemed incorporated into the Order. Scope and details of customized Professional Services not covered by such a standard description shall be documented in a mutually agreed Statement of Work ("SOW").

G. **Installation:** When Equipment purchased under this Master Agreement requires installation, the Supplier must provide the cost of installation as a separate line item on their quotation unless installation is included in the price. The installation cost must include all packing, freight, insurance, set-up, instruction, and operation manual charges. Equipment must be set in place in an area designated by Procuring Eligible Organization personnel, demonstrated to be in operating condition, and approved by Procuring Eligible Organization personnel. Upon request, Dell will provide a Services quote with a Statement of Work to remove any and all debris from the Procuring Eligible Organization's site. Upon installation, all operating instructions will be provided either physically or electronically to Procuring Eligible Organization's personnel identified on the purchase order.

8. PAYMENT PROVISIONS

A. **Acceptance.** A Procuring Eligible Organization shall determine whether all Products and Services delivered meet the Dell's published specifications. No payment shall be made for any Products or Services until the Eligible Organization has accepted the Products or Services. Unless otherwise agreed upon between the Eligible Organization and Dell, the Eligible Organization shall within fifteen (15) calendar days from the date of delivery, issue a written notice of partial acceptance or rejection of the Products or Services; otherwise, the Products or Services shall be deemed accepted.

B. **Return Policy.** Subject to Section 8A. of this Master Agreement, all Products and Third-Party Products will be deemed to be accepted upon delivery. Procuring Eligible Organization may only return Products to Dell that are permitted to be returned are set forth in Exhibit B and at https://www.dell.com/en-us/work/shop/us-return-policy/cp/us-return-policy.

C. **Payment of Invoice**. Payments shall be delivered to Supplier at the address shown on the invoice. Payments shall be made within thirty (30) days from the date of invoice. In the event that Supplier is required to pursue the collection of past due amounts not subject to a good faith dispute between Supplier and the Procuring Eligible Organization, Supplier will be entitled to recover interest accrued at the lesser of 1.5% per month or in accordance with the applicable state laws of the Procuring Eligible Organization.

D. **Dispute Notice.** Procuring Eligible Organization shall make a good faith effort to notify Supplier of any billing discrepancies or disputes about an invoice within fifteen (15) business days after receiving it, specifying with particularity the basis of any such dispute ("Dispute Notice") or in accordance with the applicable state laws of the Procuring Eligible Organization. Tender of a Dispute Notice does not relieve Procuring Eligible Organization of its obligations to pay the undisputed portion of any invoice subject to a Dispute Notice. Any amounts that were the subject of a Dispute Notice and are subsequently resolved in favor of Supplier will be subject to interest charges accruing from the original due date.

E. **Partial Shipment**. In the event an Order is shipped incomplete (partial), the Procuring Eligible Organization must pay for each shipment as invoiced by Supplier unless the Procuring Eligible Organization has clearly specified "No Partial Shipment" on each purchase order.

F. **Payment of Taxes**. The Prices List under this Master Agreement do not include, and Procuring Eligible Organization shall reimburse Supplier for, any and all taxes and/or duties assessed against or payable by Supplier in connection

with the sale of Products and Services except for taxes imposed upon Supplier's net income. Unless the Procuring Eligible Organization provides a proof of tax exemption, taxes will be additive to the contracted price.

9. REIMBURSEMENTS

Reimbursement for travel and subsistence expenses actually and necessarily incurred by the Supplier in performance of this Master Agreement may be reimbursed with prior written approval from Procuring Eligible Organization's authorized representative. Provided that Supplier shall be reimbursed for travel and subsistence expenses in the same manner and in no greater amount then provided for in the current U. S. General Services Administration "GSA" Per Diem Rates or pursuant to Procuring Eligible Organization reimbursement policies.

10. SHIPPING

Supplier will ship products F.O.B. destination. Title to products shall pass to Procuring Eligible Organization upon delivery to the Procuring Eligible Organizations destination point. Risk of loss or damage to Products shall pass to Procuring Eligible Organization upon delivery to the Procuring Eligible Organization. Supplier shall bear the risk of loss with respect to returned products except for loss or damage directly attributable to the negligence of the Procuring Eligible Organization. Standard 3–5-day ground shipping will be included in the price of the equipment. All Products must be shipped fully configured with the required components unless otherwise specified.

11. PRODUCT DELIVERY

A. Unless otherwise agreed to by Procuring Eligible Organization and Supplier, Supplier agrees to deliver Products to Procuring Eligible Organization within thirty (30) days after receipt of a valid Order. If delivery cannot be made within thirty (30) calendar days, Supplier will notify Procuring Eligible Organization within five (5) business days following Order placement, and Procuring Eligible Organization, as its exclusive remedy, can cancel the order by written, electronic, or facsimile notification. Failure of the Supplier to adhere to delivery schedules as specified or to promptly replace defective Product shall render the Supplier liable for all costs in excess of the contract price when alternate procurement is necessary. Suppliers acknowledge that all locations of any particular Eligible Organization may not be within the MHEC region.

B. If deliveries prove to be unsatisfactory, or other problems arise, MHEC reserves the right to delete Product or Services from this Master Agreement and/or cancel Master Agreement. Similarly, if deliveries prove to be unsatisfactory or other problems arise under the agreement for a Procuring Eligible Organization, the Procuring Eligible Organization retains all of its remedies for a default. Failure of MHEC or the Procuring Eligible Organization to exercise its rights of termination for cause or other remedies for default due to a Supplier's failure to perform as required in any instance shall not constitute a waiver of termination rights or other default remedies in any other instance.

C. Suppliers may choose to deliver Products electronically where practicable. This option must be under the independent control of each Procuring Eligible Organization.

12. PRICE GUARANTEES

With the exclusion of any APEX Custom, Flex on Demand Service, and APEX Branded Services offerings, all Procuring Eligible Organizations shall pay the lowest prices for Products and Services contained in the Suppliers Retail Price List and the corresponding Discount Category Pricing which shall be attached to the Master Agreement as Exhibit A. All Products and Services discounts as set forth in the Discount Category Pricing shall not decrease throughout the term of this Master Agreement. When Eligible Organizations purchase under this Master Agreement, Supplier shall not sell Products or Services to Eligible Organizations at prices higher than those awarded via this Master Agreement. If available, promotional prices, higher discounts, and volume discounts may be offered under this Master Agreement to Procuring Eligible Organization at the time of purchase. Eligible Organizations may inquire from Supplier if such promotions are available. Notwithstanding the above, any price guarantees set forth in this Section 12, shall not apply to any APEX Custom, Flex on Demand Service, and APEX Branded Services offerings unless otherwise agreed to in a separate written agreement by the Supplier and Eligible Organization.

13. PRODUCT PRICING

Dell agrees to maintain Product Pricing in accordance with the following provisions:

A. Retail Price List for all Equipment, Software and Documentation will be set forth at http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf. Changes to retail prices generally take effect immediately, and Dell reserves the right to change retail prices at any time.

B. **Discount Category Pricing.** The prices for Products are the Retail Price List less applicable discount as specified in Exhibit A. Except as set forth in Section 12 "Price Guarantees" or Section 48 "Administrative Reporting and Fees," the discount percentages set forth in Exhibit A shall remain firm during the term of this Master Agreement. Dell shall add new Product(s) to Retail Price List as new Product(s) become available for sale. The pricing for all new Products shall be at the price discount levels provided herein, or as agreed to by the Parties.

C. Dell may revise or discontinue Product offerings at any time without prior notice to MHEC. A change in a Product may occur between the time that Procuring Eligible Organization orders a Product and the time that Dell ships the Product. As a result, Products shipped may display minor differences from the Products Procuring Eligible Organization ordered, but they will meet or exceed all material specifications of the Products Procuring Eligible Organization ordered.

D. Products purchased shall be new, current models manufactured with 100% new OEM parts. All Products should be offered in current production as of the date of the award. For purpose of this Master Agreement, "current production" shall mean that the equipment model is being manufactured as new equipment for the United States market. Dell will delete obsolete and discontinued Products from the Retail Price List on a timely basis.

E. Prices will be F.O.B. destination (interior/ground floor or inside dock), and freight pre-paid and allowed, to any and all locations of the Procuring Eligible Organization. Prices must include all packing, freight, insurance charges and installation/operation manuals.

14. SERVICE PRICING

Dell agrees to maintain the Service Pricing in accordance with the following provisions:

A. For any standard Services, in which the Services and corresponding SKU are on Retail Price List, the pricing will be as described in the Products Section for Category Discount Pricing, and the applicable discount percentage as noted in Exhibit A will apply. Except as set forth in Section 12, "Price Guarantees" or Section 48 "Administrative Reporting and Fees," the discount percentage set forth in Exhibit A shall remain firm for the term of the Master Agreement.

B. For any custom Services that are not included on the Retail Price List, the prices for such Services purchased under this Master Agreement will be as mutually agreed upon by both Dell and Procuring Eligible Organization and as set forth in a Dell quote or an applicable SOW or negotiated agreement.

C. Specific geographic restrictions on the availability of Services must be conveyed to the Procuring Eligible Organization.

D. Dell may offer a direct or indirect leasing and financing programs through Dell Financial Services L.L.C. ("DFS") and/or Pharos Financial Services ("Pharos") as a separate lease or financing offering under either a separate (i) Payment Agreement ("PA"); or (ii) Master Lease Agreement ("MLA") executed with DFS or Pharos . Any Products that are leased or financed through DFS or Pharos are subject to the terms and conditions of the PA or MLA only, copies of which are attached hereto as Exhibit E. Eligible Organizations shall negotiate the terms and conditions of such contracts with DFS or Pharos directly, including, but not limited to, the PA or MLA, any lease schedule ("Schedule"), and any other lease or finance documentation as applicable. DFS and Pharos offer state and local governments a variety of leasing and financing options under its PA and MLA. The Parties recognize that the PA, MLA, and any corresponding Schedule(s) entered into by the Parties thereunder are separate and independent agreements between the Eligible Organization and DFS or Pharos as applicable, with the terms thereof constituting the entire agreement for such leasing or financing. To the extent of any conflict or inconsistency between the terms of the PA or MLA and the terms of this Agreement, the terms and conditions of the PA or MLA will prevail for any such lease or finance purchases only. For the purposes of this Agreement,

it is noted that DFS and Pharos are separate and distinct entities. The PA, MLA, Schedules, and other leasing and financing documentation as applicable are attached as Exhibit E.

E. Dell may offer a direct or indirect flexible consumption-based models as an alternative flexible payment solution under a separate Master Flexible Consumption Agreement ("MFCA") with Dell. Any flexible payment solutions will be subject to the terms and conditions of the MFCA only, a copy of which is attached hereto as Exhibit F. Eligible Organizations shall negotiate the terms and conditions of such flexible payment-solution with Dell Financial Services L.L.C. ("DFS") directly, including, but not limited to, the MFCA, any flexible consumption schedule ("Schedule"), and any other documentation that may be required for such transaction. Dell offers state and local governments a variety of consumption-based payment solutions under the MFCA that are designed to help optimize IT spend and solve business challenges. The Parties recognize that the MFCA and any Schedule entered into by the Parties thereunder are separate and independent agreements between the Eligible Organization and Dell, with the terms thereof constituting the entire agreement for such flexible consumption. To the extent of any conflict or inconsistency between the terms of the MFCA and the terms of this Agreement, the terms, and conditions of the MFCA will prevail for consumption-based offerings only. The MFCA, sample Schedules, and any other documentation that may be applicable are attached as Exhibit F.

F. Any purchase by Procuring Eligible Organizations of IT-as-a-Service is pursuant to the terms of the Dell Services Description accompanying the Services and the Services Acceptable Use Policy, are set forth in Exhibit C - APEX Agreement.

15. LICENSE AND PROPRIEERY RIGHTS

The terms applicable to any software are in its license agreement, included with the Software media packaging, or presented to Procuring Eligible Organization during the installation or use of the Software. For Dell branded System Software, Procuring Eligible Organization's rights to use the Software delivered by Supplier are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula (the "EULA") shall apply. Notwithstanding anything to the contrary in the EULA, as between Eligible Organization and Supplier, this EULA shall be governed and construed in accordance with the laws of the state where the Eligible Organization resides. Dell will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment. If a separate license agreement exists between Procuring Eligible Organization and the manufacturer or the owner of the Software, that license agreement will control and will apply according to its terms and conditions.

16. PROPRIETARY RIGHTS

All right, title, and interest in and to the intellectual property (including all copyrights, patents, trademarks, trade secrets, and trade dress) embodied in the Software, Products, Deliverables and all content and other items included with or as part of the Products, Services, Software, or Deliverables, such as text, graphics, logos, button icons, images, audio clips, information, data, feedback, photographs, graphs, videos, typefaces, music, sounds, and software, as well as the methods by which any Services are performed and the processes that make up the Services, shall belong solely and exclusively to Supplier or its suppliers or licensors, and Procuring Eligible Organization shall have no rights whatsoever in any of the above, except as expressly granted in this this Master Agreement.

17. WARRANTIES

Unless otherwise expressly provided, Products or Services provided by the Supplier shall be warranted for a minimum period provided in the next preceding paragraphs.

A. **Equipment Warranty.** Supplier warrants that Equipment, under normal usage and with regular recommended service, will be free from material defects in material and workmanship, and that Equipment will perform substantially in accordance with the corresponding standard documentation issued by Supplier for the applicable Equipment. Unless

provided otherwise in a Schedule, additional terms governing the limited warranties for Equipment are found at https://www.dell.com/learn/us/en/uscorp1/terms-of-sale-commercial-and-public-sectorwarranties?c=us&l=en&s=corp or in the applicable documentation or Product Notice for the specific Equipment. Supplier's entire liability for a breach of this warranty shall be for Supplier, at its option and cost, to repair or to replace the affected Equipment, and, if Supplier is unable to effect such within a reasonable time, then Supplier will refund the amount Procuring Eligible Organization paid for the affected Equipment as depreciated on a straight-line basis over a 5-year period, upon return of such Equipment to Supplier.

B. **Software Warranty.** The following terms apply to the specific Software ("Warranted Software") listed in the table located at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manualwarranty-informations/h4276-emc-prod-warranty-maint-table.pdf (the "Software Warranty Table"). Supplier warrants that Warranted Software will substantially conform in all material respects to its then current documentation during the applicable warranty period specified in the Software Warranty Table (the "Software Warranty Period"). Any breach of this warranty must be reported to Supplier during the Software Warranty Period. Procuring Eligible Organization's sole and exclusive remedy and Supplier's entire liability for a breach of this warranty is for Supplier, at its sole discretion, to either use commercially reasonable efforts to remedy the non-conformance or to terminate the license for the affected Software and provide a pro-rata refund of the license fees received by Supplier for such Software.

C. **Services Warranty.** Supplier will perform Services in a workmanlike manner in accordance with generally accepted industry standards. Procuring Eligible Organization must notify Supplier of any failure to so perform within 10 days after the date on which such failure first occurs. In such case, Supplier will use reasonable efforts to correct such failure within a reasonable period of time. If, after reasonable efforts, Supplier is not able to correct such deficiencies for reasons for which Supplier is responsible, then Procuring Eligible Organization may terminate the affected Services for cause by providing written notice to Supplier.

D. **Limitations.** The warranties set forth in this Section 17 do not cover problems that arise from: (i) accident or neglect by Procuring Eligible Organization or any third party; (ii) any third party items or services with which the Product is used or other causes beyond Supplier's control; (iii) installation, operation or use not in accordance with Supplier's instructions and the applicable documentation; (iv) use in an environment, in a manner or for a purpose for which the Product was not designed; (v) modification, alteration or repair by anyone other than Supplier personnel or (vi) causes attributable to normal wear and tear. Supplier has no obligation for: (1) Software installed or used beyond the licensed use, or (2) Product whose original identification marks have been altered or removed. 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 to death, bodily injury, or physical or property damage (collectively, "High-Risk Activities"). Supplier expressly disclaims any express or implied warranty of fitness for High-Risk Activities.

E. **Warranty Disclaimer.** Other than the warranties set forth in this Section 17 and the Schedules, and to the maximum extent permitted by applicable law, Supplier and Supplier Affiliates: (i) make no other express warranties; (ii) disclaim all implied warranties, including merchantability, fitness for a particular purpose, non-infringement; and (iii) disclaim any warranty arising by statute, operation of law, course of dealing or performance or usage of trade.

F. **Third-Party Products and Services Warranties.** Dell does not warrant Third-Party Products or Services. Any warranty provided on Third-Party Product(s) or Service(s) is provided by the publisher, original manufacturer, or service provider and may vary from product to product or service to service. Such warranties shall be provided to the Procuring Eligible Organization with the Third-Party Products and Services.

G. **Transfer of Title.** Dell warrants that Procuring Eligible Organization shall acquire good and clear title to Dell-branded Products being purchased under this Master Agreement, free and clear of all liens and encumbrances. For any non-Dell branded Products, Dell warrants that it has the right to provide such Products to the Procuring Eligible Organization.

18. TERMINATION

A. At any time MHEC may terminate this Master Agreement, in whole or in part, by giving Dell ninety (90) days written notice; provided however, neither MHEC nor Eligible Organization has the right to terminate a specific Order for

convenience after the Product has begun production or been shipped for such Products that don't require production. At any time, Dell may terminate this Master Agreement, in whole or in part, by giving MHEC ninety (90) days written notice. Such termination shall not relieve Dell of any warranty or other service obligations incurred under the terms of this Master Agreement.

B. Either Party may terminate this Master Agreement for cause based upon material breach of the Master Agreement by the other Party, provided that the non-breaching Party shall give the breaching Party written notice specifying the breach and shall afford the breaching Party a reasonable opportunity to correct the breach. If within thirty {30) days after receipt of a written notice the breaching Party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun, and proceeded in good faith to correct the breach, the nonbreaching Party may declare the breaching Party in default and terminate the agreement effective immediately. The non-breaching party shall retain any and all remedies available to it under the law.
C. In the event that either Party be adjudged insolvent or bankrupt by a court of competent jurisdiction, or upon the institution of any proceedings by or against it seeking relief, reorganization or arrangement under any laws relating to insolvency, or upon any assignment for the benefit of creditors, or upon the appointment of a receiver or trustee of any of its property or assets, or upon the liquidation, dissolution or winding up of its business, then and in any such event this Master Agreement may immediately be terminated or cancelled by the other Party hereto.
D. In the event this Master Agreement expires or is terminated for any reason, a Procuring Eligible Organization shall retain its rights in all Product and Services accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.
E. Procuring Eligible Organization or Dell may terminate an Order under this Master Agreement for cause based upon material breach of the Order or Master Agreement by the other, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within 30 days after receipt of a written notice the breaching party has not corrected the breach, or in the case of a breach that cannot be corrected in 30 days, begun, and proceeded in good faith to correct the breach, the non-breaching party may terminate the Order effective immediately. The non-breaching party shall retain any and all remedies available to it under the law. A breach and any resulting termination of an Order under this Section 18 E shall have no effect on any other Order made by any other Eligible Organization.

19. NON-APPROPREATIONS

This provision applies only to publicly funded Eligible Organizations. The terms of this Master Agreement and any Order issued for multiple years under this Master Agreement is contingent upon sufficient appropriations being made by the legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Master Agreement or in any purchase order or other document, Procuring Eligible Organization may terminate its obligations under this Master Agreement if sufficient appropriations are not made by the governing entity to pay amounts due for multiple year agreements. The Procuring Eligible Organization's decision as to whether sufficient appropriations are available shall be accepted by Dell and shall be final and binding. A Procuring Eligible Organization shall provide sixty (60) days' notice, if possible, of its intent to terminate this contract for non-appropriation. The Procuring Eligible Organization shall send to Dell a notice of its Governing Body's decision not to appropriate funds for the installment sale payments for the subsequent fiscal year. Such termination shall relieve the Procuring Eligible Organization, its officers and employees from any responsibility or liability for the payment of any future Orders. However, all outstanding invoices from Dell will be paid by the Procuring Eligible Organization.

20. PATENT, COPYRIGHT, TRADEMARK AND TRADE SECRET INDEMNIFICATION

Supplier will indemnify, defend, and hold MHEC and Eligible Organization harmless from any third-party claim that any Supplier-branded Product or Service provided to Eligible Organization pursuant to this Master Agreement infringes on another person's or entity's United States patent, copyright, trade secret or any other proprietary right of a third party. Supplier will have no obligation under this section with respect to any Claim of infringement resulting from (a) Services performed, or Product provided, pursuant to Eligible Organization's specification or design; (b) an Eligible Organization's unauthorized modification of a Product; or (c) any combination, operation, or use of the Product with systems other than

those provided by Supplier to the extent that such a Claim is caused by such modification, combination, operation, or use of the Product. Following notice of a Claim or a threat of actual suit, Supplier will, at its own expense and option, (1) resolve the claim in a way that permits continued ownership and use of the affected Product or Service; (2) provide a comparable replacement at no cost; or (3) in the case of a Product accept return of the Product, freight collect, and provide a reasonable depreciated refund and in the case of a Service, provide a refund less a reasonable adjustment for beneficial use, but in no event shall refund of Product or Service relieve Supplier from its obligations to defend and indemnify MHEC and Eligible Organizations.

21. INDEMNIFAICATION

Supplier will indemnify, protect, save and hold harmless MHEC and Eligible Organizations, as well as the representatives, agents and employees of MHEC and Eligible Organizations, from any and all third party claims or causes of action related to a claim of personal injury or damage to tangible property, including all reasonable attorneys' fees incurred by MHEC and/or Eligible Organizations, directly arising from intentionally wrongful actions or omissions or the negligent performance of the Master Agreement by Supplier, Supplier's agents, employees, or subcontractors. MHEC and/or Eligible Organization shall give Supplier written notice, by registered mail, promptly after it becomes aware of any claim to be indemnified hereunder. For state entities, Supplier will coordinate with state's attorney general as required by state law. Supplier will control the defense of any such claim or action at Supplier's own expense. MHEC and/or Eligible Organization agree that Supplier may employ attorneys of its own choice to appear and defend the claim or action and that MHEC and/or Eligible Organization shall do nothing to compromise the defense of such claim or action or any settlement thereof and shall provide Supplier with all reasonable assistance that Supplier may require

22. LIMITATION OF LIABILITY

Supplier shall not be liable to MHEC or any individual Eligible Organization for any direct damages in excess of $500,000 or the price of the Product(s) or Service(s) purchased per Order subject to such claim, whichever is greater. The foregoing limitation does not apply to any indemnification obligations under this Master Agreement or to damages resulting from personal injury or tangible property damage caused by Supplier's negligence or willful misconduct. NEITHER SUPPLIER, MHEC NOR ANY ELIGIBLE ORGANIZATION SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATING TO THIS MASTER AGREEMENT, WHETHER THE CLAIM ALLEGES TORTUOUS CONDUCT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY. SUPPLIER IS NOT RESPONSIBLE FOR LOSS OF OR RECOVERY OF DATA, PROGRAMS, OR LOSS OF USE OF SYSTEM(S) OR NETWORK OR EXCEPT AS SET FORTH IN THIS AGREEMENT, THE PROCUREMENT OF SUBSTITUTE PRODUCTS, SOFTWARE OR SERVICES.

THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, OR OTHERWISE, TO THE EXTENT PERMITTED BY APPLICABLE LAW. INSOFAR AS APPLICABLE LAW PROHIBITS ANY LIMITATION ON LIABILITY HEREIN, THE PARTIES AGREE THAT SUCH LIMITATION WILL BE AUTOMATICALLY MODIFIED, BUT ONLY TO THE EXTENT SO AS TO MAKE THE LIMITATION COMPLIANT WITH APPLICABLE LAW. THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR SUPPLIER PROVIDING PRODUCTS, SOFTWARE, OR SERVICES TO PROCURING ELIGIBLE ORGANIZATION, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

23. BACKGROUND CHECKS

At the sole discretion of the Eligible Organizations, Supplier may be requested to provide user background checks, depending on the information systems Supplier accesses or types of data Eligible Organization provides. Supplier then must submit the required background check information to Eligible Organization in a timely manner. Supplier will perform background investigations within the scope of the Suppliers current standard policies and practices for any Supplier employees or subcontractors entering upon an Eligible Organization premise, where legally acceptable and culturally permissible.

24. INSURANCE

Supplier will maintain the following insurance limits while performing any services under this Agreement: (a) Workers' Compensation Insurance for Contractor employees, including coverage required under the State's and Federal Laws; (b) Employer's Liability Insurance with limits of a minimum of: (i) $1,000,000 for each accident for bodily injury by accident, (ii) $1,000,000 for bodily injury by disease, and (iii) $1,000,000 for each employee for bodily injury by disease; (c) General Liability Insurance with limits of: (i) $1,000,000 per occurrence for bodily injury and property damage and shall provide proof of insurance to Eligible Organizations if requested. Eligible Organizations may require additional coverage consistent with applicable law, regulation, or policy. Supplier shall give MHEC and the procuring Eligible Organization a minimum of ten (10) days' notice prior to cancellation of policies.

25. CONFIDENTIALITY

As an instrumentality of state government, MHEC is subject to Public Record laws. As such, any provision that requires the terms of the contract, or specific information obtained during the term of the contract, to be kept confidential must be removed or modified to include "to the extent permitted by the law of relevant state." At a minimum, similar modifications may be required for public Eligible Organizations.

A. While Dell is providing Services hereunder, Eligible Organization or Dell may disclose to the other certain business information identified as confidential ("Confidential Information"). All such information shall be marked or otherwise designated as "Confidential" or "Proprietary". In order for such information to be considered Confidential Information pursuant to this Section 25 of the Master Agreement, it must conform to the data practices laws or similar type laws of the State in which the Eligible Organization is located or was founded. Information of a proprietary nature which is disclosed orally to the other party shall not be treated as Confidential Information unless it is stated at the time of such oral disclosure that such information is Confidential Information and such information is reduced to writing and confirmed as Confidential Information to the recipient within ten (10) days after oral disclosure. Both Eligible Organization and Dell agree that, with respect to Confidential Information it receives (as "Recipient") from the other (as a "Discloser") in connection with this Master Agreement or an Order pursuant to this Master Agreement, that it (i) will use such Confidential Information solely for the purposes contemplated by the Master Agreement or an Order placed under this Master Agreement, (ii) shall not use any such Confidential Information for any other purpose and in particular shall not so use such Confidential Information in any manner either to the detriment of the Discloser or for the benefit of the Recipient or any third party, and (iii) shall receive and hold such Confidential Information in trust and confidence for the benefit of the Discloser

B. Each Party will make reasonable efforts not to disclose the other Party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (i) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the non-disclosing party; (ii) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidential Information shall remain the property of and be returned to the Disclosure (along with all copies or other embodiments thereof) within fifteen (15) days of (a) the termination or completion of the Order under this Master Agreement, or (b) the earlier receipt by the Recipient from the Discloser of a written demand following a breach by Eligible Organization or Dell of this Master Agreement or an Order under this Master Agreement directing that Confidential Information described generally or specifically in such demand be returned to the Discloser.

C. In such cases where Confidential Information is required to be disclosed to a third party for purposes of providing Services, all disclosure of Confidential Information will be in accordance with the separate nondisclosure agreement between Dell and the third party.

D. If a separate, written nondisclosure agreement exists between Eligible Organization and Dell, that agreement will control and will apply according to its terms and conditions to all Confidential Information the parties exchange with each other.
E. Notwithstanding anything to the contrary in this Agreement or amendment to this Master Agreement, both Eligible Organization and Dell agree to comply with the data practices or similar type laws of the State in which Eligible Participant is located or founded, to the extent applicable to the scope of services performed by Supplier.

26. USE OF FEDERAL CONTRACTS OR GRANTS

Where Federal Contracts or Grants provide funding to Eligible Organizations, it is the responsibility of the Supplier and the Eligible Organization to comply with all Federal Acquisition Regulations (FAR) applicable laws and regulations applicable to Supplier's performance under this Master Agreement by completing any applicable certifications and disclosures. When Federal Contract or Grant funds are used by Procuring Eligible Organization purchases under this Agreement, which exceed $25,000, certification must be provided in writing that the Supplier is not debarred, suspended, or proposed for debarment by the Federal Government.

27. COMPLIANCE WITH APPLICABLE LAWS

(a) Supplier warrants that both in submission of its proposal and performance of any resultant contract that Supplier shall comply with federal laws, rules and regulations applicable to Subcontractors of government contracts including those relating to equal employment opportunity and affirmative action in the employment of minorities (Executive Order 11246), women (Executive Order 11375), persons with disabilities (29 USC 706 and Executive Order 11758), and certain veterans (38 USC 4212 formerly [2012]) contracting with business concerns with small disadvantaged business concerns (Publication L. 95-507). Contract clauses required by the Government in such circumstances are incorporated into any resulting agreement by reference. (b) Supplier warrants and agrees to abide by all applicable federal and state laws, regulations and Executive Orders pertaining to equal opportunity. In accordance with such laws, regulations, and executive orders, Supplier agrees that it does not discriminate on the grounds of race, color, religion, national origin, sex, age, veteran status, or handicap. If Supplier is found to be not in compliance with applicable Federal or state requirements during the life of the Master Agreement, Supplier agrees to take appropriate steps to correct these deficiencies. (c) Supplier warrants that both in submission of its proposal and performance of any resultant contract that Supplier will comply with all applicable federal, state, and local laws, regulations, rules, and/or ordinances.

Dell shall comply with all applicable laws and governmental regulations, which by their terms, apply to Dell performance under an Order pursuant to this Master Agreement. Eligible Organization agrees to comply with all applicable laws and governmental regulations in connection with this Master Agreement. MHEC agrees to comply with all applicable laws and governmental regulations in connection with this Agreement.

28. NON-DISCRIMINATION

Supplier agrees to abide by all applicable Federal and state laws, regulations, and executive orders pertaining to equal employment opportunity. In accordance with such laws, regulations, and executive orders pertaining to equal employment opportunity, Supplier and all its Subcontractors shall agree that it does not discriminate on the grounds of race, color, religion, national origin, sex, age, disability, genetic information, or veteran status. Supplier shall comply with federal and state laws, rules, and regulations applicable to Subcontractors of government contracts including those relating to equal employment of minorities, women, persons with disabilities, and certain veterans. Contract clauses required by the United Sates Government in such circumstances are incorporated herein by reference.

29. FERPA AND OTHER PRIVACY LAWS

Where applicable to the scope of Services Supplier is providing, and only to the extent directly applicable to Supplier and its Services, Supplier agrees to comply with the Family Education Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPPA), the Gramm-Leach Bliley Act (GLBA) and all other applicable state and federal privacy laws to the extent applicable to any product or service provided to Eligible Organizations. To the extent an Eligible

Organization discloses any information to Supplier subject to the aforementioned privacy laws, Eligible Organization agrees to advise Supplier of the disclosure of such information; and Eligible Organization represents and warrants to Supplier that it has obtained any required consents to disclose such information. In addition, to the extent that Supplier becomes a Business Associate as defined in HIPAA, both Supplier and Eligible Organization acknowledge that a separate mutually agreeable Business Associate Agreement may be required and will govern according to its terms.

With regard to FERPA, for purposes of this Agreement, Supplier is a contractor or outside service provider with whom the Procuring Eligible Organization has outsourced institutional services or functions that it would otherwise use employees to perform. For purposes of FERPA, the Procuring Eligible Organization has determined that Supplier, and its employees acting in the course of their employment under this Master Agreement, is a school official with a legitimate educational interest in obtaining access to education records and will only provide Supplier with access to those particular education records in which Supplier has a legitimate educational interest. Further, the Procuring Eligible Organization represents and warrants that it has obtained any required consents to disclose such records to Supplier and the Procuring Eligible Organization represents and warrants that it has or will make all required notifications required to disclose such records to Supplier. Supplier shall be under the direct control of the Procuring Eligible Organization with respect to its maintenance and use of personally identifiable information from education records provided under this Master Agreement. Supplier shall not further disclose any personally identifiable information from education records to any third party unless that third party likewise has a legitimate educational interest in obtaining access to education records and unless authorized to so further disclose by the Procuring Eligible Organization. For purposes of this Agreement, the Procuring Eligible Organization has determined that those Supplier contractors performing institutional services or functions that the Procuring Eligible Organization would otherwise use employees to perform shall have such legitimate educational interest in instances where contractor requires access to education records in order to fulfill its responsibilities under this Master Agreement. Such access shall be limited to the specific educational records necessary for the performance of services and in such instances, contractor shall have the same obligations pursuant to this section as Supplier and Supplier shall inform said contractors of its obligations. Supplier agrees to hold non-public information that is subject to FERPA requirements, which may include personally identifiable information, in strict confidence and agrees to implement and maintain safeguards to protect the security, confidentially and integrity of any such non-public personal information it receives from Procuring Eligible Organizations. Suppliers shall not disclose such non-public personal information received from or on behalf of Procuring Eligible Organization except as permitted or required by this Master Agreement or addendum, as required by law, or otherwise authorized in writing by Procuring Eligible Organization.

30. ACCESSIBILITY

Supplier agrees to comply with all applicable requirements of the Rehabilitation Act of 1973, as amended, 29 USC 794, including Sections 504 and 508, which prohibits discrimination on the basis of disabilities, and with the Americans with Disabilities Act of 1990 ("ADA"), as amended, 42 USC 12101 et seq., which requires the provision of accessible facilities and services. Goods and services provided by Supplier shall be accessible to individuals with disabilities to the greatest extent practical, but in no event less than the standards set forth by the state in which the Eligible Organization resides and federal accessibility laws. For web-based environments, services and content must conform to the Web Content Accessibility Guidelines ("WCAG") 2.0 AA (available at http://www.w3.org/WAI/intro/wcag.php).

31. DATA OWNERSHIP

Eligible Organization's data shall remain the exclusive property of Eligible Organization and Eligible Organization shall retain all rights, including intellectual property rights in and to such data. Supplier will use Eligible Organization's data only for the purpose of fulfilling its duties under the Master Agreement or an Order under the Master Agreement, and for Eligible Organization's sole benefit, and will not share such data with or disclose it to any third party without the prior written consent of Eligible Organization or as otherwise required by law.

32. ARBITRATION

MHEC shall reject arbitration clauses in any Master Agreement or license. That does not mean MHEC is unwilling to resolve disputes amicably. However, as an instrumentally of state government, if MHEC or Eligible Organization waives a right, such as the right to trail, it is waiving the public's right.

33. DEBARMENT AND SUSPENSION

Supplier represents and certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction (contract), by any government department or agency. If the Supplier cannot certify this statement, such Supplier must submit a written explanation. Furthermore, Supplier shall provide notice to MHEC if it becomes debarred or suspended at any point during the duration of this Master Agreement.

34. RECORDS AND AUDIT

Supplier agrees to maintain records directly related to the Orders, Invoices and Purchase Orders under this Master Agreement for a period of three (3) years or such term as required by applicable law from the date of receipt of final payment after termination of the Master Agreement. These records shall be subject to inspection, which maybe initiated no more than twice annually, at an agreed upon time and location, with reasonable advance notice, by Procuring Eligible Organization and appropriate governmental authorities within Procuring Eligible Organization's state. The Procuring Eligible Organization shall have the right to request copies of invoices either before or after payment. Payment under this Master Agreement shall not foreclose the right of the Procuring Eligible Organization to recover excessive or illegal payments.

35. FORCE MAJEURE

Neither Supplier nor MHEC nor Procuring Eligible Organization shall be liable to each other during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; epidemic; strike or other labor dispute; riot; piracy or other misadventure of the sea; embargo; inability to secure materials and or transportation; or, a restriction imposed by legislation, an order or a rule or regulation of a governmental entity. If such a circumstance occurs, the party unable to perform shall undertake reasonable action to notify the other parties of the same.

36. COMPLIANCE WITH LAWS AND EXPORT

Compliance with Laws. Procuring Eligible Organization and Supplier agree to comply with all laws and regulations applicable to such party in the course of performance of its obligations under this Master Agreement. Procuring Eligible Organization acknowledges that the Products, Software and Services provided under this Agreement, which may include technology, authentication and encryption, are subject to the customs and export control laws and regulations of the United States ("U.S."); may be rendered or performed either in the U.S., in countries outside the U.S., or outside of the borders of the country in which Procuring Eligible Organization or its systems are located; and may also be subject to the customs and export laws and regulations of the country in which the Products, Software and Services is rendered or received. Each party agrees to abide by those laws and regulations applicable to such party in the course of performance of its obligations under this Agreement. Procuring Eligible Organization also may be subject to import or re-export restrictions in the event Procuring Eligible Organization transfers the Products, Software or Deliverables from the country of delivery and Procuring Eligible Organization is responsible for complying with applicable restrictions. If any software provided by Procuring Eligible Organization and used as part of the Products, Software and/or Services contains encryption, then Procuring Eligible Organization agrees to provide Supplier with all of the information needed for Supplier to obtain export licenses from the U.S. Government or any other applicable national government and to provide Supplier with such additional assistance as may be necessary to obtain such licenses. Notwithstanding the foregoing, Procuring Eligible Organization is solely responsible for obtaining any necessary permissions relating to software that it exports. Supplier also may require export certifications from Procuring Eligible.

Organization for Procuring. Eligible Organization-provided software. Supplier's acceptance of any order for Products, Software and Services is contingent upon the issuance of any applicable export license required by the U.S. Government or any other applicable national government. Supplier Is not liable for delays or, failure to deliver Products, Software or Services resulting from Procuring Eligible Organization's failure to obtain such license or to provide such certification.

Regulatory Requirements. Supplier is not responsible for determining whether any Third-Party Product to be used in the Products, Software and Services satisfies the local: regulatory requirements of the country to which such Products, Software and Services are to be delivered performed, and Supplier shall not be obligated to provide any Products, Software and Services, where the resulting Products, Software, and Services is prohibited by law or does not satisfy the local regulatory requirements.

Excluded Data. Procuring Eligible Organization acknowledges that no part of the Products, Software, and Services is designed with security and access management for the processing "and/or storage of the following categories of date: (1) data that is classified and/or used on: the US, Munitions list, including software and technical data; (2) articles, services and related technical. data designated as defense articles and defense: services; (3) ITAR {international Traffic in Arms: 'Regulations) related data; and (4) except for personally identifiable information referenced in to Section 25 (Confidentiality) and Section 29 (FERPA) , personally identifiable information that is subject to heightened security requirements as a result of Procuring Eligible Organization's internal policies or practices, industry-specific standards or by law, (collectively referred to as "Excluded Data'). Procuring Eligible Organization hereby agrees that Procuring Eligible Organization is solely responsible for reviewing data that it will provide to Supplier for to which Supplier will have access to ensure that it does not contain Excluded Data.

37. CONFLICT OF INTEREST

Supplier warrants to the best of its knowledge and belief that it presently has no interest direct or indirect, which would give rise to organizational conflicts of interest. Supplier agrees that if an organizational conflict of interest is discovered during the term of this Master Agreement, it will provide disclosure to MHEC that shall include a description of the action Supplier has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist and is not timely resolved by Supplier, MHEC may, at its sole discretion, cancel this Master Agreement.

38. SUBCONTRACTORS

Supplier shall have the right to use Subcontractors to provide the Services described in this Master Agreement. If Supplier elects to use Subcontractors in the performance of custom professional Services under this Master Agreement, upon request, Supplier will provide a list of such Subcontractors in the associated Statement of Work (SOW). Notwithstanding the foregoing, the use of such Subcontractors shall not release Supplier from performing its obligations under this Master Agreement.

Supplier shall be liable for any damage or loss resulting from personal injury or damage to tangible property arising from the acts or omissions of its subcontractor while preforming services pursuant to this Master Agreement.

39. ASSIGNMENT

Neither party will assign its rights or delegate its obligations under this Master Agreement, in whole or in part, without the other party's prior written consent, and, absent such consent, any purported assignment or delegation by that party will be null, void and of no effect; provided, however, that either party may upon written notice assign this Master Agreement to another successor company pursuant to a corporate merger or reorganization or the sale or transfer of all or substantially all of its stock or assets. This Master Agreement will be binding upon and inure to the benefit of Supplier and MHEC and their successors and permitted assigns. Nothing in this Section 39 shall preclude Supplier from employing a Subcontractor in carrying out its obligations under this Master Agreement. Supplier use of such Subcontractors will not release Supplier from its obligations under this Master Agreement.

40. MHEC NOT LIABLE FOR ELIGIBLE ORGANIZATION

MHEC is not liable to Supplier for the failure of any Procuring Eligible Organization to make any payment or to otherwise fully perform pursuant to the terms and conditions of an Order and/or the Master Agreement. Supplier, in its sole discretion, may discontinue selling Products or Services to any Eligible Organization who fails to make payments or otherwise fully performs pursuant to the terms and conditions of the Master Agreement. MHEC does not guarantee that any Eligible Organization will utilize or make any purchase under the Master Agreement. An Eligible Organization shall not be responsible for any other Eligible Organization that executes its own Order under the Master Agreement.

41. INDEPENDENT CONTRACTORS

MHEC and Supplier acknowledge and agree that the relationship arising from this Master Agreement does not constitute or create any joint venture, partnership, employment relationship or franchise between them, and the parties are acting as independent contractors in making and performing this Master Agreement. Supplier and its agents and employees are independent contractors and are not employees of MHEC or any Eligible Organization. Supplier has no authorization, express or implied to bind MHEC or any Eligible Organization to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent of MHEC or any Eligible Organization, except as expressly set forth herein.

42. VENDOR REPRESENTATIVE

Supplier shall assign a senior level representative who shall be the primary MHEC contact for all matters related to all sales and marketing efforts of this Master Agreement.

43. NOTIFICATION

A. **Between the parties:** Whenever under the terms of this Master Agreement any notice is required or permitted to be given by one party to the other, such notice shall be given in writing and shall be deemed to have been sufficiently given for all purposes hereof if given by facsimile, email, or mail, postage prepaid, to the parties at the addresses set forth below, or at such other address as the parties may direct in writing from time to time:

To MHEC:	**To Supplier:**
105 Fifth Avenue South	One Dell Way
Suite 450	Contract Department
Minneapolis, Minnesota 55401	Round Rock, Texas 78682
Attn: Nathan Sorensen, Director of government contracts Email: nathans@mhec.org	Attn: Contract Manager Dell_Legal_Notices@Dell.com
Fax: 612-767-3353	Fax: 512-283-9092

Changes in the above information will be given to the other party in a timely fashion.

B. **Between Eligible Organization:** Notices shall be sent to Eligible Organization's business address. The term "business address" shall mean the "Bill to" address set forth in an invoice to Eligible Organization.

44. MARKETING

Dell will assist MHEC in developing and implementing appropriate marketing strategies including seminars, printed materials and a full service, on-line MHEC-specific web site to receive information on products, supplies, services, and prices and to place Orders.

45. ANNOUNCEMENTS AND PUBLICITY

Any announcements and publicity given to MHEC (or an Eligible Organization) resulting from this Master Agreement must receive the prior approval of MHEC (or Eligible Organization). Such approval shall not be unreasonably withheld. Dell will not make any representations of MHEC's (or an Eligible Organization's) opinion or position as to the quality of effectiveness of the Products, supplies and/or Services that are the subject of this Master Agreement without the prior written consent of MHEC (or Eligible Organization), which shall not be unreasonably withheld.

46. WEB SITE MAINTENANCE

Dell agrees to maintain and support Internet website(s) for access to the Retail Price List, Product descriptions, Product specifications, Service descriptions, Service specifications and other aids in accordance with instructions provided by MHEC. In addition, Dell will provide electronic commerce assistance for the electronic submission of purchase orders, purchase order tracking and reporting. Dell shall notify MHEC when there are additions and/or deletions made to the list of Resellers.

47. OVERSIGHT COMMITTEE

An oversight committee comprised of representatives of Eligible Organizations shall be appointed by MHEC to assist and support MHEC and Supplier in developing and refining the implementation of a Master Agreement in the Compact member states. This shall include, but not be limited to, assistance with marketing strategies, representing the interests of Eligible Organizations in assuring quality and timely products and services; and to advise the successful Supplier on the effectiveness of its implementation progression. There will be an annual meeting between successful Supplier and MHEC (and perhaps members of the oversight committee) to perform a business review. In addition, Supplier must attend on-site meetings on an ad hoc basis if requested by the contract manager to address contract performance issues.

48. ADMINISTRATIVE REPORTING AND FEES

On a calendar-quarterly basis (where quarter one is January 1 – March 31 and the quarter one report is due by April 30), Dell will, in a timely manner, make available to MHEC utilization reports and information generated by this Master Agreement, reflecting net Product and Service sales to Eligible Organizations. The information and reports shall be accompanied with a check payable to the Midwestern Higher Education Commission for an amount equal to one and a half percent (1.50%) of the net Product and Service sales for that quarter period (the "Fee"). MHEC, from time to time may provide a written request to Dell to change the percentage of the Fee it will receive as a result of this Master Agreement. Any change in the Fee may also require a change in the Product or Service pricing.

49. ENFORCEMENT OF AGREEMENT

A party's failure to require strict performance of any provision of this Master Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver under this Master Agreement will be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of such waiver is sought. Any such waiver will constitute a waiver only with respect to the specific matter described therein and will in no way impair the rights of the party granting such waiver in any other respect or at any other time. Any delay or forbearance by either party in exercising any right hereunder will not be deemed a waiver of that right.

50. SEVERABILITY

If any provision of this Master Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions contained in this Master Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance, or jurisdiction, or of rendering any other provisions of this Master Agreement invalid or unenforceable whatsoever.

51. APPLICABLE LAW

A. As between MHEC and Supplier, this Master Agreement shall be construed in accordance with, and its performance governed by, the laws of the State of Minnesota; and venue for all legal proceedings arising out of this Master Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the State of Minnesota.
B. As between Eligible Organization and Supplier, this Master Agreement or any Order placed under this Master Agreement shall be construed in accordance with, and its performance governed by, the laws of the state in which Eligible Organization resides. Venue for all legal proceedings arising out of this Agreement or any Order placed under this Master Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the state in which the Eligible Organization resides.
C. As between Eligible Organization, MHEC, and Supplier, this Master Agreement or any Order placed under this Master Agreement shall be construed in accordance with, and its performance governed by, the laws of the state in which Eligible Organization resides. Venue for all legal proceedings arising out of this Agreement or any Order placed under this Master Agreement, or breach thereof, shall be in a state or federal court with competent jurisdiction located in the state in which the Eligible Organization resides.

52. SOVEREIGN IMMUNITY

Notwithstanding anything to the contrary in this Master Agreement or Order under this Master Agreement, this Master Agreement shall not be construed to deprive an Eligible Organization of its applicable sovereign immunity, or of any legal requirements, prohibitions, protections, exclusions, or limitations of liability applying to this Master Agreement or afforded by Eligible Organizations' state laws applicable to Eligible Organization.

53. SURVIVAL

Certain paragraphs of this Master Agreement including but not limited to indemnification; and limitation of liability shall survive the expiration of this Master Agreement. Software license, warranty and service agreements, and non-disclosure agreements that were entered into under terms and conditions of this Master Agreement shall survive this Master Agreement.

54. AMENDMENTS

Except as provided in Section 5 Order of Precedent; this Master Agreement shall only be amended by written instrument executed by the parties.

55. SCOPE OF AGREEMENT

This Master Agreement incorporates all of the agreements of the parties concerning the subject matter of this Master Agreement, and all prior agreements have been merged into this Master Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Master Agreement.

56. INVALIED TERM OR CONDITION

If any term or condition of this Master Agreement shall be held invalid or unenforceable, the remainder of this Master Agreement shall not be affected and shall be valid and enforceable.

57. MISCELLANEOUS

All Parties to this Master Agreement may retain a reproduction (e.g., electronic image, photocopy, facsimile) of this Master Agreement that shall be considered an original and shall be admissible in any action to enforce this Master Agreement. Dell may accept this Master Agreement either by its authorized signature or a signed Order. Except as provided for in this Master Agreement, all changes to this Master Agreement must be made in writing signed by both Parties; accordingly, any additional terms on the Procuring Eligible Organization's ordering documents shall be of no force or effect.

The Parties, by their representatives signing below, agree with the terms of this Master Agreement and further certify that their respective signatories are duly authorized to execute this Agreement.

	Midwestern Higher Education Commission	**Dell Marketing L.P.**
Signature:	Susan G Heegaard Susan G Heegaard (Apr 11, 2022 16:22 CDT)	Alyssa Sayles
Name:	**Susan Heegaard**	Alyssa Sayles
Title:	**President**	Contract Administrator
Address:	**105 Fifth Avenue South Suite 450** **Minneapolis, Minnesota, 554401**	**One Dell Way, RR 8-07** **Round Rock, Texas 78682**
Date:	Apr 11, 2022	Apr 7, 2022

Exhibit A – Discount Category Pricing
Exhibit B – U. S. Return Policy
Exhibit C – APEX Agreement
Exhibit D – APEX Service Offering
Exhibit E –Leasing and Finance Information

- Dell Financial Services L.L.C. Master Lease Agreement and Lease Schedules – Public Entity
- Dell Financial Services L.L.S. Master Lease Agreement and Lease Schedules – Private/Commercial Entity
- Pharos Financial Services Master Lease Agreement and Lease Schedules – Public Entity
- Pharos Financial Services Master Lease Agreement and Lease Schedules – Private/Commercial Entity
- Dell Financial Services L.L.C. Payment Agreement – Public Entity
- Dell Financial Services L.L.C. Payment Agreement – Private/Commercial Entity
- Pharos Financial Services Payment Agreement – Public Entity
- Pharos Financial Services Payment Agreement – Private/Commercial Entity

Exhibit F – Flex on Demand (FOD) Information

- Master Flexible Consumption Agreement and Schedules – Public Entity
- Master Flexible Consumption Agreement and Schedules– Private/Commercial Entity

Exhibit A – Discount Category Pricing

PRICING – DISCOUNT OFF LIST

The table below provides the minimum Discount Off List (DOL) for each product category. Our Account Teams work with customers to ensure that orders use the correct contract codes, which will prepopulate the minimum discount levels.

Product Category	Product Category Classifications	Proposed Discount
A	Chrome; Cloud Client; Cloud Products; Consumer Chrome; Customer Kits (including some non-tied Monitors); Dell Storage OEM; Dell-Branded Memory; Fixed Workstations; Internet of Things (IOT); Latitude; Mobile Workstations; OptiPlex; PowerEdge Servers; Software - Server and Other; Software - Storage	18.00%
F	Dell Branded Printer Accessories, Parts, and Toner	1.50%
H	BTX, Prebuilt – Ready to Ship Systems	6.00%
M	3rd Party Software & Peripherals - Mainstream Products Third Party - Mainstream	6.00%
R	CFI / Configuration Services; Selected Services	4.00%
S	Alienware Notebooks; Converged Infrastructure; Data Protection Appliance; Data Protection Software; Data Security Solutions; Dell Networking; Dell Storage PS, Dell Storage SC; Dell|EMC; Displays; Hyper Converged Infrastructure; OEM Networking; Personal Notebooks; Projectors/Monitors/Other Electronics; Storage Entry; Storage High End; Storage Integrated Offer; Storage Mid Range; Storage Unstructured; Tablets; Vostro Notebooks; XPS Notebooks	3.00%
U	Spare Parts	0.50%
V	Peripherals and Services with discounts that vary based upon the system in which the item is installed	Varies per base SKU
X	Third Party – Non-Discountable, except where contractually required	0.50%
Z	Alienware Desktops; Personal Desktops; Vostro Desktops; XPS Desktops; Non-Discountable Services, except where contractually required	0.50%
Z1 and ZS	Non-Discountable Services, except where contractually required	0.50%
N/A	APEX Cloud	0.00%
N/A	APEX Storage-as-a-Service (ADSS)	0.00%

Note: Product Classifications and Categories may be changed by Dell without notice.

The product classifications identified above are in place as of the Effective Date of this Agreement. These classifications affect Dell Public Sector customers and Dell may change product availability or classification category for all customers without notice. Reference the Dell Retail Price List to verify the applicable Product Category for each SKU on Dell's Quote. The descriptions herein are general in nature and are not all inclusive. Any product category not listed herein shall be deemed a non- discountable product or service offering and receive zero percent contractual discount.

Based on the scope of the order, account teams will work with internal pricing teams to obtain higher discounts. When services are purchased in conjunction with the product (tied services), the services will carry the same discount level as the product. If services are purchased on its own without a product, then the services will be discounted as per category R – at 4%.

The baseline list price is updated weekly and maintained at:

http://ftpbox.us.dell.com/slg/Weekly/dellpricereport.pdf

VOLUME TIER DISCOUNTS

Dell has included two types of volume discounts that are applicable to Category A Products.

1. Per Transaction Multiple Unit Discount – This will provide additional discounts to large orders that exceed a certain amount for products under Category A.

Minimum Dollar Volume Associated with Single Purchase Order	Maximum Dollar Volume Associated with Single Purchase Order	Category A Discount in addition to the Initial Pricing Level Discount
$ 100,000.00	$ 199,999.99	1.00%
$ 200,000.00	$ 399,999.99	2.00%
$ 400,000.00	$ 599,999.99	4.00%
$ 600,000.00	$ 999,999.99	6.00%
$ 1,000,000.00	No Maximum	8.00%

2. Cumulative Dell Spend "Gates" – As the volume of business reaches certain spending thresholds, Category A will carry additional discounts.

Cumulative Dell Spend "Gates", spanning multiple years across length of contract		Discount Level Adjustment (Category A)
0	$2B	0.00%
$2B	$4B	1.00%
$4B	$6B	2.00%
$6B	$8B	3.00%
$8B	$10B	4.00%
>10B		5.00%

Dell will offer the following discounts associated with cumulative purchases under the MHEC contract: During the course of the Master Agreement Dell shall increase the base Category A discount by 1% within fifteen business days after submission of quarterly reporting period indicating sales threshold of $2B / $4B / $6B / $8B and / $10B has been achieved.

INCENTIVE AND REBATES

Dell is offering the Contract Admin Fees (CAF) of 1.5% to MHEC in compliance with section 48.

Dell is not offering additional rebates; however, this agreement does not preclude customers from participating in any promotional pricing offered, promotional pricing does not constitute a permanent pricing change. When a customer is ready to make a purchase, the account teams work with our internal pricing departments to obtain pricing approvals, which will also include special promotions available at the time of order.

Pricing Notes

Dell maintains a Retail Price list online located at: http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf. The Price List is updated weekly, is available for download from this site in lieu of hard copy distribution and excludes promotional offers. Systems configured and discounted by your Dell's Sales Representatives or through on-line state stores and Premier Pages, are based upon then-current retail pricing and exclude promotional offers.

Changes to retail prices are subject to Dell's discretion and generally take effect immediately, allowing us to provide price decreases and to introduce new products without waiting for a formal price list to be updated. Product Classifications and Categories may be changed by Dell without notice.

Where Dell sells third-party products on a "discount-off-list" basis and does not receive a list price from the manufacturer, Dell assigns a list price. Prices for custom services are agreed to through a separate Statement of Work and not included in the proposed prices herein. Where "discount off list", "cost plus", or "cost minus" calculations are used to determine pricing, Dell's standard discount product category list, product category or classification assignment for a particular product is subject to change by Dell and could affect pricing of that product.

Pricing, if included, may be subject to change in the event of an industry wide material constraint or shortages, including but not limited to memory, or other manufacturing materials or components, or due to other factors beyond Dell Technologies' reasonable control. Products may be discontinued or revised (including components thereto) at any time without notice. Should the initial proposed product(s) be discontinued before the replacement product(s) reach price parity with initial product(s), Dell Technologies reserves the right to re-negotiate pricing.

Exhibit B – U. S. Return Policy

U.S. Return Policy

Direct (applies only to purchases directly from Dell)

Dell values its relationship with you and offers you the option to return most products you purchase directly from Dell. For all purchases not made directly from Dell, please check the return policy of the location from which you purchased your product. Note: If your purchase qualifies for a promotion offered by Dell that extends the return period for a specific product, the return rights and obligations included with the promotion will apply to your purchase.

30 Day Return Period for Certain Products and Accessories: Unless you have a separate agreement with Dell, or except as provided below, all hardware, accessories, peripherals and parts may be returned if requested and approved by Dell within 30 calendar days from the date on the packing slip or invoice for a refund or credit of the purchase price paid. Note that your refund or credit may be reduced by the amount of shipping and handling fees and any applicable restocking fees (as further described below). Any product returned to Dell without prior authorization from Dell will be considered an unauthorized return, and you will not receive a refund or credit for the product and Dell will not ship the product back to you. For instructions about requesting a return, see "How to Return a Product" below. **All approved returns must *be* received by Dell within 30 calendar days of the return approval date otherwise the amount of refund or credit may be reduced or eliminated if the product(s) are returned late**.

Exceptions to Dell's 30-Day Return Period:

Software may not *be* returned at any time, unless the software being returned is:

1. Application software or operating systems installed by Dell on a returnable system which is being returned within the applicable return period; or
2. Media-based software that is unopened and still in its sealed package or, if delivered electronically, software that you have not accepted by clicking to agree to applicable terms.

- **Additional products not eligible for return at any time:**

1. **Dell EMC**-branded products
2. **Dell Wyse™** and Wyse-branded products
3. Non-Dell-branded enterprise hardware and software products
4. Customized products

- Unless you have specifically agreed otherwise in your written agreement with Dell, there is no right of return for software purchased under any type of volume license arrangement.

- Dell reserves the right to deny any returns in circumstances involving repeated returns, violation of the Dell Terms of Sale or other impermissible activity.

Restocking Fees: Unless the product is defective or the return **is** a direct result of a Dell error, Dell may charge a restocking fee of **15%** of the purchase price paid less shipping and handling, plus any applicable sales tax, which would be applied through a total reduced refund or credit.

Promotional Items: If you return a purchased item that qualified you for a discount, promotional item or promotional card (for example, buy a service, get a computer half off; buy a computer, get a free printer; buy a TV, get a promotional gift card) and either (i) do not also return the discounted or promotional item or (ii) have already redeemed the promotional card, Dell may deduct the value of the discount, promotional item or redeemed card from any refund or credit you receive for the return of the purchased item.

How to Return a Product: Before returning a product, you MUST first contact Dell customer service and obtain a Credit Return Authorization (CRA) number before the end of the applicable return period. Dell will not accept returns without a CRA number. To find the appropriate phone number or to send an email to customer service to request a CRA number, go to www.dell.com/contactus or see the "Contacting Dell" or "Getting Help" section of your customer documentation. To initiate a return online, please click here.

NOTE: You MUST follow these steps when returning a product:

- Ship the product to Dell. Please note that all approved returns must be received by Dell within 30 days of the date that Dell issues the return authorization and instructions.
  Ship back all products you are seeking to return to Dell and for which you received a CRA number. For partial returns, your refund or credit may be less than the invoice or individual component price due to bundled or promotional pricing or any unadvertised discounts or concessions.
  Return the products in their original packaging, in as-new condition, along with any media, documentation and any other items that were included in your original shipment.
- For customers returning a TV, the TV must be returned in the original packaging it was received in (including box and protective cushioning). If you do not have the original packaging, you must provide separate packaging.
  For commercial customers, you must ship the products at your expense, and make sure the shipment is insured, or accept the risk of loss or damage during shipment.

Upon receipt of your return, Dell will issue a credit or refund of the purchase price paid, which may be reduced by the amount of shipping and handling fees and any applicable restocking fees subject to this policy.

Note: Before you return the product to Dell, make sure to back up any data on the hard drive(s) and on any other storage device in the product. Remove all confidential, proprietary and personal information as well as removable media such as flash drives, CDs and PC Cards. Dell is not responsible for any confidential, proprietary or personal information; lost or corrupted data; or damaged or lost removable media that may be included with your return.

Systems configured with an Intel® 8th Gen or later CPU are designed to run optimally with the Microsoft Windows 10 operating system. Removing the factory-installed operating system to run a non-Windows 10 operating system (such as Windows 7 or Windows 8) may make the product ineligible for return to Dell for a refund or cause system instability and performance issues that may not be covered by your warranty, support, or service agreements.

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Exhibit C – APEX Agreement

Dell Technologies APEX

Cloud Purchase Terms

Schedule to the Dell Commercial Terms of Sale

These Cloud Purchase Terms ("Cloud Terms") state the terms and conditions that apply to: APEX Branded Services ('APEX Service') ordered via (1) a Customer's purchase of Dell Cloud Offerings from Supplier ordered on the Dell Technologies Cloud Console ("Console"); and (2) a Customer's purchase of Dell Cloud Offerings from a Supplier-authorized reseller ("Reseller").

The terms and conditions of the Dell Commercial Terms of Sale ("CTS") (but excluding any schedules attached or incorporated thereto) and the then current Dell Acceptable Use Policy ("AUP") are incorporated by reference into these Cloud Terms. These Cloud Terms consist of two parts: Part A, Universal Terms for all Dell Cloud Offerings, and Part B, Terms Applicable to Specific Offerings. Further information about the Offerings is provided in the Service Offering Descriptions.

In these Cloud Terms, references to the "Governing Agreement" mean, collectively, the CTS (as amended and supplemented by these Cloud Terms and including the AUP), each applicable Service Offering Description, and the Order. Unless otherwise stated, references to "Clauses" mean Clauses of these Cloud Terms. Notwithstanding the clause addressing order of precedence in the CTS, if there is a conflict between or among these Cloud Terms, the Order, the Service Offering Description, the AUP, or the CTS, the documents will prevail in the following order: (a) the Service Offering Description (and all documents incorporated into it); (b) these Cloud Terms; (c) the AUP, (d) the Order; and (e) the CTS.

Part A: Universal Terms for all Dell Cloud Offerings

1. **Definitions.** The definitions used in the CTS are also used in these Cloud Terms. The following definitions also apply:
"Content" means any data (including all text, sound, video, and image files), software (including machine images), and other information.

"Customer Content" means Content uploaded by Customer or a User into the Offering for processing, storage or hosting, but does not include Third-Party Content or data Supplier collects as specified in Part B, Clause 1.1A.

"Data Processing Addendum" means the then-current version of the Supplier's Data Processing Addendum.

"End User" means third parties to whom Customer provides a service and with whom Customer is in a commercial contractual relationship and does not include Customer's employees, contractors and agents.

"Fixed Billed" means an Offering in which Customer pays a fixed amount as identified in the Quote and the Service Offering Description, usually on a monthly or annual basis. Fixed Billed includes Offerings sold as subscriptions.

"Offering" for the purpose of these Cloud Terms means any Supplier cloud service described in these Cloud Terms or the Service Offering Descriptions.

"Order" means a Quote that has been accepted as provided in Clause 3.1A below.

"Quote" means the items Customer selects in the Console and the prices that Supplier provides for those items at the time Customer accepts the Quote as described in Clause 3.1A below.

"Service Level Agreement" or "Service Level Objective" means the then-current version of the performance commitments, if any, for a particular aaS Offering. If applicable, these will be provided in the Service Offering Description.

"Service Offering Description" means the then-current version of the Supplier document that describes the Offering identified in a Quote or the Console. If there is no separate Supplier document, then the description in the Quote or the Console will apply. The clause of the CTS entitled "Product and Service Specific Terms" will not apply to Offerings ordered under these Cloud Terms.

"Service Location" means the street address location, specified by the Customer when ordering any Products to be deployed with the Offering.

"Supplier" means the Dell entity that delivers the Offering(s) to Customer.

"Support Terms" means the then-current terms regarding Support Services for each Offering and as described in the Service Offering Description.

"Term" means the initial period during which Customer is authorized to use an Offering, as stated in the applicable Order or the Console, and subsequent renewal terms (if any). The initial term begins as specified in the Order or the Service Offering Description.

"Third-Party Claim" means any third-party administrative, regulatory, arbitral, judicial, or other action, suit, or proceeding, or any third party allegation, assertion or demand, arising from or relating to: (a) Content; (b) Customer's use of any Offering in violation of the Governing Agreement; (c) Customer's misrepresentation of facts regarding an export license or any allegation made against any Supplier or its affiliates due to Customer's violation or alleged violation of applicable export laws; or (d) combination of the Offering with non-Supplier products or content, including any Customer Content and/or any Third-Party Content.

"Third-Party Content" means Content provided by a third party that interoperates with the Offering, including open source software, but that is not embedded in or required for use of the Offering. As an example, Third-Party Content may include an application that is listed on a marketplace or in an online catalog.

"User" means any person who is authorized to access or use the Offering or Customer Content directly under Customer's Login Credentials (as defined in the Dell Technologies Cloud Console Terms of Use) that Customer created when registering to use the Console, and may include Customer's employees, contractors, service providers, and other third parties, but does not include Customer's End Users.

"Variable Billed" means an Offering in which Customer pays a variable amount as identified in the Quote and Service Offering Description, usually based on usage.

2. The Offering.

2.1 **Provision of the Offering**. Supplier is responsible for delivery of the Offering. Supplier may use Supplier's Affiliates and Supplier authorized third parties to assist with delivery. For Offerings that include delivery of Supplier Products, the terms and process for that delivery will be stated in the applicable Service Offering Description. The clause of the CTS entitled "Product Delivery" shall not apply.

2.2 **Ownership and Use of the Offering**.

A. Customer may access and use the Offering only: (a) during the Term; (b) for Customer's internal business purposes, which may include providing services to Customer's End Users if permitted in the Service Offering Description; and (c) in accordance with the Governing Agreement and Supplier's AUP.

B. If the Offering includes Software that requires installation at the Service Location, then Customer will only use the Software: (a) in connection with Customer's use of the Offering and as provided in the Governing Agreement; (b) for the Term; and (c) in accordance with the Supplier's End User License Agreement.

C. Customer must not: (a) resell or sublicense the Offering; or (b) use the Offering: (i) in a way intended to work around the Offering's technical restrictions, recurring fees calculation, or usage limits; or (ii) to create or enhance a competitive offering or for any purpose which is competitive with Supplier.

D. If Supplier reasonably believes a problem with the Offering may result from or be attributable to Content that Customer uploaded to the Offering, or to Customer's use of the Offering, Customer must cooperate with Supplier to identify the source of the problem and to resolve the problem.

E. As between Customer and Supplier, Supplier owns all rights in and to the Offering and any related Software, including all improvements, enhancements, modifications, and derivative works, and all intellectual property rights in all of them. This includes any information Supplier collects and analyzes about Customer's use of the Offering as outlined in Part B to these Cloud Terms and the specific Service Offering Description. Customer's rights to use the Offering are limited to those expressly granted in the Governing Agreement. There are no implied rights in these Cloud Terms. Supplier retains all rights that it has not expressly granted to Customer herein.

2.3 **Modifications.**

A. Supplier may modify Offerings from time to time and will specify the effective date of changes, by email, the Console, release note, documentation or through the Offering itself. The information will be delivered by email if the modification is not solely an enhancement. Customer's continued use of the Offering after the date of any change will be considered acceptance of the modified Offering.

B. If Supplier makes a change that removes a material feature or materially reduces the functionality of an Offering, then Customer will have the right to terminate the Offering. If Customer intends to terminate the Offering, it must notify Supplier within 30 days from the date of Supplier's change notice. If Customer has elected to terminate the Offering, this will be effective as of: (a) the date Supplier receives Customer's notice of termination; or (b) any later date specified in Customer's notice, not to exceed 90 days from the date of Supplier's receipt of Customer's termination notice. Customer will remain responsible for the payment of all fees incurred through the termination date, and Supplier will promptly refund any prepaid fees for the Offering that will not be provided as a result of the termination. No other remedies are available to Customer for its termination of an Offering under this Clause 2.3B.

3. <u>Orders, Payment, Shipment, Ownership, Insurance, and Colocation</u>.

3.1 **Orders, Shipment.**

A. Customer accepts a Quote by clicking "Place Order" or other similar term in the Console. All Orders are subject to the Governing Agreement and are not binding until Supplier accepts them. An Order will be accepted upon the earlier of: (a) when Supplier confirms to Customer in writing that it accepts the Order; or (b) as may be otherwise provided in the Service Offering Description. Supplier is not required to provide the Offering to Customer until Customer provides Supplier with all information Supplier needs to process Customer's Order and to provision the Offering for Customer. Unless permitted in the Governing Agreement, all Orders are non-refundable and non-cancellable. Any refunds to which Customer is entitled under the Governing Agreement will be paid to Customer.

B. Customer must pay all charges it incurs for its use of the Offering. Charges may consist of both a committed amount as well as additional amounts, including charges for add-on features that Customer orders or enables, and charges Customer incurs based on actual usage of the Offering (metered charges or "overages"). Customer must establish a method of payment to cover all charges.

C. If Customer pays for an Offering using a credit card (if credit card payment is available), then Customer will be subject to any additional terms presented to Customer by the third-party credit card payment processor, which will be the merchant of record for that transaction. If applicable, Customer is responsible for keeping its credit card information up to date in the Console.

D. Supplier may bill Customer directly for any additional charges, even if Customer has ordered the Offering from a Partner. Supplier may invoice Customer for charges even if a corresponding purchase order was not received from Customer or a Partner.

3.2 **Payment Terms**. Customer must pay all charges within 30 days after the date of invoice.

3.3 **Supplier Shipment**. Supplier will ship Products to the Service Location if any are included as part of an Offering.

3.4 **Ownership**. Unless the Service Offering Description states differently, Supplier owns and retains title to the Products

(including any replaced parts), and these must be returned to Supplier at the end of the Term (or promptly upon replacement with respect to replaced Products or parts). Customer will keep the Products free and clear of any liens or encumbrances and Customer will immediately notify Supplier in writing of any attachment or judicial process affecting the Products or Supplier's ownership of the Products.

3.5 **Insurance**. Customer is responsible for securing any Products and for any risk of damage on site of the Service Location. Customer must insure the Products installed at the Service Location with a reputable insurance company against all: (a) liability whatsoever to any third party arising directly or indirectly out of Customer's selection, possession, or use of the Products; and (b) loss or damage to the Products from all insurable risks for the full cost of replacing it; and (c) other risks in respect of which a prudent person with Products on their premises would reasonably insure such Products. In regard to (a) and (b), Supplier will be named as additional insured and loss payee respectively. Upon Supplier's request, Customer must show Supplier evidence that the insurance required under these Cloud Terms is in place for the Products. Customer must immediately notify Supplier of any loss claim and Customer must not settle any claims without Supplier's prior written agreement.

3.6 **Colocation.** If the Service Location is not owned or wholly controlled by Customer (in this clause a "Colocation Site"), Customer will ensure that Supplier has access to the Colocation Site for the purposes outlined in the Service Offering Description. Failure to provide Supplier with timely access to the Colocation Site will relieve Supplier of its Support Services obligations and Supplier may, at its discretion, choose to suspend (until such time as Supplier and Customer agree to relocation of the Offering at a Supplier accessible Service Location) and/or terminate the Order. Customer agrees to hold Supplier harmless from and against any and all disputes, claims or controversies (whether in contract, tort (including negligence) or otherwise) related to or arising out of the Customer's installation, operation or use of the Offering at a Colocation Site.

4. Supplemental Termination Provisions.

4.1 **Termination of Offering**. (A) Neither Customer nor Supplier may terminate the Offering for convenience. (B) Even if Customer stops using the Offering during the Term for its convenience, Customer must still pay Supplier all fees due for the then-current Term. (C) Either party may terminate for cause, if: (1) such party becomes insolvent, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (2) such party becomes subject to control of a trustee, receiver, or similar authority, or to any bankruptcy or insolvency proceeding; (3) the other party commits a material breach and has failed to cure the breach within 30 days from the other party's written notice; or (4) with respect to Supplier only, as provided under Section 9.3 below. A termination for cause will be effective on the date the notice was sent.

4.2 **Effect of Termination**.

A. Upon termination of an Offering for any reason: (a) Customer must stop using the Offering; (b) Customer must return all Supplier provided Products in compliance with the Service Offering Description, or if the Service Offering Description requires Supplier to recover the Products, then Customer will provide Supplier with prompt access to the Service Location (including any Colocation Site) to recover the Products; and (c) Customer must return or, if Supplier requests, destroy, any Confidential Information of Supplier or its suppliers in Customer's possession or under Customer's control (other than information that must be retained pursuant to law). The Service Offering Description will indicate when Supplier will delete any Content Customer has uploaded to the Offering. Customer is responsible for ensuring that it has copies of all Content it requires prior to the date of any termination.

B. Any provision of the Governing Agreement that, by its nature and context is intended to survive termination or expiration will survive, including the Data Processing Addendum, to the extent Supplier processes or continues to process Personal Data (as defined in the Data Processing Addendum), and for as long as Supplier continues such processing activity.

C. Except where Customer or Supplier are permitted to terminate the Offering pursuant to Clauses 2.3 ("Modifications") or 4.1C(3) (Customer's termination for Supplier's breach), any other termination of the Offering will not entitle Customer to any refunds, credits, or exchanges. If Supplier terminates the Offering due to Customer's material breach, Customer will immediately pay all fees due for the Offering for the remainder of the then-current Term.

D. Customer agrees that upon termination for any reason: (i) Supplier may, without waiving any other rights or remedies, seek an order, including without limitation by way of injunctive or equitable relief, from a court of competent jurisdiction to enforce Supplier's right to recover Supplier owned Products from the Service Location (including any Colocation Site); and (ii) Supplier is entitled to recover from Customer the reasonable attorney fees corresponding to such enforcement action.

5. Support Services.

5.1 Supplier will provide support to Customer for the Offering in accordance with the applicable Support Terms specified in the Service Offering Description. The clause of the CTS entitled "Services" shall not apply.

5.2 Supplier shall not access or use any Content stored on the Products, unless Customer has expressly authorized Supplier to do so. Customer is responsible for removing all Content stored on replaced parts, or on any other items or Product before it is returned to Supplier. Supplier has no liability for any data remaining on Products that Customer fails to remove. Customer may purchase a data deletion service from Supplier (or Reseller), where available.

5.3 If Customer wishes: (a) to relocate Products to a different installation site (where applicable to the Product); (b) to change the hardware configuration on its own; or (c) to deny the activation or to disable remote support features of a Product, Customer must notify Supplier in advance. Supplier will review Customers request and may approve or deny it in Supplier's sole discretion. Additional fees may apply.

6. Warranties.

6.1 **Limited Warranty**. Supplier will provide the Offering substantially in accordance with the Service Offering Description. For any breach of the foregoing warranty, Supplier's entire liability and Customer's exclusive remedies under these Cloud Terms (subject to Customer's right to terminate the Offering for material breach under Clause 4.1) shall be for Supplier to use reasonable efforts to correct material deviations from the Service Offering Description. The clauses of the CTS entitled "Equipment Warranty", "Software Warranty", and "Services Warranty" shall not apply to the Offerings. Customer shall promptly provide Supplier with written notice of any material deviations of which it becomes aware.

6.2 **Disclaimer and Limitations**. **Other than the limited warranty set forth in this Clause 6, Supplier's warranty limitations and disclaimer provided in the clauses of the CTS entitled "Limitations" and "Warranty Disclaimer" apply to the Offering and to all materials or services provided to Customer under the Service Offering Descriptions. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of Supplier or product roadmaps in obtaining subscriptions for any Offering.**

7. Reseller Transactions. Notwithstanding anything to the contrary herein, if Customer buys an Offering through a Reseller (as opposed to directly from Supplier), then:

7.1 All references and terms related to fees, payments, cancellation or termination rights, or similar financial terms (the "Financial Terms") in these Cloud Terms ((including, without limitation, Clauses 3.1A – C, 3.2, 4.1B, and 4.2) or Governing Agreement shall not apply to the Customer, and such Financial Terms shall instead be governed by Customer's agreement with the Reseller; and

7.2 All notices in these Cloud Terms or Governing Agreement required from Customer to Supplier shall be required, in addition, from Customer to Reseller.

8. Data Protection.

8.1 The applicable Service Offering Description defines the administrative, physical, technical and other safeguards applied to Customer Content residing in the Offering. Customer is responsible for applying appropriate security measures to Customer Content such as: (a) controlling access Customer provides to Users; (b) configuring the Offering appropriately; (c) ensuring the security of Customer Content (e.g. through encryption) while it is in transit and at rest; and (d) backing up Customer Content. Customer acknowledges that it is responsible for adopting industry best practice in relation to back-up copies of

its data and is solely responsible for ensuring that it has implemented appropriate security measures for Customer Content and Customer's intended use of the Offering.

8.2 Customer acknowledges that uploading Customers Content to the Offering does not constitute a disclosure by Customer of its Confidential Information to Supplier.

8.3 Supplier's Data Processing Addendum is incorporated herein by reference and describes the parties' respective roles for the processing and control of Personal Data (as defined in the Data Processing Addendum) that Customer may provide to Supplier as part of the Offering. Supplier will act as an authorized data processor, and in respect of the data processing activities related to the Offering, as specified in this Agreement, the Data Processing Addendum and the applicable Order.

8.4 Customer is responsible for providing any necessary legal notices to Users and obtaining any legally required consents related to its use, collection, disclosure, sharing, cross border data transfer and processing of the Personal Data (as defined in the Data Processing Addendum), Offering and Supplier's provision of the Offering.

8.5 **Required Disclosures**. If Supplier is required by a subpoena, court order, agency action, or any other legal or regulatory requirement to disclose any Customers Content, Supplier will provide Customer with notice and a copy of the demand as soon as practicable, unless Supplier is prohibited from doing so pursuant to applicable law. If Customer requests, Supplier will, at Customer's expense, take reasonable steps to contest any required disclosure.

9. Suspension.

9.1 **Generally**. Supplier may suspend Customer's use of any Offering if: (a) Customer is in breach of the Governing Agreement (including failure to pay invoices when due) and has not cured that breach within 10 days from Supplier's notice; or (b) with immediate effect where Customer is in breach of the AUP or Supplier otherwise reasonably believes that Customer is using the Offering for fraudulent, abusive, or unlawful purposes. Supplier will give Customer notice before suspending Customer's use of the Offering if permitted by law or unless Supplier reasonably believes that providing notice presents a risk of harm to the Offering, to other Users of the Offering, or to any person or property, in which case Supplier will notify Customer as soon as feasible or permitted. Supplier will suspend Customer's access only to the Offering that is the subject of the issue giving rise to the suspension. Supplier will promptly reinstate Customer's access to the Offering once Supplier agrees that the issues related to the suspension have been resolved.

9.2 **Effect of Suspension**. Customer will pay all applicable fees incurred before and during any suspension. Customer will not be entitled to any service credits under an applicable Service Level Agreement or Service Level Objective that Customer might have otherwise accrued during any suspension.

9.3 **Termination for Suspension**. Supplier may, at its option, terminate the Offering effective immediately upon written notice to Customer if Supplier has the right to suspend the Offering.

10 **Indemnification by Customer.** Subject to the remainder of this Clause 10, Customer will: (a) defend Supplier against any Third-Party Claim; and (b) indemnify Supplier from all fines, damages, and other costs resulting from a final award, judgment, or order of a court of competent jurisdiction or a government agency arising out of a Third-Party Claim. Supplier will: (1) provide Customer with notice of any Third-Party Claim within a reasonable period after learning of the Claim; and (2) reasonably cooperate in response to Customer's requests for assistance. Customer will have sole control over the defense of any Third-Party Claim. Customer may not, without Supplier's prior written consent, settle any Third-Party Claim if that settlement obligates Supplier to admit any liability, to make any monetary payment, or to undertake any material obligation, or if that settlement would affect any Offering or Supplier's business practices or policies. THE LIMITATIONS STATED IN THE CLAUSE OF THE CTS ENTITLED "LIMITATION ON LIABILITY" DO NOT APPLY TO CUSTOMER'S OBLIGATIONS UNDER THIS CLAUSE 10.

Part B: Terms Applicable to Specific Offerings

1. as a Service Offerings ("aaS Offerings").

1.1 **Use of the aaS Offering**.

A. Supplier monitors and collects configuration, performance, and usage data relating to Customer's use of the aaS Offering, as provided in the Service Offering Description.

B. Customer may use Third-Party Content, at Customer's option, where available. If Customer chooses to use Third-Party Content, Customer is responsible for complying with any terms applicable to that Third-Party Content, including any separate fees or charges imposed by the provider of that Third-Party Content. **Third-Party Content is available "AS IS" without any indemnity, warranty, condition, or Support Services (unless otherwise specified) of any kind.** Supplier may suspend or terminate provision and hosting of any Third-Party Content at any time, and that suspension or termination will not be deemed a material change to any aaS Offering for the purpose of Clause 2.3B of Part A of these Cloud Terms.

C. As between Customer and Supplier, Customer retains all rights in and to Customer Content.

Service Offering Descriptions

Dell Technologies Cloud Platform (DTCP) with Subscription	Terms governing DTCP with Subscription: www.dell.com/learn/us/en/uscorp1/legal_terms-conditions_dellwebpage/global-cloud-purchase-terms Hybrid Cloud - Service Offering Description: https://www.delltechnologies.com/en-gb/collaterals/unauth/legal-documents/solutions/dtcp-offerings-description.pdf Private Cloud - Service Offering Description: https://www.delltechnologies.com/en-gb/collaterals/unauth/legal-documents/solutions/dtcp-private-cloud-offering-description.pdf	N

APEX Storage-as-Service	Terms governing Project APEX Storage-as-a-Service: www.dell.com/learn/us/en/uscorp1/legal_terms-conditions_dellwebpage/global-cloud-purchase-terms Project APEX Storage-as-a-Service Service Offering Description: https://i.dell.com/sites/csdocuments/Legal_Docs/en/us/projectapex_staas_serviceofferingdescription.pdf	N

Dell Technologies Data Processing Addendum

Data Processing Addendum

This Data Processing Addendum ("DPA") to the Agreement shall apply where the provision of services by Dell to you ("Customer") involves the Processing of Personal Data which is subject to Privacy Laws and Dell acts as Processor on behalf of the Customer as the Controller (the "Services"). This DPA does not apply where Dell is the Controller. In the event of conflict between this DPA and the Agreement, this DPA shall control with respect to its subject matter.

1. Definitions.

Terms not defined herein have the meanings set forth in the Agreement. The following words in this DPA have the following meanings:

1.1 "Agreement" means the agreement between Customer and Dell for the provision of the Services to the Customer.

1.2 "Controller" means an entity which, alone or jointly with others, determines the purposes and means of the Processing of the Personal Data.

1.3 "GDPR" means the General Data Protection Regulation (EU) 2016/679.

1.4 "Model Clauses" means the Standard Contractual Clauses for the transfer of personal data to Processors (Decision 2010/87/EU) as they may be amended or replaced from time to time.

1.5 "Personal Data" means any information relating to an identified or identifiable natural person which is Processed by Dell in the performance of the Agreement.

1.6 "Personal Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data Processed under this DPA.

1.7 "Privacy Laws" means any data protection and privacy laws to which a party to this Agreement is subject and which are applicable to the Services provided, including where applicable, the GDPR, the UK's Data Protection Act, the California Consumer Privacy Act ("CCPA") and other similar laws.

1.8 "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.

1.9 "Processor" means an entity which Processes the Personal Data on behalf of the Controller.

1.10 "Subprocessor" means any Processor engaged by Dell for the provision of the Services.

2. Processing of Personal Data.

2.1 Roles of the Parties.

Dell may Process Personal Data under the Agreement as a Processor acting on behalf of the Customer as the Controller.

2.2 Instructions.

Dell will Process Personal Data in accordance with Customer's documented instructions. Customer agrees that this DPA, the Agreement and any subsequent statements of work or service orders, and any configurations by Customer or its authorized users, comprise Customer's complete instructions to Dell regarding the Processing of Personal Data. Any additional or alternate instructions must be agreed between the parties in writing, including the costs (if any) associated with complying with such instructions. Dell is not responsible for determining if Customer's instructions are compliant with applicable law. However, if Dell is of the opinion that a Customer instruction infringes applicable Privacy Laws, Dell shall notify Customer as soon as reasonably practicable and shall not be required to comply with such infringing instruction.

2.3 Details of Processing.

Details of the subject matter of the Processing, its duration, nature and purpose, and the type of Personal Data and data subjects are as specified in the Agreement and Annex 1.

2.4 Compliance.

Customer and Dell agree to comply with their respective obligations under Privacy Laws applicable to the Personal Data that is Processed in connection with the Services. Customer has sole responsibility for complying with Privacy Laws regarding the lawfulness of the Processing of Personal Data prior to disclosing, transferring, or otherwise making available, any Personal Data to Dell.

3. Subprocessors.

3.1 Use of Subprocessors.

Dell may use Subprocessors with the Customer's general or specific written consent. Customer agrees that Dell may appoint and use Subprocessors to process the Personal Data in connection with the Services provided that Dell puts in place a contract in writing with each Subprocessor that imposes obligations that are: (i) relevant to the services to be provided by the Subprocessors and (ii) materially similar to the rights and/or obligations imposed on Dell under this DPA. Subprocessors may include third parties or any member of the Dell group of companies. Where a Subprocessor fails to fulfil its data protection obligations as specified above, Dell shall be liable to the Customer for the performance of the Subprocessors' obligations.

3.2 List of Subprocessors.

A list of Subprocessors that Dell engages to support the provision of the Services is made available by Dell on www.dell.com/subprocessors.

4. Security.

4.1 Technical and organizational security measures.

Taking into account industry standards, the costs of implementation, the nature, scope, context and purposes of the Processing, and any other relevant circumstances relating to the Processing of the Personal Data on Dell systems, Dell shall implement appropriate technical and organizational security measures to ensure security, confidentiality, integrity, availability and resilience of processing systems and Services involved in the Processing of the Personal Data are commensurate with the risk in respect of such Personal Data. Customer agrees that the technical and organizational security measures described in the Agreement provide an appropriate level of security for the protection of Personal Data to meet the requirements of this clause. Dell will periodically (i) test and monitor the effectiveness of its safeguards, controls, systems and procedures and (ii) identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of the Personal Data. Customer is responsible for implementing, configuring and maintaining privacy and security measures for Services and products that Customer provides or controls.

4.2 Technical Progress.

The Information Security Measures are subject to technical progress and development and Dell may modify these provided that such modifications do not degrade the overall security of the Services provided under the Agreement.

4.3 Access.

Dell shall ensure that persons authorized to access the Personal Data (i) have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and (ii) access the Personal Data only upon documented instructions from Dell, unless required to do so by applicable law.

5. Personal Data Breach.

Dell will notify the Customer without undue delay after becoming aware of a Personal Data Breach in relation to the Services provided by Dell under the Agreement and will use reasonable efforts to assist the Customer in mitigating, where possible, the adverse effects of any Personal Data Breach**.**

6. International Transfers.

Dell is authorized, in connection with the provision of the Services, or in the normal course of business, to make worldwide transfers of Personal Data to its affiliates and/or Subprocessors. When making such transfers, Dell shall ensure appropriate protection is in place to safeguard the Personal Data transferred under or in connection with this Agreement. Where the provision of Services involves the transfer of Personal Data from the European Economic Areas and the UK ("EEA") to countries outside the EEA or the UK (which are not subject to an adequacy decision under Privacy Laws) Dell agrees it will use the Model Clauses along with appropriate supplemental measures or other appropriate data transfer mechanisms in accordance with applicable Privacy Laws.

7. Deletion of Personal Data.

Upon termination of the Services (for any reason), the Parties agree to adhere to data deletion mechanism as set out in the Agreement.

8. Cooperation.

8.1 Data Subject Requests.

Dell shall promptly inform Customer of any requests from individuals exercising their data subject rights under Privacy Laws. Customer is responsible for responding to such requests. Dell will reasonably assist Customer to respond to data subject requests to the extent that Customer is unable to access the relevant Personal Data in the use of the Services. Dell reserves the right to charge Customer for such assistance if the cost of assisting exceeds a nominal amount.

8.2 Third party requests.

If Dell is required by a subpoena, court order, agency action, or any other legal or regulatory requirement to disclose any Customers Content, Dell will provide Customer with notice and a copy of the demand as soon as practicable, unless Dell is prohibited from doing so pursuant to applicable law. If Customer requests, Dell will, at Customer's expense, take reasonable steps to contest any required disclosure.

8.3 Privacy Impact Assessment and Prior Consultation.

To the extent required by Privacy Laws, Dell shall provide reasonable assistance to Customer to carry out a data protection impact assessment in relation to the Processing of Personal Data undertaken by Dell and/or any required prior consultation(s) with supervisory authorities. Dell reserves the right to charge Customer a reasonable fee for the provision of such assistance.

9. Demonstrating Compliance.

Dell agrees to supply, upon Customer request for an audit, the Standardized Information Gathering ("SIG") questionnaire ("Security Questionnaire") related to the security practices and posture of Dell's organization. The Security Questionnaire is reviewed annually, mapped to Dell 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. To

the extent Customer's audit requirements under the Standard Contractual Clauses or applicable Privacy Laws cannot reasonably be satisfied through the Security Questionnaire, documentation or compliance information Dell makes generally available to its customers, Dell will promptly respond to Customer's additional audit instructions. Before the commencement of an audit, Customer and Dell will mutually agree upon the scope, timing, duration, control and evidence requirements, and fees for the audit, provided that this requirement to agree will not permit Dell to unreasonably delay performance of the audit. To the extent needed to perform the audit, Dell will make the processing systems, facilities and supporting documentation relevant to the processing of Personal Data by Dell available. Such an audit will be conducted by an independent, accredited third-party audit firm, during regular business hours, with reasonable advance notice to Dell, and subject to reasonable confidentiality procedures. Neither Customer nor the auditor shall have access to any data from Dell's other customers or to Dell systems or facilities not involved in the Services. Customer is responsible for all costs and fees related to such audit, including all reasonable costs and fees for any and all time Dell expends for any such audit, in addition to the rates for services performed by Dell. If the audit report generated as a result of Customer's audit includes any finding of material non-compliance, Customer shall share such audit report with Dell and Dell shall promptly cure any material non-compliance.

10. CCPA.

If Dell is Processing Personal Data within the scope of the CCPA, Dell will Process Personal Data on behalf of Customer and will not retain, use, or disclose that Personal Data for any purpose other than for the purposes set out in the DPA and as permitted under the CCPA. In no event will Dell sell any Personal Data.

Annex 1
Data Processing Description

1. Subject matter and duration of the Processing.

The subject matter and duration of the Processing shall be according to the Agreement.

2. Purpose of Processing.

Personal Data will be Processed for the purpose of providing Services, as relevant and defined by the selected service levels and support options. The Agreement and the relevant service descriptions and statements of work shall apply for the specifics and possible additional services.

3. Nature of Processing.

The nature of the Personal Data Processed is described in the relevant service descriptions and statements of work.

4. Categories of Data Subjects.

The data subjects are Customer's end users, employees, contractors, suppliers and other third parties relevant to the Services.

5. Types of Personal Data.

The type of Personal Data that may be submitted by the Customer are described in the relevant service descriptions and statements of work. Unless otherwise specified, Dell does not Process Special Categories of Data, and Customer shall not provide Special Categories of Data, Personal Health Information, or other similar Personal Data.

Dell Technologies Acceptable Use Policy

Revision 1.2 – March 23, 2021

Acceptable Use Policy

This Acceptable Use Policy ("AUP") describes prohibited use of, and/or access to, Dell's infrastructure, networks, cloud-based offerings, systems, services, web sites, accounts, and products (the "Dell Resources"). In this AUP, "User" means Dell's customers and those that access the Dell Resources through Dell customers. By using or accessing the Dell Resources, User agrees to comply with the current version of this AUP. **If User violates this AUP or authorizes or helps others to do so, Dell may (in addition to any other rights Dell may have), in its sole discretion, suspend or terminate User's access to, or use of, the Dell Resources**.

Violations

User may not upload content or use the Dell Resources in a manner or for a purpose that Dell believes:

1. **Violates any applicable law or regulation (a "Law"), including, but not limited to, the Digital Millennium Copyright Act, or those Laws concerning child pornography and/or illegal gambling;**
2. **Is abusive, deceptive, pornographic, obscene, defamatory, slanderous, offensive, advocates violence, or otherwise inappropriate;**
3. **Violates or infringes the rights of others, including for example by infringing or misappropriating any intellectual property rights of another;**
4. **Advocates or encourages illegal activity;**
5. **Stalks, harasses, or harms anyone, including minors;**
6. **Impersonates any person or entity or misrepresents User's affiliation with a person or entity;**
7. **Modifies, alters, or tampers with (including attempts to self-repair) any software included in the Dell Resources;**
8. **Except where allowed by Law, reverse engineers, disassembles, or decompiles the Dell Resources;**
9. **Accesses or uses the Dell Resources in a way intended to avoid fees or exceeding usage limits or quotas;**
10. **Interferes with or disrupts the Dell Resources;**
11. **Uses any high-volume automated means (including robots, spiders, scripts or other methods) to access the Dell Resources;**
12. **Attempts to gain unauthorized access to any part of the Dell Resources, by hacking, password mining, or other means;**
13. **Violates the security or integrity of the Dell Resources, including by:**
    a. **Accessing or using the Dell Resources without permission, including attempts to probe, scan, or test the vulnerability of the Dell Resources or to breach any security or authentication measures used by the Dell Resources;**
    b. **Monitoring data or traffic on the Dell Resources without permission;**
    c. **Forging packet or email headers, or any part of a message describing its origin or route;**
    d. **Uploading any content that contains viruses, worms, corrupt files, Trojan horses, or other forms of harmful code, or any other content that may compromise the Dell Resources; or**
    e. **Hacking, destabilizing, or making unauthorized changes to the Dell Resources, or altering another website to falsely imply it is affiliated with the Dell Resources;**
14. **Connects to any users, hosts, or networks where User does not have permission to communicate with such users, hosts, or networks, such as:**
    a. **Monitoring or crawling the Dell Resources in any way that would disrupt their performance or operation;**
    b. **Conducting denial of service attacks;**

c. **Interfering with the operation of Dell Resources, including by attempting to overload the Dell Resources; or**
d. **Operating network services like open proxies, open mail relays, or open recursive domain name servers;**

15. **Distributes, publishes, sends, or facilitates unsolicited mass e-mailings, promotions, advertising, or solicitations, including commercial advertising and informational announcements; or**
16. **Collects replies to messages if those messages violate this AUP.**

The examples of prohibited conduct listed above are not comprehensive. Dell has the sole discretion to determine whether User content or User's use of the Dell Resources is a violation of this AUP. All User content, and/or actions that are performed via User's account, are the sole responsibility of User.

Consequences of Violations

Any violation of this AUP by User will be considered to be a material breach of the corresponding contract between Dell and User. If User violates this AUP, Dell reserves the right, in its sole discretion, to apply the remedies provided in the applicable contract with User or available to Dell at Law (e.g. suspension and/or termination of User's access to the Dell Resources).

In addition, Dell reserves the right to investigate any potential violation of this AUP or misuse of the Dell Resources. Among other actions, Dell may perform the following:

1. Remove, disable access to, or modify any data or content that violates this AUP; and
2. Report any activity that potentially violates any Law to law enforcement, regulators, or other appropriate third parties. This may include disclosing appropriate User content and information where necessary.

Reporting

User is required to immediately report any violation or suspected violation of this AUP to Dell. User will provide Dell with assistance, as requested, to address those events or violations. Any reports must be made to Dell by email (Dell_Legal_Notices@dell.com).

Dell Technologies Flex On Demand

Dell EMC APEX Flex on Demand (FOD) – Public Sector Only

These section of Exhibit 1 may be entered into between Purchasing Entity and Contractor of and for the benefit of itself and its affiliate, Dell EMC for its APEX Flex on Demand (FOD) offering. In the event of any conflict between the terms of this Exhibit 1 and the Agreement, this Exhibit 1 shall take precedence and control.

This section of Exhibit 1 comprised of the following documents, which are hereby incorporated by referenced and attached on the following pages:

1. **Master Flexible Consumption Agreement (MFCA) – Public Sector Only**
2. **Flex on Demand (FOD) Schedule – Public Sector Only**
3. **APEX Custom Solutions – Flex on Demand (FOD) Customer Brochure**

Exhibit 1 Dell EMC APEX Flex on Demand (FOD) – Public Sector

MASTER FLEXIBLE CONSUMPTION AGREEMENT
APEX FLEX ON DEMAND TERMS AND CONDITIONS - PUBLIC SECTOR ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

MASTER FLEXIBLE CONSUMPTION AGREEMENT – U.S. STATE & LOCAL GOVERNMENT

This Master Flexible Consumption Agreement **(**this **"Master Agreement"** or **"MFCA")** is made effective as of _____ (the **"Effective Date"**) between the following parties:

EMC Corporation ("Dell EMC")		**Xxxxxxxxxxxxx ("Customer")**
176 South Street	**And**	**Xxxxxxxxxxxx**
Hopkinton, MA 01748		**Xxxxxxxxxxxxxxx**
Email for Legal Notices: LegalNotices@emc.com		**Email for Legal Notices:**

This MFCA governs Customer's access to and use of a configuration of Deployed Capacity on a Flexible Consumption basis at an agreed Customer location, as described in one or more separately executed Flex Consumption Schedules (the "**Schedule(s)**"). This MFCA shall govern each Schedule (including any related purchase order) that references this MFCA.

1. DEFINITIONS.

A. "Billing Period" means the period of time identified on a Schedule for which DELL EMC will invoice Customer for its Flexible Consumption.

B. "**Customer Data**" means all data stored on the Deployed Capacity by or on behalf of Customer or its end users and information derived from such data, including all file layouts and records associated therewith). As between Customer and DELL EMC, Customer Data is Customer's Confidential Information.

C. "Documentation" means the then-current, generally available, written user manuals and online help and guides provided by DELL EMC for Deployed Capacity.

D. "**Flexible Consumption**" means the amount of Customer's usage of the Deployed Capacity, as it may vary from time to time, measured pursuant to a description and metrics identified on the Schedule.

E. "**Flexible Consumption Fee"** means, for a particular Billing Period, (i) the fee for the Monthly Committed Capacity, and (ii) the fee charged by DELL EMC for Customer's Flexible Consumption above the Monthly Committed Capacity, calculated in accordance with the pricing set forth in the Schedule.

F. "**Flexible Consumption Period**" means the time period identified as such on a Schedule, and any DELL EMC approved extension(s) thereto.

G. "Installation Site" means the ship-to address or other location identified as such on the Schedule as the site of installation and/or use of a Deployed Capacity, or a subsequent location approved by DELL EMC**.**

H. "Monthly Committed Capacity" means the amount of capacity the Customer commits to paying for each month as specified in a Schedule regardless of it actual consumption of capacity.

I. "Deployed Capacity" means collectively: (a)**"Equipment"** (which is EMC-branded or Dell-branded hardware that DELL EMC provides to Customer under this Master Agreement); and (b) **"Software"** (any EMC-branded or Dell-branded programming code licensed to Customer as a standard product, also including microcode, firmware and operating system software), as more specifically identified on a Schedule. The Deployed Capacity exclude Third Party Products.

J. "Prime Contract" means, if applicable, the contract (Prime Contract) and any applicable purchase order, task order or delivery order between Customer and the state or local government entity for the Deployed Capacity and Support Services described in an applicable Schedule issued under this Agreement.

K. "Return" of Deployed Capacity means the earlier to occur of (a) DELL EMC taking possession of the Deployed Capacity at the Installation Site, or (b) DELL EMC receiving and accepting a return of the Deployed Capacity.

L. "Support Services" mean services for the support and maintenance of Deployed Capacity as described in the Applicable Schedule.

M. "**Third Party Deployed Capacity**" means hardware, software, or services that are not "Dell" branded, "EMC" branded, or "DELL EMC" branded.
N. "Warranty Period" means for a specific Deployed Capacity, the period of warranty coverage listed at: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/h4276-emc-prod-warranty-maint-table.pdf.

2. SCHEDULES, PURCHASING, FEES AND PAYMENT.
A. Schedules. The description of the Deployed Capacity, Support Services, and related pricing are as stated in the applicable Schedule. The product specific terms informs Customer of product-specific use rights and restrictions, unit of measure (if any), and the applicable maintenance (support) obligations.
B. Ordering. Customer indicates its approval of a specific Schedule by signing it and issuing a purchase order, task order or delivery order pursuant to the Prime Contract, if applicable, to DELL EMC that incorporates by reference in its entirety the terms and conditions of such Schedule and this Agreement. DELL EMC indicates its approval of Customer's purchase order by (i) counter-signing a Schedule and any purchase order, task order or delivery order, if applicable, executed by Customer and (ii) shipping the applicable Deployed Capacity to Customer.
C. Authorization to Monitor; Flexible Consumption Fees. During the Flexible Consumption Period, Customer shall pay a Flexible Consumption Fee calculated in accordance with pricing and frequency set forth on and defined in the applicable Schedule. DELL EMC is authorized to periodically monitor the Flexible Consumption in order to calculate the applicable Flexible Consumption Fee. DELL EMC may conduct such activity through the use of electronic means and/or on-site inspection by DELL EMC personnel and do so only in order to authenticate Customer as the user of the Flexible Consumption and verify Customer's usage levels. Customer is responsible for providing and maintaining the equipment (a physical server or virtual machine) necessary to run storage utilization scripts and to enable electronic communications between the Deployed Capacity and DELL EMC. Customer authorizes DELL EMC to store at the Installation Site, or load onto Deployed Capacity used for electronic communications, such equipment and programming as may be needed by DELL EMC to track usage levels or perform any Support Services for Deployed Capacity and shall not disable or interfere in the operation thereof. Customer shall (i) not copy or make any use thereof whatsoever; and (ii) protect such from disclosure to any third party and give DELL EMC reasonable access thereto. DELL EMC shall cooperate with Customer to minimize the impact of any DELL EMC on-site inspection to Customer's operations.
D. Payment and Assignment. DELL EMC or if applicable, its assignee, shall invoice Customer monthly. Customer shall pay invoices in full and in the same currency as the invoice within thirty (30) days after the date of invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate under any applicable Prompt Payment Act, if any. No credit cards will be accepted as a form of payment. Payments to DELL EMC's assignee of any amounts due shall not be subject to reduction or setoff. Subject to any right of non-appropriation pursuant to Section 10.B herein, Customer's obligation to pay the Monthly Flexible Consumption Fee for the Flexible Consumption Period is absolute, unconditional and non-cancellable and shall not be subject to any abatement, reduction, set off, defense, delay or counterclaim for any reason whatsoever.
E. Taxes. The charges due hereunder and any other items provided by DELL EMC are exclusive of, and Customer shall pay or reimburse DELL EMC for, all value added (VAT), sales, excise, withholding, state or other local governmental taxes, property taxes, use taxes and any other taxes, levies, customs and duties resulting from a Customer purchase order, except for taxes based on DELL EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to DELL EMC. Unless otherwise provided on Customer's purchase order, invoices shall be sent to the Customer contact point or Customer's Accounts Receivable department, as specified on the applicable Schedule.
F. Interruption of Monitoring Capabilities. For Schedules in which Flexible Consumption varies based upon usage or another metric, if, for more than five (5) days of any calendar month, DELL EMC is unable to monitor to determine the applicable Flexible Consumption Fee due to (i) any action by anyone other than DELL EMC, or (ii) a failure of any communications equipment provided by Customer that is used for purposes of monitoring, DELL EMC shall invoice, and Customer shall pay, a Flexible Consumption Fee for the affected Billing Period(s) that shall be based on the Flexible Consumption during the previous Billing Period; provided, however, that if DELL EMC is unable to monitor for a period of more than thirty (30) days, DELL EMC shall invoice, and the Customer shall pay, either (a) the maximum capacity of the Deployed Capacity, or (b) such other maximum rate described in the Schedule, if applicable. If DELL EMC is unable to monitor the Flexible Consumption due to any failure which is caused by DELL EMC (e.g. failure of the modem, software or other equipment used by DELL EMC to monitor Customer's usage), the amounts owed by Customer for such outage period shall be based on Customer's Flexible Consumption during the previous Billing Period. DELL EMC shall promptly notify Customer of an inability to electronically and or physically access the Deployed Capacity, as applicable, and work cooperatively to reestablish access.

3. DELIVERY, RISK, TITLE, USE AND RETURN.
A. Installation Site Preparation. On or before arrival of the Deployed Capacity, Customer shall arrange (i) appropriate space at the Installation Site; (ii) the

necessary environment (power, cooling, etc.) required to support and operate the Deployed Capacity; and (iii) servers and network connectivity required to support Deployed Capacity.

B. Deployed Capacity Shipment. DELL EMC shall deliver the Deployed Capacity by common carrier to the Installation Site. Software may be provided by (i) shipment of physical media; or (ii) electronic download (when so offered by DELL EMC).

C. Risk of Loss. DELL EMC shall bear the entire risk of loss, theft, damage or destruction with respect to the DELL EMC Deployed Capacity until the time of arrival of the Deployed Capacity at the Installation Site(s) and Customer shall bear such risk from such time on until the Deployed Capacity is Returned. If any loss, theft, damage or destruction to the Deployed Capacity occurs during the time Customer bears such risk, DELL EMC shall be relieved of its Flexible Consumption obligations to the extent such event impacts DELL EMC's ability to provide such Flexible Consumption until such time as the Deployed Capacity is repaired or replaced. Charges shall continue to accrue during this period of such interruption. If Deployed Capacity is materially damaged, stolen or destroyed, Customer shall promptly notify DELL EMC**.**

D. Customer Insurance Coverage. Subject to any applicable law or regulation to the contrary, Customer must insure the Deployed Capacity (with a reputable insurance company) against all: (a) liability whatsoever to any third party arising directly or indirectly out of Customer's selection, possession or use of the Deployed Capacity, and (b) loss or damage to the Deployed Capacity from all insurable risks for the full cost of replacing it, and (c) other risks in respect of which a prudent owner or operator of Deployed Capacity of the same nature as the Deployed Capacity would normally insure such Deployed Capacity. In regard to (a) and (b), DELL EMC will be named as co-insured and loss payee respectively, unless otherwise prohibited by law. Upon DELL EMC's prior written consent, Customer may meet the above insurance requirements with its existing self-insurance program, as provided under applicable law. Upon DELL EMC's request Customer must show DELL EMC evidence that the insurance required under this Master Agreement is in place in respect of the relevant Schedule(s). Customer must immediately notify DELL EMC of any loss claim and Customer must not settle any claims without DELL EMC's agreement.

E. Personal Property and Identification. Title to Deployed Capacity provided by DELL EMC pursuant to any Schedule remains with DELL EMC at all times and Customer shall have no right or interest in such Deployed Capacity except as provided in this Master Agreement and related Schedule. All Deployed Capacity shall remain personal property of DELL EMC notwithstanding the manner in which such may be attached or affixed to realty. At any time, Customer shall (i) at request of DELL EMC, legibly mark each item of Equipment in a reasonably prominent location with a label, disc or other marking stating that the Equipment is owned by DELL EMC; and (ii) not remove such without the prior written consent of DELL EMC. Customer may not change the Installation Site without DELL EMC's prior written consent. Customer shall give DELL EMC immediate written notice of any attachment or judicial process affecting the Deployed Capacity or DELL EMC's ownership of which Customer becomes aware. In case the Equipment is installed at a third party Installation Site, Customer undertakes to notify in writing such third party that DELL EMC is the owner of the Equipment and that such Equipment (i) cannot be treated as a fixture or fitting forming part of the third party property (ii) can not be seized by such third party in distress for monies owed by the Customer to such third party. Customer undertakes to guarantee that, at any time during the course of any Equipment applicable Schedule, DELL EMC have the right to enter the third party Installation Site to inspect the Equipment and to retake possession of the Equipment on expiry or termination of any Schedule.

F. Ownership of Customer Data. All Customer Data, shall remain the responsibility and property of Customer. The parties acknowledge and agree that DELL EMC does not handle, process, or direct the use of Customer Data.

G. Return of Deployed Capacity; Data Migration. Prior to any Return of Deployed Capacity, including in case of expiration or termination of the corresponding Schedule, Customer must completely migrate and erase (by use of a method that does not cause damage to the Deployed Capacity) its Customer Data and establish a mutually convenient date, generally coinciding with the end of a Billing Period, when the Deployed Capacity will be Returned to DELL EMC. Customer is liable for any Return costs and shall reimburse DELL EMC for the reasonable value of any Deployed Capacity that is not Returned or is Returned in a condition that evidences damage in excess of reasonable wear and tear.

4. LICENSE TERMS. License Grant. Customer is granted a non-exclusive, non-transferable license to use the Software and the Documentation during the Flexible Consumption Period solely for Customer's internal business operations, and, when so indicated on the applicable Schedule, for delivery of services to its end users. Customer's rights to use the Software provided by DELL EMC during the Flexible Consumption Period are governed by the terms of the Agreement and the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula for the relevant Software product family and effective as of the date of the applicable Quote shall apply taking into account the character of this Master Agreement. DELL EMC will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or

enhanced functions, is licensed for use solely on such Equipment item.

5. WARRANTY.

A. DELL EMC Warranty. During the Warranty Period, DELL EMC will maintain a Deployed Capacity's ability to perform substantially in accordance with the related Documentation. Customer shall promptly provide DELL EMC with written notice of any material defect of which it becomes aware. DELL EMC shall remedy such defect within thirty (30) days of receipt of notice (the "Cure Period"). If DELL EMC fails to cure such defect within the Cure Period, DELL EMC's entire liability and Customer's exclusive remedy shall be for DELL EMC to substitute the defective Deployed Capacity with an identical or equivalent Deployed Capacity model.

B. Exclusions. DELL EMC shall not be responsible for, and shall have the right to charge Customer for, and Customer shall promptly pay any charges for, Deployed Capacity related problems that arise from (i) accident or neglect by Customer or any third party; (ii) any third party items or services with which the Deployed Capacity is used or other causes beyond DELL EMC's control; (iii) installation, operation or use not in accordance with DELL EMC's instructions or the applicable Documentation; (iv) use in an environment, in a manner or for a purpose for which the Deployed Capacity was not designed; (v) modification, alteration or repair by anyone other than DELL EMC or its authorized representatives; or (vi) in case of Equipment only, causes attributable to normal wear and tear. DELL EMC has no obligation whatsoever for Software installed or used beyond the licensed use, for Equipment which was moved from the Installation Site without DELL EMC's consent or whose original identification marks have been altered or removed.

C. No Further Warranties; Disclaimer. EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO DEPLOYED CAPACITY, SUPPORT SERVICES OR ANY OTHER ITEMS OR MATTERS ARISING HEREUNDER, DELL EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, UNDER THIS MASTER AGREEMENT 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. DELL EMC AND ITS SUPPLIERS DO NOT WARRANT THAT SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT IT WILL MEET CUSTOMER'S REQUIREMENTS.

D. Customer Warranties.

(i). Validity and Documentation. Customer represents, warrants and covenants to DELL EMC and will provide to DELL EMC at DELL EMC's request all documents deemed necessary or appropriate by DELL EMC, including Certificates of Insurance, financial statements, Secretary or Clerk Certificates, essential use information or documents (such as affidavits, notices and similar instruments in a form satisfactory to DELL EMC) and Opinions of Counsel (in substantially such form as provided to Customer by DELL EMC and otherwise satisfactory to DELL EMC)(together "Documentation") to the effect that, as of the time Customer enters into this Agreement and each Schedule that:

(a) Customer is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of its state and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder as in effect and applicable to the MFCA or any Schedule, with full power and authority to enter into this MFCA and any Schedules and perform all of its obligations under the Schedules;

(b) The MFCA and each Schedule have been duly authorized, authenticated and delivered by Customer by proper action of its governing board at a regularly convened meeting and attended by the requisite majority of board members, or by other appropriate official authentication, as applicable, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this MFCA and each Schedule against Customer;

(c) This MFCA and each Schedule constitute the valid, legal and binding obligations of Customer, enforceable in accordance with their terms;

(d) No other approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by Customer of the MFCA or any Schedule and the transactions contemplated thereby;

(e) Customer has complied with such public bidding requirements and other state and federal laws as may be applicable to the MFCA and any Schedule and the acquisition by Customer of the Deployed Capacity;

(f) The entering into and performance of the MFCA or any Schedule will not (i) violate any judgment, order, law or regulation applicable to Customer; (ii) result in any breach of, or constitute a default under, any instrument to which the Customer is a party or by which it or its assets may be bound; or (iii) result in the creation of any lien, charge, security interest or other encumbrance upon any assets of DELL EMC or on the Deployed Capacity, other than those created pursuant to this MFCA;

(g) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by

any court, public board or body, pending or threatened against or affecting Customer, nor to the best of Customer's knowledge and belief is there any basis therefor, which if determined adversely to Customer will have a material adverse effect on the ability of Customer to fulfill its obligations under the MFCA or any Schedule;

(h) The Deployed Capacity is essential to the proper, efficient and economic operation of Customer or to the services which Customer provides to its citizens. Customer expects to make immediate use of the Committed Capacity, at a minimum, for which it has an immediate need that is neither temporary nor expected to diminish during the applicable Flexible Consumption Period. The Deployed Capacity will be used for the sole purpose of performing one or more of Customer's governmental or proprietary functions consistent within the permissible scope of Customer's authority; and

(i) Customer has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make all Flexible Consumption Fees and other obligations under this MFCA and any Schedule during the current Fiscal Period, and such funds have not been expended for other purposes.

E. Operating Environment Warranty. Customer shall, at its expense, operate the Deployed Capacity with reasonable care and in accordance with the Documentation, and keep the Deployed Capacity located at the Installation Site free and clear from any liens or encumbrances. Customer shall operate and maintain a data back-up system in its data center environment. Customer shall provide for a daily back-up process including backing up data before performance of any remedial, upgrade or other works on Customer's production systems.

6. INDEMNITY.

A. IP Indemnity. DELL EMC will: (a) defend Customer against any third party claim that Deployed Capacity or Support Services (but excluding Third Party Products and open source software) infringe that party's patent, copyright or trade secret enforceable in the country where Customer acquired the Deployed Capacity from DELL EMC ("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 DELL EMC. In addition, should any Deployed Capacity or Support Service become, or in DELL EMC's opinion be likely to become, the subject of such a Claim, DELL EMC may, at its expense and in its discretion: (a) obtain a right for Customer to continue using the affected Deployed Capacity or Support Service; (b) modify the affected Deployed Capacity or Support Service to make them non-infringing; (c) replace the affected Deployed Capacity or Support Service with non-infringing substitutes; or (d) notify Customer to return the Deployed Capacity and discontinue Support Services, and, upon receipt thereof, refund the remaining portion, if any, of any pre-paid Flexible Consumption Fee. Except as otherwise provided by law, this Section 6 states Customer's exclusive remedies for any third-party intellectual property claim relating to Deployed Capacity or Support Services, and nothing in this Master Agreement or elsewhere will obligate DELL EMC to provide any greater indemnity.

B. Exclusions from Indemnity. DELL EMC has no obligation under Section 6.1 above: (a) if Customer is in material breach of this Master Agreement; or (b) for any Claim resulting or arising from: (1) any combination, operation or use of a Deployed Capacity 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 Deployed Capacity or Support Service was not designed, or use after DELL EMC notifies Customer to cease such use due to a possible or pending Claim; (3) any modification to the Deployed Capacity or Support Service made by any person other than DELL EMC or its authorized representatives; (4) any modification to the Deployed Capacity or Support Service made by DELL EMC pursuant to instructions, designs, specifications or any other information provided to DELL EMC by or on behalf of Customer; (5) use of any version of a Deployed Capacity when an upgrade or newer iteration of the Deployed Capacity or Support Service made available by DELL EMC 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 Deployed Capacity or Support Services.

C. Indemnification Process. DELL EMC's duty to defend and indemnify under this section is contingent upon Customer: (a) sending prompt written notice of the Claim to DELL EMC and taking reasonable steps to mitigate damages; (b) granting to DELL EMC the sole right to control the defense and resolution of the Claim; and (c) cooperating with DELL EMC in the defense and resolution of the Claim and in mitigating any damages.

7. LIMITATION OF LIABILITY.

A. Limitation on Direct Damages. EXCEPT FOR CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED HEREUNDER, CUSTOMER'S VIOLATION OF DELL EMC'S OR ITS AFFILIATES' INTELLECTUAL PROPERTY RIGHTS, OR DELL EMC'S INDEMNITY OBLIGATION STATED IN SECTION 6 ABOVE, EACH PARTY'S TOTAL LIABILITY FOR ANY CLAIM ARISING UNDER THIS MASTER AGREEMENT SHALL BE LIMITED TO THE TOTAL OF THE FLEXIBLE CONSUMPTION FEES FOR THE DEPLOYED CAPACITY, SUPPORT SERVICES, OR BOTH TO WHICH THE CLAIM RELATES PAID DURING

THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CLAIM IS MADE, EXCLUDING AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES OR PAYMENT OF TAXES ACCRUED.

B. No Indirect Damages. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF DELL EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER CUSTOMER NOR DELL EMC SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

C. Limitation Period. All claims must be made within () the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if (a) no such period is specified at law; or (b) the applicable law allows the parties to agree to a shorter period than that specified therein.

8. CONFIDENTIALITY.

A. Existing Non-Disclosure Agreement: If Customer and DELL EMC have a non-disclosure agreement in place as of the date of this Master Agreement, then that non-disclosure agreement shall supersede this Section 8. Where no such non-disclosure agreement exists Section 8.B shall apply.

B. Confidential Information. "Confidential Information" means any information that is marked "confidential" or "proprietary" or any other similar term or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, is identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Master Agreement or any Schedule or purchase order hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer Data to which DELL EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated in the above definition of Confidential Information applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, DELL EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party and its assignees may disclose Confidential Information to (A) other companies within the receiving party's group, advisors, banks and agents for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such group companies, advisors, banks and agents comply with the foregoing; (B) to any third party for the purposes of raising funds secured on or collateralised by this Master Agreement and/or any Schedule (whether by way of bank loan or any other form of financing or fundraising or funding process); and (C) to the extent required by law, court order or regulation.

9. TRADE COMPLIANCE.

Customer's usage of DELL EMC's Deployed Capacity or Support Services and access to related technology (the "Materials") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except as in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria, and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions.

10. TERM; APPROPRIATION OF FUNDS; EVENTS OF DEFAULT; REMEDIES.

A. Master Agreement Term. This Master Agreement commences on its Effective Date, and unless otherwise terminated as set forth below, shall terminate for convenience when a party sends written notice of termination, which notice shall become effective forty-five (45) days after receipt thereof. Such termination shall not terminate any Schedule already in effect at the time thereof and shall not impact any renewal provisions of such Schedules. Any provision that by its nature or context is intended to survive any termination or expiration, including but not limited to provisions relating to payment and liability, shall so survive**.** Unless earlier terminated pursuant to its term, each Schedule shall commence and expire in accordance with its terms.

B. Appropriation of Funds.

(i) Customer reasonably believes that legally available funds in an amount sufficient to make all Monthly Flexible

Consumption Fees during the Flexible Consumption Period defined in Table 3.3 on each applicable Schedule and will do all things lawfully within its power (notwithstanding its right to self rule) to obtain and maintain funds from which Monthly Flexible Consumption Fees may be paid. The parties intend that the obligation of Customer to pay the Monthly Flexible Consumption Fee and other amounts due under a Schedule constitutes a current expense of Customer and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Customer's current Fiscal Period.

(ii) Customer may terminate a Schedule in whole, but not in part by giving at least sixty (60) days' notice prior to the end of the then current Fiscal Period (as defined in the Customer's Secretary/Clerk's Certificate or other such documentation as reasonably requested by and provided to DELL EMC) certifying that: (1) sufficient funds were not appropriated and budgeted by Customer's governing body or will not otherwise be available to continue the Schedule beyond the current Fiscal Period; and (2) that Customer has exhausted all funds legally available for payment of the Monthly Flexible Consumption Fee beyond the current Fiscal Period. Upon termination of the Schedule, Customer's obligations under the Schedule (except those that expressly survive the end of the Flexible Consumption Period) and any interest in the Deployed Capacity shall cease and Customer shall surrender the Deployed Capacity in accordance with Section 3.F and/or if requested by DELL EMC, assemble the Deployed Capacity in a single location designated by DELL EMC granting DELL EMC the right to enter the premises where such Deployed Capacity is located for the purpose of repossession; free from all claims by Customer; provided that the parties shall reasonably cooperate to enable Customer to migrate and erase its data and for DELL EMC to recover such Deployed Capacity. Customer shall be responsible for the payment of the actual documented price of any component(s) of the DELL EMC Deployed Capacity not returned by Customer and for any damage to the DELL EMC Deployed Capacity beyond normal wear and tear. DELL EMC shall take reasonable steps to protect Customer Data for thirty (30) days after recovery of Deployed Capacity under this Subsection B.

(iii) Notwithstanding the foregoing, Customer agrees that, without creating a pledge, lien or encumbrance upon funds available to Customer in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Schedule, including making budget requests for each Fiscal Period during each applicable Flexible Consumption Period for adequate funds to meet its obligations hereunder and to continue the Schedule in force.

C. Events of Default. Notwithstanding Customer's rights under Section 10 B. to non-appropriate, the occurrence of any of the following in connection with the MFCA, any Schedule, or any amendments to either of the foregoing documents, shall constitute an Event of Default: (i) Customer shall fail to pay the Monthly Flexible Consumption Fee within thirty (30) days of its due date; (ii) Customer shall fail to perform any provision, covenant, condition or agreement, and such failure shall continue for thirty (30) days after notice thereof; or (iii) bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation, or other similar proceedings shall be instituted by or against Customer or all or any part of its property under the Federal Bankruptcy Code or other law of the United States or any state or jurisdiction in which Customer is organized, and it shall consent thereto or shall fail to cause the same to be discharged within sixty (60) days.

D. Remedies. If an Event of Default shall occur, DELL EMC may exercise any one or more of the following remedies: (i) immediately terminate any or all Schedules; (ii) by notice in writing to Customer, declare immediately due and payable, and Customer shall be obliged to pay immediately, (1) all past due Monthly Flexible Consumption Fees and other past due amounts plus (2) as the parties agreed upon pre-estimate of damages and not a penalty, all Monthly Flexible Consumption Fees for the Monthly Committed Capacity for the remainder of the Flexible Consumption Period with clause (2) being discounted to present value using the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of the applicable Schedule and (iii) require Customer to Return any or all Deployed Capacity as provided in Section 3G and/or if requested by DELL EMC, assemble the Deployed Capacity in a single location designated by DELL EMC granting DELL EMC the right to enter the premises where such Deployed Capacity is located for the purpose of repossession; free from all claims by Customer; provided that the parties shall reasonably cooperate to enable Customer to migrate and erase its data and for DELL EMC to recover such Deployed Capacity. Customer shall be responsible for the payment of the actual documented costs and reasonable attorney's fees incurred by DELL EMC in retaking possession of the Deployed Capacity and/or seeking to recover amounts due. DELL EMC shall take reasonable steps to protect Customer Data for thirty (30) days after recovery of Deployed Capacity under this Subsection D.

11. MISCELLANEOUS.

A. Notices. Notice to DELL EMC under this Master Agreement or any related transaction must be in writing and sent (i) by registered or certified mail, postage prepaid first-class mail with return receipt requested; or (ii) by overnight delivery service with verification of receipt, to the address below; or (iii) by electronic mail to: Dell_Legal_Notices@dell.com. All such notices will be effective upon receipt.

Dell EMC
Attn: Contracts Manager
Dell Legal Department

One Dell Way, Round Rock, TX 78682

B. Entire Agreement. This Master Agreement, applicable Schedule(s) and each purchase order (i) comprise the complete statement of the agreement of the parties with regard to the subject matter thereof; and (ii) may be modified only in a writing with evidence of acceptance by both parties. All terms of any purchase order or similar document provided by Customer, that are inconsistent or conflict with this Master Agreement and/or Schedule, shall be null and void and of no legal force or effect,

C. Assignment and Change in Control. The assignment or transfer, whether by operation of law or otherwise, of a party's right(s) or delegation of obligation(s) hereunder, shall require the consent of the other party. However, such consent shall not be required of Customer if the assignment or transfer involves (i) assignment by DELL EMC or its assignee of the right to receive payments and related rights due by Customer (iii) the purchase of all or substantially all of DELL EMC's assets or any deemed assignment or transfer by DELL EMC by reason of merger, consolidation, change-in-control or corporate reorganization. DELL EMC may use its direct or indirect subsidiaries or other sufficiently qualified subcontractors to provide Services to Customer, provided that DELL EMC remains responsible to Customer for the Services' performance.

D. Governing Law.

This Master Agreement is governed by the laws of the State in which Customer is located. Subject to applicable state and local laws, the exclusive venue for all litigation arising between the parties related to this Agreement and any Schedules issued hereunder shall be in the federal courts sitting within the State in which Customer is located. BOTH PARTIES HEREBY WAIVE TRIAL BY JURY.

E. Waiver. Failure to enforce a provision of this Master Agreement will not constitute a waiver.

F. Independent Contractors. The parties shall act as independent contractors for all purposes under this Master Agreement. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other.

G. Financial Statements. In addition to providing the Documentation that may be requested by DELL EMC under Section 5D(i) above, Customer agrees to furnish Customer's financial statements (prepared in accordance with generally accepted accounting principles) and other financial information, relating to a Schedule within five (5) Business Days as DELL EMC may from time to time reasonably request and subject to the applicable confidentiality terms as provided for in Section 8.

H. Severability. If any part of this Master Agreement, Schedule, purchase order, or quote is held unenforceable, the validity of all remaining parts will not be affected.

I. Order of Precedence. In the event of a conflict between the provisions of the documentation related to this MFCA, the order of precedence with respect to the term in conflict will be: (a) the terms of a Schedule (as amended); (b) the terms of this MFCA (as amended) In the event of a conflict between the terms of the MFCA and any Prime Contract, the MFCA shall prevail.

In Witness Whereof, the parties have caused their duly authorized representatives to execute this Master Agreement as of the Effective Date.

EMC Corporation ("Dell EMC")	**CUSTOMER NAME ("Customer")**
By:_____	**By:**_____
Name (Print):_____	**Name (Print):**_____
Title:_____	**Title:**_____

APEX FLEX ON DEMAND SCHEDULE TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – PUBLIC SECTOR ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) – U.S. STATE & LOCAL GOVERNMENT

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Deployed Capacity from the Dell entity identified below ("**DELL EMC**"). Customer's use of the Deployed Capacity is subject to the terms of this Schedule and the **Governing Agreement** identified below.

7 **Effective Date:** _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with DELL EMC dated on or** about: _____
Name of Dell EMC entity ("DELL EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of DELL EMC and Customer with regard to the Deployed Capacity listed on the Attachment 1 hereto. This Schedule, when signed by DELL EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. The Flexible Consumption Period shall begin on either (i) the first day of the first month following the date the Deployed Capacity has been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Deployed Capacity, (ii) the first day of the second month following the Deployed Capacity's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Deployed Capacity; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Deployed Capacity. The Deployed Capacity subject to this Schedule is listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Software Use Rights Guide at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Deployed Capacity during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Deployed Capacity and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, DELL EMC will measure the usage of the Deployed Capacity on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric:

3.2 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Deployed Capacity and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Deployed Capacity based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Deployed Capacity as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.3 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay DELL EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, DELL EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by DELL EMC.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Deployed Capacity is made available for pick-up by DELL EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.4 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to DELL EMC in connection with this Schedule. If DELL EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then DELL EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When DELL EMC and Customer have agreed on the increase, DELL EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and DELL EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

	48 Months	54 Months	60 Months
80%	$ -	$ -	$ -
70%	$ -	$ -	$ -
60%	$ -	$ -	$ -

3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify DELL EMC that Customer no longer wishes to use the Deployed Capacity. Customer shall completely migrate its information and data off of the Deployed Capacity and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Deployed Capacity will be returned to DELL EMC. However, until Customer notifies DELL EMC that Customer has removed its data and the Deployed Capacity has been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to DELL EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. DELL EMC shall deliver all Deployed Capacity to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, DELL EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by DELL EMC, the assignee shall have all DELL EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against DELL EMC or any third party. Customer and DELL EMC agree that a signed Schedule may

be amended by written notice from DELL EMC to Customer provided such notice is to correct the serial (or service tag) number of Deployed Capacity.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC CORPORATION ("DELL EMC")	**ABC ("Customer")**
By (Sign): _____	By (Sign): _____
Name (Print): _____	Name (Print): _____
Title: _____	Title: _____

Attachment 1

Product list to be added

Exhibit D – APEX Service Offering

APEX Service Offering Descriptions

Dell Technologies Cloud Platform (DTCP) with Subscription	Terms governing DTCP with Subscription: www.dell.com/learn/us/en/uscorp1/legal_terms-conditions_dellwebpage/global-cloud-purchase-terms Hybrid Cloud - Service Offering Description: https://www.delltechnologies.com/en-gb/collaterals/unauth/legal-documents/solutions/dtcp-offerings-description.pdf Private Cloud - Service Offering Description: https://www.delltechnologies.com/en-gb/collaterals/unauth/legal-documents/solutions/dtcp-private-cloud-offering-description.pdf	N

APEX Storage-as-Service	Terms governing Project APEX Storage-as-a-Service: www.dell.com/learn/us/en/uscorp1/legal_terms-conditions_dellwebpage/global-cloud-purchase-terms Project APEX Storage-as-a-Service Service Offering Description: https://i.dell.com/sites/csdocuments/Legal_Docs/en/us/projectapex_staas_serviceofferingdescription.pdf	N

Dell Financial Services and Pharos Financial Services

Complete Sample Document Package

Proprietary to Dell Financial Services, LLC

Dell Financial Services Public Master Lease Agreement

Proprietary to Dell Financial Services, LLC

Dell Financial Services

EFFECTIVE DATE:
MASTER LEASE AGREEMENT NO.

LESSOR: DELL FINANCIAL SERVICES L.L.C. Mailing Address: One Dell Way Round Rock, TX 78682	LESSEE: Principal Address: Fax: Attention:

This Master Lease Agreement ("Agreement"), effective as of the Effective Date set forth above, is between the Lessor and Lessee named above. Capitalized terms have the meaning set forth in this Agreement.

1. LEASE.

Lessor hereby leases to Lessee and Lessee hereby leases the equipment ("Products"), Software (defined below), and services or fees, where applicable, as described in any lease schedule ("Schedule"). Each Schedule shall incorporate by reference the terms and conditions of this Agreement and contain such other terms as are agreed to by Lessee and Lessor. Each Schedule shall constitute a separate lease of Products ("Lease"). In the event of any conflict between the terms of a Schedule and the terms of this Agreement, the terms of the Schedule shall prevail. Lessor reserves all rights to the Products not specifically granted to Lessee in this Agreement or in a Schedule. Execution of this Agreement does not create an obligation of either party to lease to or from the other.

2. ACCEPTANCE DATE; SCHEDULE.

(a) Subject to any right of return provided by the Product seller ("Seller"), named on the Schedule, Products are deemed to have been irrevocably accepted by Lessee upon delivery to Lessee's ship to location ("Acceptance Date"). Lessee shall be solely responsible for unpacking, inspecting and installing the Products.

(b) Lessor shall deliver to Lessee a Schedule for Products. Lessee agrees to sign or otherwise authenticate (as defined under the Uniform Commercial Code, "UCC") and return each Schedule by the later of the Acceptance Date or five (5) days after Lessee receives a Schedule from Lessor. If the Schedule is not signed or otherwise authenticated by Lessee within the time provided in the prior sentence, then upon written notice from Lessor and Lessee's failure to cure within five (5) days of such notice, Lessor may require the Lessee to purchase the Products by paying the Product Cost charged by the Seller, plus any shipping charges, Taxes or Duties (defined below) and interest at the Overdue Rate accruing from the date the Products are shipped through the date of payment. If Lessee returns any leased Products in accordance with the Seller's return policy, it will notify Lessor. When Lessor receives a credit from the Seller for the returned Product, the Schedule will be deemed amended to reflect the return of the Product and Lessor will adjust its billing records and Lessee's invoice for the applicable Lease. In addition, Lessee and Lessor agree that a signed Schedule may be amended by written notice from Lessor to Lessee provided such notice is (i) to correct the serial (or service tag) number of Products or (ii) to adjust the related Rent (defined below) on the Schedule (any increase up to 15% or any decrease) caused by any change made by Lessee in Lessee's order with the Seller.

3. TERM.

The initial term (the "Primary Term") for each Lease shall begin on the date set forth on the Schedule as the Commencement Date (the "Commencement Date"). The period beginning on the Acceptance Date and ending on the last day of the Primary Term, together with any renewals or extensions thereof, is defined as the "Lease Term". The Lease is non-cancelable by Lessee, except as expressly provided in Section 5.

4. RENT; TAXES; PAYMENT OBLIGATION.

(a) The rental payment amount ("Rent") and the payment period for each installment of Rent ("Payment Period") shall be stated in the Schedule. A prorated portion of Rent calculated based on a 30-day month, 90-day quarter or 360-day year (as appropriate) for the period from the Acceptance Date to the Commencement Date shall be added to the first payment of Rent. All Rent and other amounts due and payable under this Agreement or any Schedule shall be paid to Lessor in lawful funds of the United States of America at the payment address for Lessor set forth above or at such other address as Lessor may designate in writing from time to time. Whenever Rent and other amounts payable under a Lease are not paid when due, Lessee shall pay interest on such amounts at a rate equal to the lesser of 1% per month or the highest such rate permitted by applicable law ("Overdue Rate"). Rent shall be due and payable whether or not Lessee has received an invoice showing such Rent is due. Late charges and reasonable attorney's fees necessary to recover Rent and other amounts owed hereunder are considered an integral part of this Agreement. The rate factors used for the calculation of the payment are based in part on similar or like term swap or T-bill rates as published by the US Federal Reserve Board. In the event the applicable rates change between Lessor initially providing the rate factors and the commencement of a Schedule, Lessor reserves the right to change the applicable rate factor commensurate with the change in the applicable rates.

(b) EACH LEASE SHALL BE A NET LEASE. In addition to Rent, Lessee shall pay sales, use, excise, purchase, property, added value or other taxes, fees, levies or assessments lawfully assessed or levied against Lessor or with respect to the Products and the Lease (collectively "Taxes"), and customs, duties or surcharges on imports or exports (collectively, "Duties"), plus all expenses incurred in connection with Lessor's purchase and Lessee's use of the Products, including but not limited to shipment, delivery, installation, and insurance. Unless Lessee provides Lessor with a tax exemption certificate acceptable to the relevant taxing authority prior to Lessor's payment of such Taxes, Lessee shall pay to Lessor all Taxes and Duties upon demand by Lessor. Lessor may, at its option, invoice Lessee for estimated personal property tax with the Rent Payment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Products.

(c) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5, LESSEE'S OBLIGATION TO PAY ALL RENT AND OTHER AMOUNTS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THIS AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER WHETHER ARISING OUT OF ANY CLAIMS BY LESSEE AGAINST LESSOR, LESSOR'S ASSIGNS, THE SELLER, OR THE SUPPLIER OR MANUFACTURER OF THE PRODUCTS, TOTAL OR PARTIAL LOSS OF THE PRODUCTS OR THEIR USE OR

POSSESSION, OR OTHERWISE. If any Product is unsatisfactory for any reason, Lessee shall make its claim solely against the Seller of such Product (or the Licensor in the case of Software, as defined below) and shall nevertheless pay Lessor or its assignee all amounts due and payable under the Lease.

5. APPROPRIATION OF FUNDS.

(a) Lessee intends to continue each Schedule for the Primary Term and to pay the Rent and other amounts due thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Rent during the Primary Term can be obtained and agrees to do all things lawfully within its power to obtain and maintain funds from which the Rent and other amounts due may be paid.

(b) Lessee may terminate a Schedule in whole, but not in part by giving at least sixty (60) days' notice prior to the end of the then current Fiscal Period (as defined in the Lessee's Secretary/Clerk's Certificate provided to Lessor) certifying that: (1) sufficient funds were not appropriated and budgeted by Lessee's governing body or will not otherwise be available to continue the Lease beyond the current Fiscal Period; and (2) that the Lessee has exhausted all funds legally available for payment of the Rent beyond the current Fiscal Period. Upon termination of the Schedule, Lessee's obligations under the Schedule (except those that expressly survive the end of the Lease Term) and any interest in the Products shall cease and Lessee shall surrender the Products in accordance with Section 8. Notwithstanding the foregoing, Lessee agrees that, without creating a pledge, lien or encumbrance upon funds available to Lessee in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Schedule, including making budget requests for each Fiscal Period during each applicable Lease Term for adequate funds to meet its Lease obligations and to continue the Schedule in force..

(c) Lessor and Lessee intend that the obligation of Lessee to pay Rent and other amounts due under a Lease constitutes a current expense of Lessee and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Lessee's current Fiscal Period.

6. LICENSED MATERIALS.

Software means any operating system software or computer programs included with the Products (collectively, "Software"). "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including, without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Products. Lessee agrees that this Agreement and any Lease (including the sale of any Product pursuant to any purchase option) does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," "lease," and the like in this Agreement or any Schedule with respect to Software shall be interpreted in accordance with this Section 6.

7. USE; LOCATION; INSPECTION.

Lessee shall: (a) comply with all terms and conditions of any Licensed Materials; and (b) possess and operate the Products only (i) in accordance with the Seller's supply contract and any service provider's maintenance and operating manuals, the documentation and applicable laws; and (ii) for the business purposes of Lessee. Lessee agrees not to move Products from the location specified in the Schedule without providing Lessor with at least 30 days prior written notice, and then only to a location within the continental United States and at Lessee's expense. Without notice to Lessor, Lessee may temporarily use laptop computers at other locations, including outside the United States, provided Lessee complies with the United States Export Control Administration Act of 1979 and the Export Administration Act of 1985, as those Acts are amended from time to time (or any successor or similar legislation). Provided Lessor complies with Lessee's reasonable security requirements, Lessee shall allow Lessor to inspect the premises where the Products are located from time to time during reasonable hours after reasonable notice in order to confirm Lessee's compliance with its obligations under this Agreement.

8. RETURN.

At the expiration or earlier termination of the Lease Term of any Schedule, and except for Products purchased pursuant to any purchase option under the Lease, Lessee will (a) remove all proprietary data from the Products and (b) return them to Lessor at a place within the contiguous United States designated by Lessor. Upon return of the Products, Lessee`s right to the operating system Software in returned Products will terminate and Lessee will return the Products with the original certificate of authenticity (attached and unaltered) for the original operating system Software. Lessee agrees to deinstall and package the Products for return in a manner which will protect them from damage. Lessee shall pay all costs associated with the packing and return of the Products and shall promptly reimburse Lessor for all costs and expenses for missing or damaged Products or operating system Software. If Lessee fails to return all of the Products at the expiration of the Lease Term or earlier termination (other than for non-appropriation) in accordance with this Section, the Lease Term with respect to the Products that are not returned shall continue to be renewed as described in the Schedule.

9. RISK OF LOSS; MAINTENANCE; INSURANCE.

(a) From the date the Products are delivered to Lessee's ship to location until the Products are returned to Lessor's designated return location or purchased by Lessee, Lessee agrees: (i) to assume the risk of loss or damage to the Products; (ii) to maintain the Products in good operating condition and appearance, ordinary wear and tear excepted; (iii) to comply with all requirements necessary to enforce all warranty rights; and (iv) to promptly repair any repairable damage to the Products. During the Lease Term, Lessee at its sole discretion has the option to purchase a maintenance agreement from the provider of its choice (including, if it so chooses, to self-maintain the Products) or to forgo such maintenance agreement altogether; regardless of Lessee's choice, Lessee will continue to be responsible for its obligations as stated in the first sentence of this Section. At all times, Lessee shall provide the following insurance: (x) casualty loss insurance for the Products for no less than the Stipulated Loss Value (defined below) naming Lessor as loss payee; and (y) liability insurance with respect to the Products for no less than an amount as required by Lessor, with Lessor named as an additional insured; and (z) such other insurance as may be required by law which names Lessee as an insured and Lessor as an additional insured. Upon Lessor's prior written consent, Lessee may provide this insurance pursuant to Lessee's existing self-insurance policy or as provided for under state law. Lessee shall provide Lessor with either an annual certificate of third party insurance or a written description of its self-insurance policy or relevant law, as applicable. The certificate of insurance will provide that Lessor shall receive at least ten (10) days prior written notice of any material change to or cancellation of the insurance policy or Lessee's self-insurance program, if previously approved by Lessor. If Lessee does not give Lessor evidence of insurance in accordance with the standards herein, Lessor has the right, but not the obligation, to obtain such insurance covering Lessor's interest in the Products for the Lease Term, including renewals. If Lessor obtains such insurance, Lessor will add a monthly, quarterly or annual charge (as appropriate) to the Rent to reimburse Lessor for the insurance premium and Lessor's then current insurance administrative fee.

(b) If the Products are lost, stolen, destroyed, damaged beyond repair or in the event of any condemnation, confiscation, seizure or expropriation of such Products ("Casualty Products"), Lessee shall promptly (i) notify Lessor of the same and (ii) pay to Lessor the Stipulated Loss Value for the Casualty Products. The Stipulated Loss Value is an amount equal to the sum of (a) all Rent and other amounts then due and owing (including interest at the Overdue Rate from the due date until payment is received) under the Lease, plus (b) the present value of all future Rent to become due under the Lease during the remainder of the Lease Term, plus (c) the present value of the estimated in place Fair Market Value of the Product at the end of the Primary Term as determined by Lessor; plus (d) all other amounts to become due and owing during the remaining Lease Term. Unless priced as a tax-exempt Schedule, each of (b) and (c) shall be calculated using the federal funds rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule. The discount rate applicable to tax-exempt Schedules shall be federal funds

rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule less 100 basis points.

10. ALTERATIONS.

Lessee shall, at its expense, make such alterations to Products during the Lease Term as are legally required or provided at no charge by Seller. Lessee may make other alterations, additions or improvements to Products provided that any alteration, addition or improvement shall be readily removable and shall not materially impair the value or utility of the Products. Upon the return of any Product to Lessor, any alteration, addition or improvement that is not removed by Lessee shall become the property of Lessor free and clear of all liens and encumbrances.

11. REPRESENTATIONS AND WARRANTIES OF LESSEE.

Lessee represents, warrants and covenants to Lessor and will provide to Lessor at Lessor's request all documents deemed necessary or appropriate by Lessor, including Certificates of Insurance, financial statements, Secretary or Clerk Certificates, essential use information or documents (such as affidavits, notices and similar instruments in a form satisfactory to Lessor) and Opinions of Counsel (in substantially such form as provided to Lessee by Lessor and otherwise satisfactory to Lessor) to the effect that, as of the time Lessee enters into this Agreement and each Schedule that:

(a) Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of its state and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder as in effect and applicable to the Agreement or any Schedule, with full power and authority to enter into this Agreement and any Schedules and perform all of its obligations under the Leases;

(b) This Agreement and each Schedule have been duly authorized, authenticated and delivered by Lessee by proper action of its governing board at a regularly convened meeting and attended by the requisite majority of board members, or by other appropriate official authentication, as applicable, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement against Lessee;

(c) This Agreement and each Schedule constitute the valid, legal and binding obligations of Lessee, enforceable in accordance with their terms;

(d) No other approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by Lessee of the Agreement or any Schedule and the transactions contemplated thereby;

(e) Lessee has complied with such public bidding requirements and other state and federal laws as may be applicable to the Agreement and any Schedule and the acquisition by Lessee of the Products;

(f) The entering into and performance of the Agreement or any Schedule will not (i) violate any judgment, order, law or regulation applicable to Lessee; (ii) result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound; or (iii) result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created pursuant to this Agreement;

(g) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best of Lessee's knowledge and belief is there any basis therefor, which if determined adversely to Lessee will have a material adverse effect on the ability of Lessee to fulfill its obligations under the Agreement or any Schedule;

(h) The Products are essential to the proper, efficient and economic operation of Lessee or to the services which Lessee provides to its citizens. Lessee expects to make immediate use of the Products, for which it has an immediate need that is neither temporary nor expected to diminish during the applicable Lease Term. The Products will be used for the sole purpose of performing one or more of Lessee's governmental or proprietary functions consistent within the permissible scope of Lessee's authority; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make all Rent payments and other obligations under this Agreement and any Schedule during the current Fiscal Period, and such funds have not been expended for other purposes.

12. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATION OF LIABILITY; FINANCE LEASE.

(a) Provided no Event of Default has occurred and is continuing, Lessor assigns to Lessee for the Lease Term the benefit of any Product warranty and any right of return provided by any Seller.

(b) LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, MANUFACTURE, SUPPLY OR LICENSE ANY PRODUCT AND THAT LESSEE HAS MADE THE SELECTION OF PRODUCTS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS. LESSOR LEASES THE PRODUCTS AS-IS AND MAKES NO WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR OR ITS ASSIGNEE FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY PRODUCTS.

(c) IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY SCHEDULE OR THE SALE, LEASE OR USE OF ANY PRODUCTS EVEN IF LESSOR IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

(d) Lessee agrees that it is the intent of both parties that each lease qualify as a statutory finance lease under Article 2A of the UCC. Lessee acknowledges either (i) that Lessee has reviewed and approved any written supply contract covering the Products purchased from the Seller for lease to Lessee or (ii) that Lessor has informed or advised Lessee, in writing, either previously or by this Agreement, that Lessee may have rights under the supply contract evidencing the purchase of the Products and that Lessee should contact the Seller for a description of any such rights. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC.

13. EVENTS OF DEFAULT.

It shall be an event of default hereunder and under any Schedule ("Event of Default") if:

(a) Lessee fails to pay any Rent or other amounts payable under this Agreement or any Schedule within 15 days after the date that such payment is due;

(b) Any representation or warranty made by Lessee to Lessor in connection with this Agreement, any Schedule or any other Document is at the time made materially untrue or incorrect;

(c) Lessee fails to comply with any other obligation or provision of this Agreement or any Schedule and such failure shall have continued for 30 days after notice from Lessor;

(d) Lessee (i) is generally not paying its debts as they become due or (ii) takes action for the purpose of invoking the protection of any bankruptcy or insolvency law, or any such law is invoked against or with respect to Lessee or its property and such petition is not dismissed within 60 days; or

(e) Any provision of this Agreement ceases to be valid and binding on Lessee, is declared null and void, or its validity or enforceability is contested by Lessee or any governmental agency or authority whereby the loss of such provision would materially adversely affect the rights or

security of Lessor, or Lessee denies any further liability or obligation under this Agreement; or

(f) Lessee is in default under any other lease, contract, or obligation now existing or hereafter entered into with Lessor or Seller or any assignee of Lessor.

14. REMEDIES: TERMINATION

(a) Upon an Event of Default under any Schedule all of Lessee's rights (including its rights to the Products), but not its obligations thereunder, shall automatically be cancelled without notice and Lessor may exercise one or more of the following remedies in its sole discretion:

(i) require Lessee to return any and all such Products in accordance with Section 8, or if requested by Lessor, to assemble the Products in a single location designated by Lessor and to grant Lessor the right to enter the premises where such Products are located (regardless of where assembled) for the purpose of repossession;

(ii) sell, lease or otherwise dispose of any or all Products (as agent and attorney-in-fact for Lessee to the extent necessary) upon such terms and in such manner (at public or private sale) as Lessor deems advisable in its sole discretion (a "Disposition");

(iii) declare immediately due and payable as a pre-estimate of liquidated damages for loss of bargain and not as a penalty, the Stipulated Loss Value of the Products in lieu of any further Rent, in which event Lessee shall pay such amount to Lessor within 10 days after the date of Lessor's demand; or

(iv) proceed by appropriate court action either at law or in equity (including an action for specific performance) to enforce performance by Lessee or recover damages associated with such Event of Default or exercise any other remedy available to Lessor in law or in equity.

(b) Lessee shall pay all costs and expenses arising or incurred by Lessor, including reasonable attorney fees, in connection with or related to an Event of Default or the repossession, transportation, re-furbishing, storage and Disposition of any or all Products (“Default Expenses”). In the event Lessor recovers proceeds (net of Default Expenses) from its Disposition of the Products, Lessor shall credit such proceeds against the owed Stipulated Loss Value. Lessee shall remain liable to Lessor for any deficiency. With respect to this Section, to the extent the proceeds of the Disposition (net of Default Expenses) exceed the Stipulated Loss Value owed under the Lease, or Lessee has paid Lessor the Stipulated Loss Value, the Default Expenses and all other amounts owing under the Lease, Lessee shall be entitled to such excess and shall have no further obligations with respect to such Lease. All rights of Lessor are cumulative and not alternative and may be exercised by Lessor separately or together.

15. QUIET ENJOYMENT.

Lessor shall not interfere with Lessee's right to possession and quiet enjoyment of Products during the relevant Lease Term, provided no Event of Default has occurred and is continuing. Lessor represents and warrants that as of the Commencement Date of the applicable Schedule, Lessor has the right to lease the Products to Lessee.

16. INDEMNIFICATION.

To the extent permitted by law, Lessee shall indemnify, defend and hold Lessor, its assignees, and their respective officers, directors, employees, representatives and agents harmless from and against, all claims, liabilities, costs or expenses, including legal fees and expenses (collectively, "Claims"), arising from or incurred in connection with this Agreement, any Schedule, or the selection, manufacture, possession, ownership, use, condition, or return of any Products (including Claims for personal injury or death or damage to property, and to the extent Lessee is responsible, Claims related to the subsequent use or Disposition of the Products or any data in or alteration of the Products. This indemnity shall not extend to any loss caused solely by the gross negligence or willful misconduct of Lessor. Lessee shall be responsible for the defense and resolution of such Claim at its expense and shall pay any amount for resolution and all costs and damages awarded against or incurred by Lessor or any other person indemnified hereunder; provided, however, that any person indemnified hereunder shall have the right to participate in the defense of such Claim with counsel of its choice and at its expense and to approve any such resolution. Lessee shall keep Lessor informed at all times as to the status of the Claim.

17. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

As between Lessor and Lessee, title to Products (other than any Licensed Materials) is and shall remain with Lessor. Products are considered personal property and Lessee shall, at Lessee's expense, keep Products free and clear of liens and encumbrances of any kind (except those arising through the acts of Lessor) and shall immediately notify Lessor if Lessor's interest is subject to compromise. Lessee shall not remove, cover, or alter plates, labels, or other markings placed upon Products by Lessor, Seller or any other supplier.

18. NON PERFORMANCE BY LESSEE.

If Lessee fails to perform any of its obligations hereunder or under any Schedule, Lessor shall have the right but not the obligation to effect such performance and Lessee shall promptly reimburse Lessor for all out of pocket and other reasonable expenses incurred in connection with such performance, with interest at the Overdue Rate.

19. NOTICES.

All notices shall be given in writing and, except for billings and communications in the ordinary course of business, shall be delivered by overnight courier service, delivered personally or sent by certified mail, return receipt requested, and shall be effective from the date of receipt unless mailed, in which case the effective date will be four (4) Business Days after the date of mailing. Notices to Lessor by Lessee shall be sent to: Dell Financial Services L.L.C., Attn. Legal Department, One Dell Way, Round Rock, TX 78682, or such other mailing address designated in writing by Lessor. Notice to Lessee shall be to the address on the first page of this Agreement or such other mailing address designated in writing by Lessee.

20. ASSIGNMENT.

(a) LESSEE MAY ASSIGN THIS AGREEMENT OR ANY SCHEDULE, OR SUBLEASE ANY PRODUCT(S) WITH THE PRIOR WRITTEN CONSENT OF LESSOR (SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD). LESSOR, AT ITS SOLE DISCRETION, MAY ASSESS AN ADMINISTRATIVE FEE FOR ANY APPROVED ASSIGNMENT OR SUBLEASE. No assignment or sublease shall in any way discharge Lessee's obligations to Lessor under this Agreement or Schedule.

(b) Lessor may at any time without notice to Lessee, but subject to the rights of Lessee, transfer, assign, or grant a security interest in any Product, this Agreement, any Schedule, or any rights and obligations hereunder or thereunder in whole or in part. Lessee hereby consents to such assignments, agrees to comply fully with the terms thereof, and agrees to execute and deliver promptly such acknowledgments, opinions of counsel and other instruments reasonably requested to effect such assignment.

(c) Subject to the foregoing, this Agreement and each Schedule shall be binding upon and inure to the benefit of Lessor, Lessee and their successors and assigns.

21. GOVERNING LAW; JURISDICTION AND VENUE; WAIVER OF JURY TRIAL.

THIS AGREEMENT AND EACH SCHEDULE SHALL BE GOVERNED BY LAW WITHOUT REGARD TO ITS CONFLICTS OF LAWS PRINCIPLES AND, TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. LESSEE CONSENTS TO THE JURISDICTION OF ANY FEDERAL COURT LOCATED IN , , AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURT, AND FURTHER WAIVES ANY RIGHT TO A TRIAL BY JURY.

22. MISCELLANEOUS.

(a) The headings used in this Agreement are for convenience only and shall have no legal effect. This Agreement shall be interpreted without any strict construction in favor of or against either party.

(b) The provisions of Sections 6, 8, 11, 12(b), 12(c), 12(d), 16, 21 and 22 shall continue in full force and effect even after the term or expiration of this Agreement or any Schedule.

(c) Failure of Lessor at any time to require Lessee's performance of any obligation shall not affect the right to require performance of that obligation. No term, condition or provision of this Agreement or any Schedule shall be waived or deemed to have been waived by Lessor unless it is in writing and signed by a duly authorized representative of Lessor. A valid waiver is limited to the specific situation for which it was given.

(d) Lessee shall furnish such financial statements of Lessee (prepared in accordance with generally accepted accounting principles) and other information as Lessor may from time to time reasonably request.

(e) If any provision(s) of this Agreement is deemed invalid or unenforceable to any extent (other than provisions going to the essence of this Agreement) the same shall not in any respect affect the validity, legality or enforceability (to the fullest extent permitted by law) of the remainder of this Agreement, and the parties shall use their best efforts to replace such illegal, invalid or unenforceable provisions with an enforceable provision approximating, to the extent possible, the original intent of the parties.

(f) Unless otherwise provided, all obligations hereunder shall be performed or observed at the respective party's expense.

(g) Lessee shall take any action reasonably requested by Lessor for the purpose of fully effectuating the intent and purposes of this Agreement or any Schedule. If any Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a first priority security interest in the Products and all proceeds thereof. Lessee acknowledges that by signing this Agreement, Lessee has authorized Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate. Lessor may file a copy of this Agreement or any Schedule in lieu of a financing statement.

(h) This Agreement and any Schedule may be signed in any number of counterparts each of which when so executed or otherwise authenticated and delivered shall be an original but all counterparts shall together constitute one and the same instrument. To the extent each Schedule would constitute chattel paper as such term is defined in the UCC, no security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Lessor's possession marked by Lessor as either “Original” or “Counterpart Number 1”.

(i) This Agreement and the Schedules hereto between Lessor and Lessee set forth all of the understandings and agreements between the parties and supersede and merge all prior written or oral communications, understandings, or agreements between the parties relating to the subject matter contained herein. Except as permitted herein, this Agreement and any Schedule may be amended only by a writing duly signed or otherwise authenticated by Lessor and Lessee.

(j) If Lessee delivers this signed Master Lease, or any Schedule, amendment or other document related to the Master Lease (each a “Document”) to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor’s database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee’s representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor’s option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

“Lessee”

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Dell Financial Services L.L.C.
“Lessor”

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Dell Financial Services

Secretary/Clerk Certificate Instructions

1. In the blocks under paragraph (ii) with the headings “NAME OF AUTHORIZED SIGNATORY”, “TITLE OF AUTHORIZED SIGNATORY” and “SIGNATURE OF AUTHORIZED SIGNATORY”, all persons who are authorized to execute and deliver the Agreement and any related Lease Schedule(s) from time to time thereunder between the Public Entity and Customer should write or type his/her name under the “Name of Authorized Signatory” heading, write or type his/her title under the “Title of Authorized Signatory” heading, and sign his/her name under the “Signature of Authorized Signatory” heading in the block across from his/her name and title. **The person(s) listed and executing in the blocks under paragraph (ii) must not be the same person executing the Certificate on behalf of the Public Entity (Clerk, Secretary, etc.) listed at the top of the Certificate and executing in the signature block at the bottom of the Certificate under the “In Witness Whereof” language;**

2. The Clerk, Secretary, etc. should insert the Agreement No. in paragraph (iii), if known;

3. The Clerk, Secretary, etc. should strike paragraph (v) of the Certificate if this paragraph is not applicable to the Public Entity;

4. If paragraph (v) of the Certificate is applicable to the Public Entity, the Clerk, Secretary, etc. should insert “regular” or “special” in the first blank and then insert the date of the meeting of the governing body of the Public Entity in the second blank;

5. The Clerk, Secretary, etc. should write or type the Fiscal Period of the Public Entity in paragraph (ix);

6. The Clerk, Secretary, etc. should write or type his/her name, title, name and State of the Public Entity in the top portion of the Certificate and date, sign & print his/her name and title at the bottom of the Certificate under the “In Witness Whereof” language; and

7. If required by local law, the Certificate should be notarized by a notary public. The notary public should be a person other than the Clerk, Secretary, etc. executing under the “In Witness Whereof” language of the Certificate.

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Dell Financial Services

SECRETARY/CLERK CERTIFICATE

I, _____, do hereby certify that:

(i) I am the duly elected, qualified, and acting _____ (Clerk, Secretary, etc.) of , a public entity (the "Public Entity").

(ii) Each of the persons whose name, title and signature appear below is a duly authorized representative of the Public Entity and holds on the date of this Certificate the formal title set forth opposite his/her name and the signature appearing opposite each such person's name is his/her genuine signature:

NAME OF AUTHORIZED SIGNATORY (cannot be Clerk/Secretary authenticating this certificate)	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY

(iii) Each such representative is duly authorized for and on behalf of the Public Entity to execute and deliver that certain Master Lease Agreement No. (the "Agreement") and any related Lease Schedules from time to time thereunder (the "Schedules") between the Public Entity and Customer, or its assignee (collectively, "Lessor"), and all agreements, documents, and instruments in connection therewith, including without limitation, schedules, riders and certificates of acceptance.

(iv) The execution and delivery of any such Agreement and/or Schedule and all agreements, documents, and instruments in connection therewith for and on behalf of the Public Entity are not prohibited by or in any manner restricted by the terms of the Charter or other document pursuant to which the Public Entity is organized or of any loan agreement, indenture or contract to which the Public Entity is a party or by which it or any of its property is bound.

(v) [STRIKE IF NOT APPLICABLE] The Public Entity did, at a duly called _____ (regular or special) meeting of the governing body of the Public Entity attended throughout by the requisite majority of the members thereof held on the _____ day of _____ by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith on behalf of the Public Entity by the authorized representative(s) of the Public Entity named in paragraph (ii) above. Such action approving the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith and authorizing the execution thereof has not been altered or rescinded by the Public Entity.

(vi) No event or condition that constitutes (or with notice or lapse of time or both, would constitute) an Event of Default, as defined in the Agreement, exists at the date hereof.

(vii) All insurance required in accordance with the Agreement is currently maintained by the Public Entity.

(viii) The Public Entity has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Rent payments scheduled to come due during the first Fiscal Period and to meet the Public Entity's other obligations for the first Fiscal Period, as such terms are defined in the Agreement, and such funds have not been expended for other purposes.

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(ix) The Fiscal Period of the Public Entity is from _____ to _____.

(x) The foregoing authority and information shall remain true and in full force and effect, and Lessor shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same in whole or in part, has been delivered to Lessor, but in any event shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Lessor of said written notice of said modification, rescission or revocation.

IN WITNESS WHEREOF:

By: _____

Name: _____

Title: _____
(Clerk or Secretary)

Date: _____

Subscribed to and sworn before me:

Notary Public: _____.
(Name)

Date: _____.

My commission expires: _____.

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Dell Financial Services

Billing and Schedule Information

Welcome to Dell Financial Services (DFS). We look forward to establishing a long-lasting relationship with you and your team. To ensure your account is setup properly in our systems please provide the information below, working with your Accounts Payable team as needed. Once ready, return it to your DFS Sales Representative or send it to DFS_Customer_Setup@Dell.com. If you have any questions about the form, contact your representative. Thank you.

I. Preparing Your A/P System to Remit DFS Payments:

Below is the most commonly requested information by our customers to assist them in setting up their systems to successfully remit DFS payments. If you require any other information, please contact your representative.

ACH Instructions (preferred)	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER CTX+ format should be first choice if it is an option Email remittance to **USDFSCASHPAYMENTS@dell.com**
Wire Transfer Instructions	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER Email remittance to **USDFSCASHPAYMENTS@dell.com** JPM Swift Code for international wires only: **CHASUS33**
Payee Information	Dell Financial Services L.L.C. Payment Processing Center Federal Tax ID# 74-2825828	PO Box 6549 Carol Stream, IL 60197-6549

II. Your Company Information:

Company Name: _____

Physical Address (primary location): _____

City, State, ZIP: _____

Federal Tax ID: _____

III. Schedules:

Name of recipient(s) to receive monthly schedules **for reconciliation:**

Attention: _____ Email Address: _____

Name of individual(s) that **will sign** schedules (this individual should be named as an authorized signatory on the Incumbency or Secretary Clerk Certificate)

Attention: _____ Title: _____

Telephone Number: _____ Email Address: _____

Would you prefer to sign your documents electronically via Echosign? ☐ Yes ☐ No (not available to Public entities)

Do any of the following criteria need to appear on your schedule?*

☐ Cost Center ☐ Equipment Type ☐ Equipment Location ☐ PO Number

*Invoices will follow the format of the schedule and include a breakout of the items above if requested.

IV. Purchase Orders:

Your PO should be issued to Dell Financial Services L.L.C.

If you are unable to issue purchase orders to DFS please specify how the PO Number will be issued:

Do you utilize blanket PO Numbers? ☐ Yes ☐ No

Do you use a different PO Number for payment versus procurement? ☐ Yes ☐ No

Is PO fulfillment required for scheduling? ☐ Yes ☐ No

DFS will consolidate shipped orders and place on a schedule for your review. If you have any special consolidation requirements, please contact your DFS Sales representative.

Is board approval necessary? ☐ Yes ☐ No If yes, when are meetings held? _____

Fiscal Year is from _____ to _____

V. Invoicing/Billing Contact Information:

Accounts Payable (AP) Contact Name:

Does this billing address match the primary location above? ☐ Yes (If yes, please skip and proceed to Invoice Preference) ☐ No

AP Address:

City, State, ZIP:

County:

AP Email Address: AP Direct Telephone Number:

Email Address for PDF or Electronic Invoices (if different than AP contact):

VI. Invoice Preferences (choose one from each category):

Invoice Options: ☐ **Contract Level** (one invoice per contract) ☐ **Consolidated** (one invoice for all contracts that have the same due date)

Invoice Format: ☐ **Detail** (asset level) ☐ **Summary**

Delivery Format: ☐ **Paper** (USPS) ☐ **PDF** (paper copy is not mailed) ☐ **Electronic CSV** (converted to Excel)

☐ **3rd Party Invoicing Tool, Ariba/SAP** (enter tool name):

Do you need separate invoices for miscellaneous billings? ☐ Yes ☐ No

Do you require a PO Number on the invoice to process payment? ☐ Yes ☐ No

Note: the typical invoice processing time is 30 days. If you require more time, please contact your DFS Sales Representative.

VII. Taxes and Fees:

Is your company/entity tax exempt? ☐ Yes ☐ No

If not exempt, do you intend to finance upfront tax (if applicable) on the schedules (contracts)? ☐ Yes ☐ No

Personal Property Tax (PPT): ☐ Rebill Annually ☐ Monthly Property Management Fee

California Environmental Fee: Do you intend to finance the California Environmental Fee, if applicable? ☐ Yes ☐ No

Do you intend to finance shipping by adding shipping costs for the products to your schedule? ☐ Yes ☐ No

VIII. Additional Tax Information:

Sales/Use Tax Exemption: Please provide your tax exemption or direct pay certificate to both DFS and the product vendor. Certificates intended for Leases should be issued to Dell Financial Services L.L.C., and those for Loans should be issued to the product vendor. Where required, sales/use taxes will be assessed and invoiced to DFS by the vendor.

Note: If tax exempt, a valid Tax Exemption or Direct Pay Certificate must be provided **for each state** in which the products are located.

Tax Exempt Certificate Requirements:

- Address to Dell Financial Services
- Should coincide with the date the schedule is signed
- List a description of the items; computer hardware/software is generally sufficient
- Signed by an authorized employee/owner

The following are not acceptable forms of Tax Exemption Certificates:

- IRS letter declaring the company as a non-profit (501-C) entity*
- CA letter exempting a company from Franchise and Income Tax
- W-9 form
- State registration certificates

*Mississippi is the only state that accepts the IRS letter as an acceptable exemption certificate

Business Personal Property Tax: Tangible business personal property is taxable in most states. In general, the definition of tangible property is personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses but does not include a document that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

Lease Schedules:

Fair Market Value Lease

$1 Out Purchase Option Lease

Tax Exempt Lease Purchase Lease

Dell Flex Lease Purchase

PCaaS Schedule

Software Schedule

Proprietary to Dell Financial Services, LLC

Dell Financial Services

[Customer Name]
TRUE LEASE SCHEDULE NO.
MASTER LEASE AGREEMENT NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

TRUE LEASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. **TRUE LEASE**: The parties intend for this lease to constitute a true lease of Products under the UCC and all applicable laws. If this Lease is determined to be a lease intended as security, in no event shall Lessee be obligated to pay any time price balance differential in excess of the maximum amount permitted by applicable law (as specified herein or the state where the Products are located, whichever law permits the greater amount). In the event Lessor shall receive anything of value under a Lease that is deemed interest which would exceed the maximum amount of interest allowed under the law, the excess amount shall be applied to the reduction of the unpaid time price balance or shall be refunded to Lessee. In order to reduce the unpaid time price balance, any amount deemed interest shall, to the fullest extent permitted by applicable law, be amortized and spread uniformly throughout the Lease Term.

2. **END OF LEASE OPTIONS**.

(a) Provided that no Event of Default has occurred and is continuing, and at least 90 days but no more than 180 days prior to the expiration of the Primary Term (the "Expiration Date"), Lessee will give irrevocable written notice to Lessor of its intention to either:

(i) purchase all of the Products at the Fair Market Value (as defined below);
(ii) renew the Lease Term for a minimum of six (6) months at a rate and for a term agreed upon by both parties; or
(iii) return all of the Products in accordance with the Agreement.

(b) If Lessee exercises the option to purchase the Products then, upon receipt of payment of the "Fair Market Value" (defined below), plus applicable taxes, Lessor will sell the Products to Lessee AS IS-WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. The Fair Market Value purchase price shall be paid on or before the last day of the Primary Term. "Fair Market Value" means the price of the Products, installed, in use and in the condition required by the Agreement as determined by Lessor in its reasonable judgment. If Lessee disagrees with the Fair Market Value, Lessee shall notify Lessor in writing within 60 days prior to the Expiration Date and, upon Lessee's request, and within ten (10) days after receipt of Lessee's notice, Lessor shall appoint a qualified appraiser reasonably acceptable to Lessee to appraise the retail value of the Products. The amount determined by such appraiser shall be the final Fair Market Value. Lessor and Lessee shall share the expense of such appraisal equally.

(c) If Lessee desires to renew a lease, Lessee and Lessor shall enter into a supplement to this Schedule describing the length of the renewal Lease Term and the renewal Rent provided, however, all other terms of this Schedule and the Agreement shall remain in full force and effect.

(d) Whether or not Lessee has given Lessor notice if its intent as described above, if Lessee does not return or purchase the Products or renew the Lease as required above, the Lease Term shall automatically extend on a month-to-month basis at the Rent in effect on the Expiration Date (prorated on a monthly basis if the Payment Period was other than monthly during the Primary Term). Such extension shall continue until Lessee: (i) provides thirty (30) days prior written notice of its intention to return or purchase the Products (to take effect on the next Rent payment date that is at least 30 days after the notice is received by Lessor) and (ii) either returns or purchases all of the Products in accordance with the End of Lease options above. Payments of Rent during the month-to-month extension are due and payable monthly as specified in Lessor's invoice. If Lessee fails to return or purchase any Products, the Schedule and associated Rent for the Products that have not been returned or purchased shall extend on a month-to-month basis in accordance with the prior sentence.

3. **COMPLETION OF SCHEDULE.** Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time if necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit “A”.

"Lessee"	DELL FINANCIAL SERVICES L.L.C. “Lessor”
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

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Dell Financial Services

LEASE PURCHASE SCHEDULE NO.
TO MASTER LEASE AGREEMENT NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Primary Term (Mos.)	Commencement Date*
See Exhibit 'A'	See Exhibit 'A'			

Rent is payable: in

Payment Period:

*The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

LEASE PURCHASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. SECTION 4. RENT; TAXES; PAYMENT OBLIGATION.

Insert as a new last sentence to subsection (a) the following:

"For the purposes of this Schedule, the Rent and Purchase Price (as of the applicable Purchase Date) are shown in the chart below or on Exhibit "B", attached to and made a part hereof.

Payment Number	Purchase Date	Rent	Interest Portion	Principal Portion	Purchase Price
See Exhibit 'B'					

2. PURCHASE OPTION.

Provided that no Event of Default has occurred and is continuing, and at least 60 days but no more than 180 days before the purchase date ("Purchase Date") selected by Lessee, Lessee will give irrevocable written notice to Lessor of its intention to:

(i) purchase the Products for $1.00 at the end of the Primary Term;
(ii) purchase the Products at the Purchase Price as stated in Paragraph (i) above or as listed on Exhibit B, so long as all other amounts due on the Purchase Date have been paid in full; or
(iii) return the Products in accordance with the Agreement for a fee agreed upon by both parties.

Upon satisfaction by Lessee of such conditions, Lessee shall be entitled to Lessor's interest in the Products, AS IS, WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, BY OR AGAINST LESSOR, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT, other than the absence of any liens by, through or under Lessor.

As continuing security for Lessee's obligations hereunder, Lessee hereby grants to Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products and all proceeds thereof, free and clear of all security interests, liens or encumbrances whatsoever.

3. **COMPLETION OF SCHEDULE.** Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibits "A" and "B".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. "Lessor"
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Dell Financial Services

LEASE PURCHASE SCHEDULE NO.
TO MASTER LEASE AGREEMENT NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Primary Term (Mos.)	Commencement Date
See Exhibit 'A'	See Exhibit 'A'			

Rent is payable: in

Payment Period:

LEASE PURCHASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. SECTION 4. RENT; TAXES; PAYMENT OBLIGATION.

Insert as a new last sentence to subsection (a) the following:

"For the purposes of this Schedule, the Rent, as well as the principal and interest portions of each Rent payment are shown in the chart provided on Exhibit "B", attached to and made a part hereof.

2. SECTION 11. REPRESENTATIONS AND WARRANTIES OF LESSEE.

For purposes of this Schedule, add paragraphs (j) through (t) as follows:

"(j) Lessee will comply with the information reporting requirements of Section 149(e) of the Code, including but not limited to, the execution and delivery to Lessor of information statements requested by Lessor;

(k) Lessee will not do, cause to be done or fail to do any act if such act or failure to act will cause this Agreement, or any transaction hereunder, to be an Arbitrage Bond within the meaning of Section 148 of the Code or a Private Activity Bond within the meaning of Section 141 of the Code;

(l) The total cost of the Products listed in this Schedule will not be less than the total Principal Portion of the Rent listed in this Schedule; :

(m) The Products listed in this Schedule have or will be ordered within six months of the date hereof in order to commence such Schedule;

(n) The Products listed in this Schedule are expected to be delivered and installed, and the Seller fully paid, within one year from the date hereof;

(o) No fund or account which secures or otherwise relates to the Rent has been established;

(p) Lessee will not sell, encumber or otherwise dispose of any property comprising this Schedule prior to the final maturity or termination of such Schedule without a written opinion of nationally recognized bond counsel to the effect that any such disposition will not adversely affect the exclusion of interest on the Rent from gross income for federal income tax purposes;

(q) Lessee agrees to execute, deliver and provide Lessor with satisfactory evidence of the filing of such documentation, as may be required for the purposes of properly reporting this Schedule, including, without limitation, IRS forms 8038-G or 8038-GC, as required under the Code;

(r) It is expected that Rent under this Schedule will be paid from periodic appropriations of the Lessee deposited into the general fund of the Lessee, that such appropriations will equal the Rent due during each Fiscal Period of Lessee, and that all amounts paid for Rent will be from an appropriation made by the Lessee during the Fiscal Period in which such Rent is made;

(s) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable; and

(t) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rent from gross income for purposes of federal income taxation.

Without limiting the generality of the foregoing, Lessor hereby gives notice to Lessee that, upon execution of this Schedule by Lessor, Lessor shall assign all of its right, title and interest in, to and under this Schedule, including all Products and all payments owing under such Schedule, to Dell Equipment Funding L.P. ("DEF") pursuant to a purchase agreement between the Lessor and DEF. Lessee hereby acknowledges and consents to such assignment and shall keep, or cause to be kept, a complete and accurate record of all such assignments in a manner and form necessary to comply with Section 149(a) of the Code and the Treasury Regulations promulgated thereunder. Lessor hereby directs Lessee to continue to make any and all payments required to be made under this Schedule directly to Lessor, as servicing agent for DEF, at the same address to which Lessee is currently making payments unless and until Lessor is directed by DEF to make such payments to a different address or payee."

TO THE EXTENT PERMITTED BY LAW, AND IN ADDITION TO LESSEE'S OBLIGATION UNDER SECTION 16 OF THE AGREEMENT AND ANY AMENDMENTS THERETO, LESSEE HEREBY ASSUMES LIABILITY FOR, AND SHALL PAY WHEN DUE, AND SHALL DEFEND LESSOR AND ITS SUCCESSORS AND ASSIGNS AGAINST, ANY AND ALL LIABILITIES, LOSSES, DAMAGES, CLAIMS AND EXPENSES (INCLUDING REASONABLE ATTORNEY FEES) RELATING TO OR ARISING OUT OF LESSEE'S BREACH OF ANY OF ITS REPRESENTATIONS, WARRANTIES, OR COVENANTS CONTAINED IN SECTION 11 OF THE AGREEMENT AS SUPPLEMENTED HEREIN.

3. SECTION 12. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATIONS ON LIABILITY; FINANCE LEASE.

For purposes of this Schedule, delete "FINANCE LEASE" in the title of this Section and delete the first and last sentences of paragraph (d).

4. SECTION 17. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

Insert at the end of this paragraph the following: "Notwithstanding the first sentence of this Section, upon Lessee's acceptance of the Products under this Schedule, title to the Products shall vest in Lessee subject to Lessor's rights under the Agreement; provided that, upon an Event of Default or any termination of this Schedule, other than by Lessee's purchase of the Products, title to the Products shall immediately and without any action by either party vest in Lessor, and Lessee shall immediately surrender possession of the Products to Lessor. Any such transfer of title shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee shall, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer.

5. PURCHASE OPTION.

Provided that no Event of Default has occurred and is continuing, and upon satisfaction of all payment obligations herein by Lessee, Lessee shall be entitled to Lessor's interest in the Products, AS IS, WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, BY OR AGAINST LESSOR, INCLUDING ANY WARRANTIES OF

DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT, other than the absence of any liens by, through or under Lessor.

As continuing security for Lessee's obligations hereunder, Lessee hereby grants to Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products and all proceeds thereof, free and clear of all security interests, liens or encumbrances whatsoever.

6. COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibits "A" and "B".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. "Lessor"
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

SAMPLE OPINION LETTER FOR TAX-EXEMPT LEASE PURCHASE TRANSACTIONS
TO BE EXECUTED ON COUNSEL'S LETTERHEAD

To: [DFS_Lessor_Name]
Insert correct Lessor address

Ladies and Gentlemen:

We are counsel to COMPANY NAME (the "Lessee") and, in that capacity, we have examined Master Lease Agreement No. 993939, dated as of February 20, 2008, and the Lease Purchase Schedule No. 999-999-999-999 to Master Lease Agreement No. 993939 thereto, dated as of February 08, 2008 (collectively the "Agreement"), between the Lessee and [DFS_Lessor_Name] (the "Lessor").

Based on our examination of the Agreement, the information statement(s) required for purposes of Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code") and such other documents, records, papers as we have deemed appropriate, we are of the opinion as follows:

(a) The Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of Idaho and is a state or political subdivision thereof as described in Section 103(a) of the Code, with full power and authority to enter into the Agreement and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The Agreement has been duly authorized, executed and delivered by _____*, _____ of the Lessee by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Agreement against the Lessee;

(c) The Agreement constitutes the valid, legal and binding obligation of the Lessee, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Lessee of the Agreement and the transactions contemplated thereby;

(e) Lessee has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the Agreement and the transactions contemplated thereby;

(f) The entering into and performance of the Agreement will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created by the Agreement;

(g) The Products are tangible personal property and when subject to use by the Lessee will not be or become fixtures or real property under the laws of the State of Idaho;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Lessee, will have a material adverse effect on the ability of the Lessee to fulfill its obligations under the Agreement;

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Lessee's current Fiscal Period to make the Rent payments scheduled to come due during Lessee's current Fiscal Period and to meet its other obligations under the Agreement for the current Fiscal Period, and such funds have not been expended for other purposes;

(j) Lessee's obligation(s) under the Agreement is/are a State or local bond within the meaning of Section 103 of the Code;

(k) The Agreement does not constitute an arbitrage bond within the meaning of Section 148 of the Code or a private activity bond within the meaning of Section 141 of the Code; and

(l) The interest portion of the Rent due under the Agreement is not includable in gross income for Federal income tax purposes under the Code and will not constitute a tax preference under Section 57 of the Code for purposes of computing the alternative minimum tax imposed pursuant to Section 55 of the Code.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the Agreement and may be relied upon by special tax counsel if one is retained to render an opinion as to the exemption from federal income taxation of the interest component of payments to be made by Lessee pursuant to the Agreement.

Very truly yours,

*Authorized Signatory of Lessee under the Agreement.

Dell Financial Services

DELL FLEX LEASE PURCHASE SCHEDULE NO.
TO MASTER LEASE AGREEMENT NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Primary Term (Mos.)	Commencement Date*
See Exhibit 'A'	See Exhibit 'A'			

Rent is payable: in
Payment Period:
*The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms in the Agreement.

LEASE PURCHASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. SECTION 4. RENT; TAXES; PAYMENT OBLIGATION.

Insert as a new last sentence to subsection (a) the following:

"For the purposes of this Schedule, the Rent, as well as the principal and interest portions of each Rent payment are shown in the chart provided on Exhibit "B", attached to and made a part hereof.

Add as a new last sentence to subsection (b) the following:

"Because the Products will be used for a governmental or proprietary purpose of Lessee, they are exempt from all sales, use and property taxes."

2. SECTION 3. TERM.

Insert as a new second paragraph the following:

"**TECHNOLOGY REFRESH WITH NEW FINANCING OPTION.** Provided no Event of Default has occurred or is continuing under this Schedule and the Agreement, Lessee may exercise the following technology refresh option ("Tech Refresh Option") by delivering to Lessor an irrevocable written election notice to exercise the Tech Refresh Option at least 120 days prior to the expiration of the Primary Term and by completing all of the following on or before the beginning of the last month of the Primary Term (the "Tech Refresh Date"):

(i) Lessee returns all (but not less than all) of the Products on this Schedule ("Original Products") to Lessor in the same manner as described in the Agreement; and

(ii) Lessee enters into a new Schedule under the Agreement (the "New Lease") with a primary term of at least 24 months for new equipment ("New Products") which are, as determined by Lessor, of the same manufacture, type and quality as the Original Products and which have a Total Product Cost that is at least 75% of the Total Product Cost of the Original Products.

When Lessee completely fulfills the terms and conditions of the Tech Refresh option and has made all payments and performed all other obligations under the Schedule and the Agreement, then this Schedule shall terminate and, except as

provided in the Agreement, Lessee shall be relieved of all obligations under this Schedule. Notwithstanding the election by Lessee of the Tech Refresh Option, the Schedule and Agreement shall remain in full force and effect and if the terms and condition of the Tech Refresh Option are not fulfilled before the Tech Refresh Date, the Tech Refresh Option shall be null and void and Lessee shall pay the final Rent payment due on the Tech Refresh Date.

3. SECTION 11. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSEE.

For purposes of this Schedule, add paragraphs (j) through (t) as follows:

"(j) Lessee will comply with the information reporting requirements of Section 149(e) of the Code, including but not limited to, the execution (and delivery to Lessor) of information statements requested by Lessor;

(k) Lessee will not do, cause to be done or fail to do any act if such act or failure to act will cause this Agreement, or any transaction hereunder, to be an Arbitrage Bond within the meaning of Section 148 of the Code or a Private Activity Bond within the meaning of Section 141 of the Code;

(l) The total cost of the Products listed in this Schedule will not be less than the total Principal Portion of the Rent listed in this Schedule;

(m) The Products listed in this Schedule have or will be ordered within six months of the date hereof in order to commence such Schedule;

(n) The Products listed in this Schedule are expected to be delivered and installed, and the Seller fully paid, within one year from the date hereof;

(o) No fund or account which secures or otherwise relates to the Rent has been established;

(p) Lessee will not sell, encumber or otherwise dispose of any property comprising this Schedule prior to the final maturity or termination of such Schedule without a written opinion of nationally recognized bond counsel to the effect that any such disposition will not adversely affect the exclusion of interest on the Rent from gross income for federal income tax purposes;

(q) Lessee agrees to execute, deliver and provide Lessor with satisfactory evidence of the filing of such documentation, as may be required for the purposes of properly reporting this Schedule, including, without limitation, IRS forms 8038-G or 8038-GC, as required under the Code;

(r) It is expected that Rent under this Schedule will be paid from periodic appropriations of the Lessee deposited into the general fund of the Lessee, that such appropriations will equal the Rent due during each Fiscal Period of Lessee, and that all amounts paid for Rent will be from an appropriation made by the Lessee during the Fiscal Period in which such Rent is made;

(s) To the best of our knowledge, information and belief, the above expectations are reasonable; and

(t) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rent from gross income for purposes of federal income taxation.

Without limiting the generality of the foregoing, Lessor hereby gives notice to Lessee that, upon execution of this Schedule by Lessor, Lessor shall assign all of its right, title and interest in, to and under this Schedule, including all Products and all payments owing under such Schedule, to Dell Equipment Funding L.P. ("DEF") pursuant to a purchase agreement between the Lessor and DEF. Lessee hereby acknowledges and consents to such assignment and shall keep, or cause to be kept, a complete and accurate record of all such assignments in a manner and form necessary to comply with Section 149(a) of the Code and the Treasury Regulations promulgated thereunder. Lessor hereby directs Lessee to continue to make any and all payments required to be made under this Schedule directly to Lessor, as servicing agent for DEF, at the same address to which Lessee is currently making payments unless and until Lessor is directed by DEF to make such payments to a different address or payee."

4. SECTION 12. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATIONS ON LIABILITY; FINANCE LEASE.

For purposes of this Schedule, delete "FINANCE LEASE" in the title of this Section and delete paragraph (d).

5. SECTION 17. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

Insert at the end of this paragraph the following:

“If Lessee has not terminated the Lease in accordance with Section 5 of the Agreement and no Event of Default has occurred and is continuing, then upon payment of all Rent and other amounts due under this Schedule and the Agreement, at the end of the Lease Term, Lessee is entitled to Lessor's interest in the Products “AS IS, WHERE IS,” without any warranty or representation by Lessor, express or implied, other than the absence of any liens by, through or under Lessor. Lessee will deliver to Lessor documents reasonably requested by Lessor to give public notice of Lessor's interest in the Products.”

6. PURCHASE OPTION.

Provided that no Event of Default has occurred and is continuing, and upon satisfaction of all payment obligations herein by Lessee, Lessee shall be entitled to Lessor's interest in the Products, AS IS, WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, BY OR AGAINST LESSOR, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT, other than the absence of any liens by, through or under Lessor.

As continuing security for Lessee’s obligations hereunder, Lessee hereby grants to Lessor, a first-priority security interest in all of Lessee’s rights and interest in and to the Products and all proceeds thereof, free and clear of all security interests, liens or encumbrances whatsoever.

7. COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a “Document”) to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibits “A” and "B".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. “Lessor”
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

[LESSEE LEGAL NAME]
PC as a SERVICE
MASTER AGREEMENT SCHEDULE NO. _____

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER AGREEMENT NO. _____ ("Agreement") DATED _____, 20__ BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND _____ ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit A attached to and made a part hereof.

PRODUCT SELLER: Dell Marketing LP, One Dell Way, Round Rock, TX 78682

Description	Number of Seats	Per Seat Fee	Rent
[Example: Equipment and Soft Cost Items set forth in Dell Quote # 123456]	[Example: 1,000]	[Example: $50.00]	[Example: $50,000]
		Total:	$

Total Product Acquisition Cost: $_____

Primary Term: _____

Rent is payable: ____in advance; ____in arrears [specify]

Payment Period: ____ Monthly ____ Quarterly ____

Pro-rated Rent: does not apply

***** Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit A.

** The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

For the purposes of this Schedule: a "Seat" means a unit of Equipment and the Soft Cost Items linked with that unit.

Flexible Consumption Terms:
Provided that no Event of Default has occurred and is continuing, Lessee may give irrevocable written notice to Lessor of its intention to exercise one of the following three options: Flex Up; Flex Down; or a combination of Flex Up and Flex Down.

Flex Up
At any time during the Primary Term, Lessee may add additional Seats at any time by executing a new Schedule (subject to credit and pricing approval).

Flex Down
Once, at any time after the half-way point of the Primary Term, and Provided that no Event of Default has occurred and is continuing, Lessee may remove up to ___% of the Seats by providing at least 90 days' notice to Lessor with such notice listing the Equipment to be returned by serial number. If the Lessee has contracted with Product Seller for asset return services for the Seat, then the removal of the Seat will be at no additional cost to the Lessee. Otherwise, Lessee is responsible for the costs of returning the Seat in accordance with the Agreement. Upon Lessor's receipt of the Seat, Lessee's Rent over the remainder of the Primary Term will be lowered to reflect the Seats received.

Combination
Once, at any time after the half-way point of the Primary Term, and Provided that no Event of Default has occurred and is continuing, Customer may add additional Seats at any time by executing a new Schedule (subject to credit and pricing approval)

while at the same time removing up to ___% of the Seats by providing at least 90 days' notice to Lessor with such notice listing the Equipment to be returned by serial number. If the Lessee has contracted with Product Seller for asset return services for the Seat, then the removal of the Seat will be at no additional cost to the Lessee. Otherwise, Customer is responsible for the costs of returning the Seat in accordance with the Agreement. Upon Lessor's receipt of the Seat, Lessee's Rent over the remainder of the Primary Term will be lowered to reflect the Seats received.

Extension Option

Provided that no Event of Default has occurred and is continuing, Lessee has two options upon giving notice at least 30 days prior to the expiration of the Primary Term: (1) renew the Schedule for a mutually agreeable term, or (2) renew the Schedule on a month-to-month basis, terminable upon 30 days notice from either party to the other. For both Renewal Terms, the Rent shall be the same as the Rent during the Initial Term.

Holdover Period

If the Lessee has contracted with Dell for asset return services for a Seat, then Lessee is not liable for any amount beyond the Base Term unless Lessee has exercised the above Extension Option or, through its actions or inactions, prevented Dell from retrieving the Seat. Where Lessee prevented Dell from retrieving the Seat or has not contracted with Dell for asset return services for a Seat, then in the event Lessee has not returned the Seat in accordance with the Agreement, the Term will automatically extend for successive one-month terms in which case Lessee will pay Lessor the same Rent as during the Initial Term. Such one-month terms will continue until Lessor's receipt of the Seat.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit A.

[LESSEE LEGAL NAME]
(Lessee)

By: _____
(Authorized Signature)

_____
(Name/Title)

_____
(Date)

DELL FINANCIAL SERVICES L.L.C.
(Lessor)

By: _____
(Authorized Signature)

_____
(Name/Title)

_____
(Date)

Dell Financial Services

LEASE PURCHASE SCHEDULE NO.
TO MASTER LEASE AGREEMENT NO.
(SOFTWARE AND/OR MAINTENANCE ONLY FINANCING SCHEDULE)

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. and any amendments, if applicable ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Interest Rate:

Payment Period:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. SECTION 4. RENT; TAXES; PAYMENT OBLIGATION:

Insert as a new last sentence to subsection (a) the following:

"For the purposes of this Schedule, the Rent, as well as the principal and interest comprising the Rent, and Purchase Price as of the applicable Purchase Date are shown in the chart on Exhibit "B", attached to and made a part hereof.

2. NATURE OF SCHEDULE. Lessee and Lessor acknowledge that this Schedule is strictly a financing arrangement providing for the repayment of a lease purchase in the amount of the Lessor's Basis (as defined below) made by Lessor to Lessee by performing Lessee's payment obligations to the Product Seller under Lessee's Purchase Order referenced above and is to be repaid as and when set forth herein. The amount of the Rent payments provided for herein represents payments of principal and interest on such lease purchase.

3. PRODUCTS CONSISTING SOLELY OF SOFTWARE AND RELATED SERVICES. The Products covered by this Schedule consist exclusively of the Software identified on Exhibit A; that Lessee hereby acknowledges has been delivered, installed, and accepted by Lessee. Lessee and Lessor agree that (i) any language in the Agreement pertaining to Lessor's ownership of the Products and (ii) the following sections of the Agreement shall not apply to this Schedule: 8 (Return); 10 (Alterations); 14(a)(ii) (in so far as it purports to provide Lessor a right to sell, lease, or otherwise dispose of the Products consisting of Software licenses that would violate the underlying license agreement); and, 17 (Ownership; Liens and Encumbrances; Labels). Notwithstanding the foregoing, Lessee acknowledges that the remaining terms and conditions of the Agreement shall apply to this Schedule including without limitation: Sections 4 (Rent; Taxes; Payment Obligation); 5 (Appropriation of Funds); 6 (Licensed Materials); 12 (Warranty Assignment; Exclusion of Warranties; Limitation of Liability;

Finance Lease); and 16 (Indemnification). This Schedule shall terminate upon the expiration of the Primary Term without extension or renewal; provided, however, that such termination of the Schedule shall not effect obligations of Lessee accruing prior to the termination.

4. ADDITIONAL PROVISIONS. For purposes of this Schedule, the "Lessor's Basis" shall consist of the following amounts: (i) the Total Product Acquisition Cost set forth above; plus (ii) all other amounts that become due and owing under this Schedule that are not included in the amounts paid to Lessor pursuant to clause (i). As security for Lessee's obligations hereunder and subject to applicable law and the Software license agreement, Lessee grants Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products (including with respect to any Software or services, Lessee's right to use the Software and right to obtain the services) and all proceeds thereof (including without limitation any refunds with respect to the Software or associated services financed under this Schedule (each a "Refund") that are received by Lessee or that Lessee has a right to receive), free and clear of all security interests, liens or encumbrances whatsoever. Upon Lessor's written instructions after an Event of Default or a non-appropriation pursuant to Section 5 with respect to this Schedule, Lessee agrees to (a) immediately cease using the Software, (b) deinstall and delete all copies of the Software from any computer systems owned or controlled by Lessee or used for Lessee's benefit, and (c) provide Lessor with a certificate signed by an authorized representative of Lessee attesting to such cessation of use and maintenance, deinstallation, deletion and destruction. In the event that Lessee shall be entitled to a Refund from the Software licensor, Lessee authorizes Lessor to deliver a copy of this Schedule to the licensor as evidence of Lessee's consent to Lessor's collection and receipt of the Refund directly; provided, however, nothing herein shall obligate Lessor to pursue Lessee's Refund rights (if any do exist) or modify, excuse or limit Lessee's obligations pursuant to this Schedule that Lessee acknowledges and agrees are absolute and unconditional, subject to Lessee's right to non-appropriate pursuant to Section 5 of the Agreement. Lessor shall apply any Refund actually received by Lessor against the next scheduled Rent payment(s) and all other amounts owed under this Schedule. Lessee agrees that, except in the case of a non-appropriation pursuant to Section 5, it shall owe any unpaid amounts hereunder remaining after application of such Refund. Finally, pursuant to applicable laws, the Stipulated Loss Value that Lessee may be required to pay Lessor upon an Event of Default under this Schedule shall equal the total sum of the then remaining payments due and unpaid under this Schedule for the Primary Term discounted at the lesser of (x) the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of this Schedule and (y) the interest rate set forth above.

5. ASSIGNMENT. Lessor hereby gives notice to Lessee that, upon execution of this Schedule by Lessor, Lessor shall assign all of its right, title and interest in, to and under this Schedule, including all Products and all payments owing under such Schedule, to Dell Equipment Funding L.P. ("DEF") pursuant to a purchase agreement between the Lessor and DEF. Lessee hereby acknowledges and consents to such assignment and shall keep, or cause to be kept, a complete and accurate record of all such assignments in a manner and form necessary to comply with all applicable laws. Lessor hereby directs Lessee to continue to make any and all payments required to be made under this Schedule directly to Lessor, as servicing agent for DEF, at the same address to which Lessee is currently making payments unless and until Lessor is directed by DEF to make such payments to a different address or payee.

6. COMPLETION OF SCHEDULE. Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibits “A” and "B".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. “Lessor”
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Ancillary Documents:

Validity Opinion

8038 G

8038 GC

Proprietary to Dell Financial Services, LLC

SAMPLE VALIDITY OPINION LETTER
TO BE EXECUTED ON COUNSEL'S LETTERHEAD

To:

Ladies and Gentlemen:

We are counsel to (the "Lessee") and, in that capacity, we have examined Master Lease Agreement No. , dated as of , and the Lease Schedule No. to Master Lease Agreement No thereto, dated as of (collectively the "Agreement"), between the Lessee and Dell Financial Services L.L.C. (the "Lessor").

Based on our examination of the Agreement and such other examinations as we have deemed appropriate, we are of the opinion as follows:

(a) The Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of _____ and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, with full power and authority to enter into the Agreement and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The Agreement has been duly authorized, executed and delivered by _____*, _____ of the Lessee by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Agreement against the Lessee;

(c) The Agreement constitutes the valid, legal and binding obligation of the Lessee, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Lessee of the Agreement and the transactions contemplated thereby;

(e) Lessee has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the Agreement and the transactions contemplated thereby;

(f) The entering into and performance of the Agreement will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created by the Agreement;

(g) The Products are tangible personal property and when subject to use by the Lessee will not be or become fixtures or real property under the laws of the State of _____;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Lessee, will have a material adverse effect on the ability of the Lessee to fulfill its obligations under the Agreement; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Lessee's current Fiscal Period to make the Rent payments scheduled to come due during Lessee's current Fiscal Period and to meet its other obligations under the Agreement for the current Fiscal Period, and such funds have not been expended for other purposes.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the Agreement.

Form **8038-G**

(Rev. October 2021)

Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bonds

▸ **Under Internal Revenue Code section 149(e)**
▸ **See separate instructions.**
Caution: *If the issue price is under $100,000, use Form 8038-GC.*
▸ **Go to *www.irs.gov/F8038G* for instructions and the latest information.**

OMB No. 1545-0047

Part I Reporting Authority

Check box if **Amended Return** ▸ ☐

1 Issuer's name	**2** **Issuer's employer identification number (EIN)**
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)	**3b** Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) / Room/suite	**5** Report number *(For IRS Use Only)* 3
6 City, town, or post office, state, and ZIP code	**7** Date of issue
8 Name of issue	**9** CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information	**10b** Telephone number of officer or other employee shown on 10a

Part II Type of Issue (Enter the issue price.) See the instructions and attach schedule.

11	Education	**11**	
12	Health and hospital	**12**	
13	Transportation	**13**	
14	Public safety	**14**	
15	Environment (including sewage bonds)	**15**	
16	Housing	**16**	
17	Utilities	**17**	
18	Other. Describe ▸ _____	**18**	
19a	If bonds are TANs or RANs, check only box 19a ▸ ☐		
b	If bonds are BANs, check only box 19b ▸ ☐		
20	If bonds are in the form of a lease or installment sale, check box ▸ ☐		

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	**(b)** Issue price	**(c)** Stated redemption price at maturity	**(d)** Weighted average maturity	**(e)** Yield
21		$	$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest		**22**	
23	Issue price of entire issue (enter amount from line 21, column (b))		**23**	
24	Proceeds used for bond issuance costs (including underwriters' discount)	**24**		
25	Proceeds used for credit enhancement	**25**		
26	Proceeds allocated to reasonably required reserve or replacement fund	**26**		
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V	**27**		
28	Proceeds used to refund prior taxable bonds. Complete Part V	**28**		
29	Total (add lines 24 through 28)		**29**	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)		**30**	

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded ▸	years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded ▸	years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) ▸	
34	Enter the date(s) the refunded bonds were issued ▸ (MM/DD/YYYY)	

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions	36a	
b	Enter the final maturity date of the GIC ▸ (MM/DD/YYYY) _____		
c	Enter the name of the GIC provider ▸ _____		
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37	

38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▸ ☐ and enter the following information:

b Enter the date of the master pool bond ▸ (MM/DD/YYYY) _____

c Enter the EIN of the issuer of the master pool bond ▸ _____

d Enter the name of the issuer of the master pool bond ▸ _____

39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▸ ☐

40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▸ ☐

41a If the issuer has identified a hedge, check here ▸ ☐ and enter the following information:

b Name of hedge provider ▸ _____

c Type of hedge ▸ _____

d Term of hedge ▸ _____

42 If the issuer has superintegrated the hedge, check box ▸ ☐

43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▸ ☐

44 If the issuer has established written procedures to monitor the requirements of section 148, check box ▸ ☐

45a If some portion of the proceeds was used to reimburse expenditures, check here ▸ ☐ and enter the amount of reimbursement ▸ _____

b Enter the date the official intent was adopted ▸ (MM/DD/YYYY)

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▸ _____ Signature of issuer's authorized representative Date ▸ _____ Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
Firm's name ▸			Firm's EIN ▸	
Firm's address ▸			Phone no.	

Form **8038-GC**
(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales

▸ **Under Internal Revenue Code section 149(e)**
Caution: *If the issue price of the issue is $100,000 or more, use Form 8038-G.*
▸ **Go to *www.irs.gov/Form8038GC* for instructions and the latest information.**

OMB No. 1545-0047

Part I Reporting Authority

Check box if **Amended Return** ▸ ☐

1 Issuer's name	**2** Issuer's employer identification number (EIN)
3 Number and street (or P.O. box if mail isn't delivered to street address)	Room/suite
4 City, town, or post office, state, and ZIP code	**5** Report number *(For IRS Use Only)*
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information	**7** Telephone number of officer or legal representative

Part II Description of Obligations

Check one box: ☐ Single issue ☐ Consolidated return

8a	Issue price of obligation(s) (see instructions)	**8a**
b	Issue date (single issue) **or** calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ▸ _____	
9	Amount of the reported obligation(s) on line 8a that is:	
a	For leases for vehicles	**9a**
b	For leases for office equipment	**9b**
c	For leases for real property	**9c**
d	For leases for other (see instructions)	**9d**
e	For bank loans for vehicles	**9e**
f	For bank loans for office equipment	**9f**
g	For bank loans for real property	**9g**
h	For bank loans for other (see instructions)	**9h**
i	Used to refund prior issue(s)	**9i**
j	Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	**9j**
k	Other	**9k**

10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box ▸ ☐

11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) ▸ ☐

12 Vendor's or bank's name: _____

13 Vendor's or bank's employer identification number:

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

▸ _____ Signature of issuer's authorized representative — Date

▸ _____ Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
Firm's name ▸			Firm's EIN ▸	
Firm's address ▸			Phone no.	

Future Developments

For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/Form8038GC*.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

Issuers of tax-exempt governmental obligations with issue prices of less than $100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of $100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Bonds.

Filing a separate return for a single issue. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than $100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

Filing a consolidated return for multiple issues. For all tax-exempt governmental obligations with issue prices of less than $100,000 that aren't reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services (PDS). You can use certain PDS designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These PDS include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of $100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, $1.49 becomes $1 and $2.50 becomes $3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is any obligation including a bond, installment purchase agreement, or financial lease on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that isn't a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or $5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond isn't tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and

2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that aren't private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date of issue. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at *www.irs.gov/EIN*. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

Lines 9i and 9j. For line 9i, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Several lines may apply to a particular obligation. For example, report on lines 9i and 9j obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-GC and any applicable certification. Also, write the name and title of the person signing Form 8038-GC. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in this form.

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* **box**. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through *www.irs.gov/FormComments*. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.

Dell Financial Services Private Entity Master Lease Agreement

Dell Financial Services

NO.
EFFECTIVE DATE:

MASTER LEASE AGREEMENT

LESSOR: DELL FINANCIAL SERVICES L.L.C. Mailing Address: One Dell Way Round Rock, TX 78682	LESSEE: Principal Address: Fax: Attention:

This Master Lease Agreement ("Agreement"), effective as of the Effective Date set forth above, is between the Lessor and Lessee named above. Capitalized terms have the meaning set forth in this Agreement.

1. LEASE.

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment ("Products"), software, services or fees described in any lease schedule ("Schedule"). Each Schedule shall incorporate by reference the terms and conditions of this Agreement and contain such other terms as are agreed by Lessee and Lessor. Each Schedule signed or otherwise authenticated by Lessee and Lessor shall constitute a separate lease of Products ("Lease"). In the event of any conflict between the terms of a Schedule and the terms of this Agreement, the terms of the Schedule shall prevail. Lessor reserves all rights to the Products not specifically granted to Lessee in this Agreement or in a Schedule. Execution of this Agreement does not create an obligation of either party to lease to or from the other.

2. ACCEPTANCE DATE; SCHEDULE.

(a) Subject to any right of return provided by the Product seller ("Seller"), named on the Schedule, Products are deemed to have been irrevocably accepted by Lessee upon delivery to Lessee's ship to location ("Acceptance Date"). Lessee shall be solely responsible for unpacking, inspecting and installing the Products.

(b) Lessor shall deliver to Lessee a Schedule for Products. Provided that the Schedule contains no material error, Lessee agrees to sign or otherwise authenticate and return each Schedule by the later of the Acceptance Date or 5 days after Lessee receives a Schedule from Lessor. If the Schedule is not signed or otherwise authenticated by Lessee and returned to Lessor within the time provided in the prior sentence, then upon written notice from Lessor and Lessee's failure to cure within 5 days of such notice, Lessor may require the Lessee to purchase the Products by paying the Product cost charged by the Seller, plus any shipping charges, Taxes and Duties (defined below) and interest at the Overdue Rate (defined below) accruing from the date the Products are shipped through the date of payment. If Lessee returns any leased Products in accordance with the Seller's return policy, it will notify Lessor. When Lessor receives a credit from Seller for the returned Product, the Schedule will be deemed amended to reflect the return of the Product and Lessor will adjust its billing records and Lessee's invoice for the applicable Lease. In addition, Lessee and Lessor agree that a signed Schedule may be amended by written notice from Lessor to Lessee provided such notice is (i) to correct the serial (or service tag) number of Products or (ii) to adjust the related Rent (defined below) on the Schedule (any increase up to 15% or any decrease) caused by any change made by Lessee in Lessee's order with the Seller.

3. TERM.

The initial term ("Primary Term") for each Lease shall begin on the date set forth on the Schedule as the Commencement Date ("Commencement Date") and continue for the number of months set forth in the Schedule. The period beginning on the Acceptance Date and ending on the last day of the Primary Term, together with any renewals or extensions thereof, is defined as the "Lease Term". The Lease is non-cancelable by Lessee.

4. RENT; TAXES; PAYMENT OBLIGATION.

(a) The rental payment amount ("Rent") and the payment period for each installment of Rent ("Payment Period") shall be stated in the Schedule. A prorated portion of Rent, calculated on a 30-day month, 90-day quarter or 360-day year as appropriate, for the period from the Acceptance Date to the Commencement Date shall be added to the first payment of Rent. All Rent and other amounts due and payable under this Agreement or any Schedule shall be paid to Lessor in lawful funds of the United States of America at the payment address set forth above or at such other address as Lessor may designate from time to time in writing. Whenever Rent and other amounts payable under a Lease are not paid when due, Lessee shall pay interest on such amounts at a rate equal to the lesser of 1-1/2% per month or the highest rate permitted by applicable law ("Overdue Rate"). Lessor shall use reasonable commercial efforts to invoice Lessee for all amounts due. The rate factors used for the calculation of the payment are based in part on similar or like term swap or T-bill rates as published by the US Federal Reserve Board. In the event the applicable rates change between Lessor initially providing the rate factors and the commencement of a Schedule, Lessor reserves the right to change the applicable rate factor commensurate with the change in the applicable rates.

(b) Each Lease shall be a net lease. In addition to Rent, Lessee shall pay sales, use, property, added value or other taxes (excepting taxes based on Lessor's income), fees, levies or assessments (collectively, "Taxes"), and customs, duties or surcharges on imports or exports (collectively, "Duties") plus all expenses incurred in connection with Lessor's purchase of the Products, including but not limited to shipment, delivery, installation, and insurance. Unless Lessee provides Lessor with a tax exemption certificate acceptable to the relevant taxing authority prior to Lessor's payment of such Taxes, Lessee shall pay Lessor all Taxes upon demand by Lessor. Unless otherwise set forth in the Schedule and where applicable, Lessee agrees to pay a periodic personal property tax fee ("PPT Fee") calculated by Lessor as a prorated portion of the annual estimated property tax assessed by the applicable taxing authority on the Products during the Lease Term. The PPT Fee shall be payable with each installment of Rent.

(c) LESSEE'S OBLIGATION TO PAY ALL RENT AND OTHER AMOUNTS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THIS AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER WHETHER ARISING OUT OF ANY CLAIMS BY LESSEE AGAINST LESSOR, SELLER, OR THE SUPPLIER OR MANUFACTURER OF THE PRODUCTS, TOTAL OR PARTIAL LOSS OF THE PRODUCTS OR THEIR USE OR POSSESSION, OR

OTHERWISE. If any Product is unsatisfactory for any reason, Lessee shall make its claim solely against the Seller of such Product (or the Licensor in the case of Software, each as defined below) and shall, nevertheless, pay Lessor or its assignee all amounts due and payable under the Lease.

5. LICENSED MATERIALS.

Software means any operating system software or computer programs included with the Products (collectively, "Software"). "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including, without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Products. Lessee agrees that this Agreement and any Lease (including the sale of any Product pursuant to any purchase option) does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," "lease," and the like in this Agreement or any Schedule with respect to Software shall be interpreted in accordance with this Section 5.

6. USE; LOCATION; INSPECTION.

Lessee shall: (a) comply with all terms and conditions of any Licensed Materials; and (b) possess and operate the Products only (i) in accordance with the Seller's supply contract and any service provider's maintenance and operating manuals, the documentation and applicable laws; and (ii) for the business purposes of Lessee. Lessee may move Products from the location specified in the Schedule provided that Lessee notifies Lessor by the following May 31st or November 30th (whichever occurs next), and then only to a location within the United States and at Lessee's expense. Without notice to Lessor, Lessee may temporarily use laptop computers at other locations, including outside of the United States, provided Lessee complies with the United States Export Control Administration Act of 1979 and the Export Administration Act of 1985, as those Acts are amended from time to time (or any successor or similar legislation). Provided Lessor complies with Lessee's reasonable security requirements, Lessee shall allow Lessor to inspect the premises where the Products are located from time to time during reasonable hours after reasonable notice in order to confirm Lessee's compliance with its obligations under this Agreement.

7. RETURN.

At the expiration or earlier termination of the Lease Term of any Schedule, and except for Products purchased pursuant to any purchase option under the Lease, Lessee will (a) remove all proprietary data from the Products and (b) return them to Lessor at a place within the contiguous United States designated by Lessor. Upon return of the Products, Lessee's right to the operating system Software in returned Products will terminate and Lessee will return the Products with the original certificate of authenticity (attached and unaltered) for the original operating system Software. Lessee agrees to deinstall and package the Products for return in a manner which will protect them from damage. Lessee shall pay all costs associated with the packing and return of the Products and shall promptly reimburse Lessor for all costs and expenses for missing or damaged Products or operating system Software. If Lessee fails to return all of the Products at the expiration of any applicable Lease Term, the Lease Term with respect to the Products that are not returned shall continue to be renewed as described in the Schedule.

8. RISK OF LOSS; MAINTENANCE; INSURANCE.

(a) From the date the Products are delivered to Lessee's ship to location until the Products are returned to Lessor's designated return location or purchased by Lessee, Lessee agrees: (i) to assume the risk of loss or damage to the Products; (ii) to maintain the Products in good operating condition and appearance, ordinary wear and tear excepted; (iii) to comply with all requirements necessary to enforce all warranty rights; and (iv) to promptly repair any repairable damage to the Products. During the Lease Term, Lessee at its sole discretion has the option to purchase a maintenance agreement from the provider of its choice (including, if it so chooses, to self-maintain the Products) or to forgo such maintenance agreement altogether; regardless of Lessee's choice, Lessee will continue to be responsible for its obligations as stated in the first sentence of this Section. At all times, Lessee shall provide the following insurance: (i) casualty loss insurance for the Products for no less than the Stipulated Loss Value (defined below) naming Lessor as loss payee; and (ii) liability insurance with respect to the Products in an amount as required by Lessor, naming Lessor as an additional insured. Upon Lessor's prior written consent, Lessee may provide this insurance pursuant to Lessee's existing self insurance policy. Lessee shall either provide Lessor with an annual certificate of third party insurance or a written description of its self insurance policy, as applicable. The certificate of insurance will provide that Lessor shall receive at least ten (10) days prior written notice of any material change to or cancellation of the insurance policy.

(b) If the Products are lost, stolen, destroyed, damaged beyond repair or in the event of any condemnation, confiscation, seizure or expropriation of any Products ("Casualty Products"), Lessee shall promptly (i) notify Lessor of the same, and (ii) pay to Lessor the Stipulated Loss Value for the Casualty Products. The "Stipulated Loss Value" of any Product is an amount equal to the sum of (a) all Rent and other amounts then due and owing (including interest at the Overdue Rate from the due date until payment is received) under the Lease, plus (b) the present value of all future Rent to become due under the Lease during the remainder of the Lease Term, plus (c) the present value of the estimated in place Fair Market Value of the Product at the end of the Primary Term as determined by Lessor. Each of (b) and (c) shall be calculated using the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of the applicable Schedule.

9. ALTERATIONS.

Lessee shall, at its expense, make such alterations to Products during the Lease Term as are legally required or provided at no charge by Seller. Lessee may make other alterations, additions or improvements to Products provided that any alteration, addition or improvement shall be readily removable and shall not materially impair the value or utility of the Product. Upon the return of any Product to Lessor, any alteration, addition or improvement that is not removed by Lessee shall become the property of Lessor, free and clear of all liens and encumbrances.

10. REPRESENTATIONS AND WARRANTIES OF LESSEE.

(a) Lessee represents, warrants and covenants to Lessor at the time Lessee enters into this Agreement and each Schedule that:

(i) Lessee is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and in all jurisdictions with respect to which its ownership or its conduct of business or leasing of property requires such qualification;

(ii) The execution and delivery of and performance under this Agreement, any Schedules, Certificates of Incumbency or other documents related to a Lease ("Documents") to which Lessee is a party have been authorized by all necessary action, and have been executed and delivered on Lessee's behalf by persons duly authorized in that regard. The Documents constitute legal, valid and binding agreements of Lessee, enforceable against Lessee in accordance with their respective terms except as limited by bankruptcy or other similar laws;

(iii) The execution and delivery of or performance under the Documents do not contravene Lessee's charter or bylaws or any law, regulation, order, writ, decree, judgment, or other form of prohibition of which Lessee is aware is binding on it or its assets; and does not and will not contravene the provisions of, or constitute a default under, or result in the creation of a lien upon the Products under any material indenture, mortgage, contract, or other instrument to which it is a party or by which it or its assets are bound;

(iv) To the best of Lessee's knowledge, there is no action, suit or proceeding pending or, to the knowledge of Lessee, threatened in any court or tribunal or before any competent authority against Lessee or any of its property or assets which challenges the Documents or any of the transactions contemplated hereunder or which may have a material adverse effect on the financial condition or business of Lessee; and

(v) The financial statements and other information furnished and to be furnished to Lessor by Lessee are and shall be true and correct in all material respects, and since the date that such financial statements or information were prepared, there has not been any material adverse change in Lessee's business or condition, financial or otherwise.

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(b) If any person guarantees payment or performance by Lessee of any liabilities or obligations of Lessee under this Agreement or any Schedule (a "Guarantor"), the preceding representations, warranties and covenants shall be deemed to be made by Lessee on behalf of such Guarantor as if such Guarantor were named in addition to Lessee therein.

11. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATION OF LIABILITY; FINANCE LEASE.

(a) Provided no Event of Default has occurred and is continuing, Lessor assigns to Lessee for the Lease Term the benefit of any Product warranty and any right of return provided by any Seller.

(b) LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, MANUFACTURE, SUPPLY OR LICENSE ANY PRODUCT AND THAT LESSEE HAS MADE THE SELECTION OF PRODUCTS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS. LESSOR LEASES THE PRODUCTS AS-IS AND MAKES NO WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR OR ITS ASSIGNEE FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY PRODUCTS.

(c) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY SCHEDULE OR THE SALE, LEASE OR USE OF ANY PRODUCTS, EVEN IF THE OTHER PARTY IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF THAT PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

(d) Lessee agrees that it is the intent of both parties that each Lease qualify as a statutory finance lease under Article 2A of the Uniform Commercial Code (“UCC”). Lessee acknowledges either (i) that Lessee has reviewed and approved any written supply contract covering the Products purchased from the Seller for lease to Lessee or (ii) that Lessor has informed or advised Lessee, in writing, either previously or by this Agreement, that Lessee may have rights under the supply contract evidencing the purchase of the Products and that Lessee should contact the Seller for a description of any such rights. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A of the UCC.

12. EVENTS OF DEFAULT.

It shall be an event of default hereunder and under any Schedule ("Event of Default") if:

(a) Lessee fails to pay any Rent or other amounts payable under this Agreement or any Schedule within 30 days after the date that such payment is due;

(b) Any representation or warranty made by Lessee or any Guarantor to Lessor in connection with this Agreement, any Schedule or any other Document is at the time made materially untrue or incorrect;

(c) Lessee fails to comply with any other obligation or provision of this Agreement or any Schedule and such failure shall have continued for 30 days after notice from Lessor;

(d) Lessee (i) is generally not paying its debts as they become due or (ii) takes action for the purpose of invoking the protection of any bankruptcy or insolvency law, or any such law is invoked against or with respect to Lessee or its property and such petition is not dismissed within 60 days; or

(e) Lessee or any Guarantor is in default under any other lease, contract, or obligation now existing or hereafter entered into with Lessor or Seller or any assignee of Lessor.

13. REMEDIES.

(a) Upon an Event of Default under any Schedule, all of Lessee's rights (including its rights to the Products), but not its obligations thereunder, shall automatically be cancelled without notice and Lessor may exercise one or more of the following remedies in its sole discretion:

(i) require Lessee to return any or all Products as provided in Section 7 and/or if requested by Lessor, assemble the Products in a single location designated by Lessor granting Lessor the right to enter the premises where such Products are located for the purpose of repossession;

(ii) sell, lease or otherwise dispose of any or all Products (as agent and attorney-in-fact for Lessee to the extent necessary) upon such terms and in such manner (at public or private sale) as Lessor deems advisable in its sole discretion (a "Disposition");

(iii) declare immediately due and payable as a pre-estimate of liquidated damages for loss of bargain and not as a penalty, the Stipulated Loss Value of the Products in lieu of any further Rent, in which event Lessee shall pay such amount to Lessor within 10 days after the date of Lessor’s demand; or

(iv) proceed by appropriate court action either at law or in equity (including an action for specific performance) to enforce performance by Lessee or recover damages associated with such Event of Default or exercise any other remedy available to Lessor in law or in equity.

(b) Lessee shall pay all costs incurred by Lessor in connection with an Event of Default, including reasonable legal fees and expenses, and all costs related to the repossession, transportation, re-furbishing, storage and Disposition of any or all Products (“Default Expenses”). In the event Lessor recovers proceeds from its Disposition of the Products, Lessor shall credit such proceeds (net of Default Expenses) against the owed Stipulated Loss Value. Lessee shall remain liable to Lessor for any deficiency. With respect to this Section, to the extent the proceeds of a Disposition (net of Default Expenses) exceed the Stipulated Loss Value owed under the Lease, or if Lessee has paid Lessor the Stipulated Loss Value, the Default Expenses and all other amounts owing under the Lease, Lessee shall be entitled to such excess and shall have no further obligations with respect to such Lease. All rights of Lessor are cumulative and not alternative and may be exercised by Lessor separately or together.

14. QUIET ENJOYMENT.

Lessor shall not interfere with Lessee's right to possession and quiet enjoyment of Products during the relevant Lease Term, provided no Event of Default has occurred and is continuing. Lessor represents and warrants that as of the Commencement Date of the applicable Schedule, Lessor has the right to lease the Products to Lessee.

15. INDEMNIFICATION.

Lessee is responsible for losses, damages, penalties, claims, costs (including attorneys’ fees and expenses), actions, suits and proceedings of every kind, (collectively “Claims”) whether based on a theory of strict liability or otherwise caused by or related to this Lease or the Products, (including any defects in the Products). Upon Lessor’s request Lessee will reimburse and defend Lessor against any Claims.

16. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

As between Lessor and Lessee, title to Products (other than any Licensed Materials) is and shall remain with Lessor. Products are considered personal property and Lessee shall, at Lessee's expense, keep Products free and clear of liens and encumbrances of any kind (except those arising through the acts of Lessor) and shall immediately notify Lessor if Lessor’s interest is subject to compromise. Lessee shall not remove, cover, or alter plates, labels, or other markings placed upon Products by Lessor, Seller or any other supplier.

17. NON PERFORMANCE BY LESSEE.

If Lessee fails to perform any of its obligations hereunder or under any Schedule, Lessor shall have the right but not the obligation to effect such performance and Lessee shall promptly reimburse Lessor for all out of pocket and other reasonable expenses incurred in connection with such performance, with interest at the Overdue Rate.

18. NOTICES.

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All notices shall be given in writing and, except for billings and communications in the ordinary course of business, shall be delivered by overnight courier service, delivered personally or sent by certified mail, return receipt requested and shall be effective from the date of receipt unless mailed, in which case the effective date will be 4 Business Days after the date of mailing. Notices to Lessor by Lessee shall be sent to: Dell Financial Services L.L.C., Legal Department, One Dell Way, Round Rock, TX 78682, or such other mailing address designated in writing by Lessor. Notice to Lessee shall be to the address on the first page of this Agreement or such other mailing address designated in writing by Lessee.

19. ASSIGNMENT.

(a) LESSEE MAY ASSIGN THIS AGREEMENT OR ANY SCHEDULE, OR SUBLEASE ANY PRODUCT(S) WITH THE PRIOR WRITTEN CONSENT OF LESSOR (SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD). LESSOR, AT ITS SOLE DISCRETION, MAY ASSESS AN ADMINISTRATIVE FEE FOR ANY APPROVED ASSIGNMENT OR SUBLEASE. No assignment or sublease shall in any way discharge Lessee's obligations to Lessor under this Agreement or any Schedule.

(b) Lessor may at any time and without notice, but subject to the rights of Lessee, transfer, assign, or grant a security interest in any Product, this Agreement, any Schedule, or any rights and obligations hereunder or thereunder, in whole or in part.

(c) Subject to the foregoing, this Agreement and each Schedule shall be binding upon and inure to the benefit of Lessor, Lessee and their successors and assigns.

20. GOVERNING LAW; JURISDICTION AND VENUE; WAIVER OF JURY TRIAL.

THIS AGREEMENT AND EACH SCHEDULE SHALL BE GOVERNED BY TEXAS LAW WITHOUT REGARD TO ITS CONFLICTS OF LAWS PRINCIPLES AND, TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. LESSEE CONSENTS TO THE JURISDICTION OF ANY FEDERAL COURT LOCATED IN TRAVIS COUNTY, TEXAS AND WAIVES ANY OBJECTION TO VENUE, AND FURTHER WAIVES ANY RIGHT TO A TRIAL BY JURY.

21. MISCELLANEOUS.

(a) The headings used in this Agreement are for convenience only and shall have no legal effect. This Agreement shall be interpreted without any strict construction in favor of or against either party.

(b) The provisions of Sections 5, 10, 11(b), 11(c), 11(d), 15, 20 and 21 shall continue in full force and effect even after the term or expiration of this Agreement or any Schedule.

(c) Failure of Lessor at any time to require Lessee's performance of any obligation shall not affect the right to require performance of that obligation. No term, condition or provision of this Agreement or any Schedule shall be waived or deemed to have been waived by Lessor unless it is in writing and signed by a duly authorized representative of Lessor. A valid waiver is limited to the specific situation for which it was given.

(d) Lessee shall furnish such financial statements of Lessee and any Guarantor (prepared in accordance with generally accepted accounting principles) and other financial information, Certificates of Incumbency or other documents related to a Lease as Lessor may from time to time reasonably request.

(e) If any provision(s) of this Agreement is deemed invalid or unenforceable to any extent (other than provisions going to the essence of this Agreement) the same shall not in any respect affect the validity, legality or enforceability (to the fullest extent permitted by law) of the remainder of this Agreement, and the parties shall use their best efforts to replace such illegal, invalid or unenforceable provisions with an enforceable provision approximating, to the extent possible, the original intent of the parties.

(f) Unless otherwise provided, all obligations hereunder shall be performed or observed at the respective party's expense.

(g) Lessee shall take any action reasonably requested by Lessor for the purpose of fully effectuating the intent and purposes of this Agreement or any Schedule. The parties intend for each Lease to constitute a true lease under the UCC and all applicable laws; however, if any Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a first priority security interest in the Products and all proceeds thereof. Lessee acknowledges that by signing this Agreement, Lessee has authorized Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate. Lessor may file a copy of this Agreement or any Schedule in lieu of a financing statement.

(h) This Agreement and any Schedule may be signed in any number of counterparts each of which when so executed or otherwise authenticated and delivered shall be an original but all counterparts shall together constitute one and the same instrument. To the extent each Schedule would constitute chattel paper as such term is defined in the UCC, no security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Lessor's possession marked by Lessor as either "Original" or "Counterpart Number 1".

(i) If any Lease is determined to be a lease intended as security, in no event shall Lessee be obligated to pay any time price balance differential in excess of the maximum amount permitted by applicable law (as specified herein or the state where the Products are located, whichever law permits the greater amount). In the event Lessor shall receive anything of value under a Lease that is deemed interest which would exceed the maximum amount of interest allowed under the law, the excess amount shall be applied to the reduction of the unpaid time price balance or shall be refunded to Lessee. In order to reduce the unpaid time price balance, any amount deemed interest shall, to the fullest extent permitted by applicable law, be amortized and spread uniformly throughout the Lease Term.

(j) This Agreement and the Schedules hereto between Lessor and Lessee set forth the entire agreement between the parties and supersede and merge all prior written or oral communications, understandings, or agreements between the parties relating to the subject matter contained herein. Except as permitted herein, this Agreement and any Schedule may be amended only by a writing duly signed or otherwise authenticated by Lessor and Lessee.

(k) If Lessee delivers this signed Master Lease, or any Schedule, amendment or other document related to the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

Intermediate Classification

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Dell Financial Services L.L.C.
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Intermedia Confidential

Dell Financial Services

Instructions for completing the attached Certificate of Incumbency and Authority form.

1. The person named here should have the authority to designate one or more other people to sign multi-year contracts on behalf of your business. Please include your title (CEO, CFO, CTO, President, Vice President or Secretary).

I,_____ do hereby certify that (i) I am the duly elected, qualified, and acting _____of , (the "Lessee"); (ii) each of the persons whose name, title

2. The persons named/signatures in this section are those authorized by the person listed above (CEO, CFO, etc.) to sign a multi-year contract that will create a liability for your business. The same person cannot designate authority and be an authorized signatory.

NAME OF AUTHORIZED SIGNATORY	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Include here the signature, printed name, and title of the person identified in No. 1 above.

By:_____

Name: _____

Title:_____

Date: _____

Dell Financial Services

LESSEE'S CERTIFICATE OF INCUMBENCY AND AUTHORITY

I, _____, do hereby certify that (i) I am the duly elected, qualified, and acting _____ of , (the "Lessee"); (ii) each of the persons whose name, title and signature appear below is a duly authorized representative of the Lessee and holds on the date of this Certificate the formal title(s) set forth opposite his/her name; (iii) the signature appearing opposite each such person's name is his/her genuine signature; (iv) each such representative is duly authorized for and on behalf of the Lessee to execute and deliver that certain Master Lease Agreement No. _____ ("Agreement") and any related Schedules from time to time thereunder between the Lessee and , a or its assignee and designee (collectively "Lessor"), and all agreements, documents and instruments in connection therewith, including without limitation, schedules, riders, and acceptance certificates, and (v) the execution and delivery of any such Agreement and/or Schedules and all agreements, documents, and instruments in connection therewith for and on behalf of the Lessee are not prohibited by or in any manner restricted by the terms of the Lessee's Certificate or Articles of Incorporation, By-laws or other document pursuant to which it is organized or of any loan agreement, indenture or contract to which the Lessee is a party or by which it or any of its property is bound. I do further certify that the foregoing authority shall remain in full force and effect, and Lessor shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same, in whole or in part, has been delivered to Lessor, but in any event, shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Lessor of such written notice.

NAME OF AUTHORIZED SIGNATORY	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

By:_____

Name: _____

Title:_____

Date: _____

Reference:
Certificate of Incumbency and Authority - MLA

Dell Financial Services

Billing and Schedule Information

Welcome to Dell Financial Services (DFS). We look forward to establishing a long-lasting relationship with you and your team. To ensure your account is setup properly in our systems please provide the information below, working with your Accounts Payable team as needed. Once ready, return it to your DFS Sales Representative or send it to DFS_Customer_Setup@Dell.com. If you have any questions about the form, contact your representative. Thank you.

I. Preparing Your A/P System to Remit DFS Payments:

Below is the most commonly requested information by our customers to assist them in setting up their systems to successfully remit DFS payments. If you require any other information, please contact your representative.

ACH Instructions (preferred)	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER CTX+ format should be first choice if it is an option Email remittance to **USDFSCASHPAYMENTS@dell.com**
Wire Transfer Instructions	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER Email remittance to **USDFSCASHPAYMENTS@dell.com** JPM Swift Code for international wires only: **CHASUS33**
Payee Information	Dell Financial Services L.L.C. Payment Processing Center Federal Tax ID# 74-2825828	PO Box 6549 Carol Stream, IL 60197-6549

II. Your Company Information:

Company Name: _____

Physical Address (primary location): _____

City, State, ZIP: _____

Federal Tax ID: _____

III. Schedules:

Name of recipient(s) to receive monthly schedules **for reconciliation:**

Attention: _____ Email Address: _____

Name of individual(s) that **will sign** schedules (this individual should be named as an authorized signatory on the Incumbency or Secretary Clerk Certificate)

Attention: _____ Title: _____

Telephone Number: _____ Email Address: _____

Would you prefer to sign your documents electronically via Echosign? ☐ Yes ☐ No (not available to Public entities)

Do any of the following criteria need to appear on your schedule?*

☐ Cost Center ☐ Equipment Type ☐ Equipment Location ☐ PO Number

*Invoices will follow the format of the schedule and include a breakout of the items above if requested.

IV. Purchase Orders:

Your PO should be issued to Dell Financial Services L.L.C.

If you are unable to issue purchase orders to DFS please specify how the PO Number will be issued:

Do you utilize blanket PO Numbers? ☐ Yes ☐ No

Do you use a different PO Number for payment versus procurement? ☐ Yes ☐ No

Is PO fulfillment required for scheduling? ☐ Yes ☐ No

DFS will consolidate shipped orders and place on a schedule for your review. If you have any special consolidation requirements, please contact your DFS Sales representative.

Is board approval necessary? ☐ Yes ☐ No If yes, when are meetings held? _____

Fiscal Year is from _____ to _____

V. Invoicing/Billing Contact Information:

Accounts Payable (AP) Contact Name:

Does this billing address match the primary location above? ☐ Yes (If yes, please skip and proceed to Invoice Preference) ☐ No

AP Address:

City, State, ZIP:

County:

AP Email Address: AP Direct Telephone Number:

Email Address for PDF or Electronic Invoices (if different than AP contact):

VI. Invoice Preferences (choose one from each category):

Invoice Options: ☐ **Contract Level** (one invoice per contract) ☐ **Consolidated** (one invoice for all contracts that have the same due date)

Invoice Format: ☐ **Detail** (asset level) ☐ **Summary**

Delivery Format: ☐ **Paper** (USPS) ☐ **PDF** (paper copy is not mailed) ☐ **Electronic CSV** (converted to Excel)

☐ **3rd Party Invoicing Tool, Ariba/SAP** (enter tool name):

Do you need separate invoices for miscellaneous billings? ☐ Yes ☐ No

Do you require a PO Number on the invoice to process payment? ☐ Yes ☐ No

Note: the typical invoice processing time is 30 days. If you require more time, please contact your DFS Sales Representative.

VII. Taxes and Fees:

Is your company/entity tax exempt? ☐ Yes ☐ No

If not exempt, do you intend to finance upfront tax (if applicable) on the schedules (contracts)? ☐ Yes ☐ No

Personal Property Tax (PPT): ☐ Rebill Annually ☐ Monthly Property Management Fee

California Environmental Fee: Do you intend to finance the California Environmental Fee, if applicable? ☐ Yes ☐ No

Do you intend to finance shipping by adding shipping costs for the products to your schedule? ☐ Yes ☐ No

VIII. Additional Tax Information:

Sales/Use Tax Exemption: Please provide your tax exemption or direct pay certificate to both DFS and the product vendor. Certificates intended for Leases should be issued to Dell Financial Services L.L.C., and those for Loans should be issued to the product vendor. Where required, sales/use taxes will be assessed and invoiced to DFS by the vendor.

Note: If tax exempt, a valid Tax Exemption or Direct Pay Certificate must be provided **for each state** in which the products are located.

Tax Exempt Certificate Requirements:

- Address to Dell Financial Services
- Should coincide with the date the schedule is signed
- List a description of the items; computer hardware/software is generally sufficient
- Signed by an authorized employee/owner

The following are not acceptable forms of Tax Exemption Certificates:

- IRS letter declaring the company as a non-profit (501-C) entity*
- CA letter exempting a company from Franchise and Income Tax
- W-9 form
- State registration certificates

*Mississippi is the only state that accepts the IRS letter as an acceptable exemption certificate

Business Personal Property Tax: Tangible business personal property is taxable in most states. In general, the definition of tangible property is personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses but does not include a document that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

Exhibit F – Flex on Demand (FOD) Information

Dell Financial Services Private Entity Lease Schedules

Fair Market Value

$ Out

Software

Dell Financial Services

[Customer Name]
MASTER LEASE AGREEMENT SCHEDULE NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit “A” attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

Pro-rated Rent:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit “A”.

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

END OF LEASE OPTIONS: Provided that no Event of Default has occurred and is continuing, and at least 90 days but no more than 180 days prior to the expiration of the Primary Term (the "Expiration Date"), Lessee will give irrevocable written notice to Lessor of its intention to either:

(i) purchase some or all of the Products, as long as the Products comprise a full system configuration (including CPU, monitor, keyboard and mouse for desktops and CPU, cables, modem and other essential accessories for laptops), at Fair Market Value (defined below);
(ii) renew the Lease Term for a minimum of six (6) months at a rate and for a term agreed upon by both parties; or
(iii) return Products not purchased or renewed pursuant to (i) or (ii) above in accordance with the Agreement.

If Lessee exercises the option to purchase the Products then, on receipt of payment of the "Fair Market Value" (defined below) plus applicable taxes, Lessor will sell the Products to Lessee AS IS-WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. The Fair Market Value purchase price shall be paid on or before the last day of the Primary Term. "Fair Market Value" means the price of the Products, installed, in use and in the condition required by the Agreement as determined by Lessor in its reasonable judgment. If Lessee disagrees with the Fair Market Value, Lessee shall notify Lessor in writing within 60 days prior to the Expiration Date and, upon Lessee's request and within ten (10) days after receipt of Lessee's notice, Lessor shall appoint a qualified appraiser

reasonably acceptable to Lessee to appraise the retail value of the Products. The amount determined by such appraiser shall be the final Fair Market Value. Lessor and Lessee shall share the expense of such appraisal equally.

If Lessee desires to renew a Lease, Lessee and Lessor shall enter into a supplement to this Schedule describing the length of the renewal Lease Term and the renewal Rent provided, however, all other terms of this Schedule and the Agreement shall remain in full force and effect.

Whether or not Lessee has given Lessor notice of its intent to purchase, renew or return as described above, if Lessee does not return or purchase the Products or renew the Lease as required above, the Lease Term shall automatically extend on a month-to-month basis at the Rent in effect on the last day of the Primary Term (prorated on a monthly basis if the Payment Period was other than monthly during the Primary Term). Such extension shall continue until Lessee: (i) provides 30 days prior written notice of its intention to return or purchase the Products (to take effect on the next Rent payment date that is at least 30 days after the notice is received by Lessor) and (ii) either returns or purchases all of the Products in accordance with the End of Lease options above. Payments of Rent during the month-to-month extension are due and payable monthly as specified in Lessor's invoice. If Lessee fails to return or purchase any Products, the Schedule and associated Rent for the Products that have not been returned or purchased shall extend on a month-to-month basis in accordance with the prior sentence.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. "Lessor"
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Dell Financial Services

MASTER LEASE AGREEMENT SCHEDULE NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

Pro-rated Rent:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

END OF LEASE OPTIONS: Provided that no Event of Default has occurred and is continuing at the expiration of the Lease Term, Lessee shall have the option to (i) purchase the Products for $1.00; or (ii) return the Products in accordance with the Agreement for a disposal fee agreed upon by both parties.

SECURITY INTEREST: As a continuing security interest for Lessee's obligation hereunder, Lessee hereby grants to Lessor a first priority security interest in all of Lessee's rights and interests in and to the Products and all proceeds thereof, free and clear of all security interests, liens or encumbrances whatsoever.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such

signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit “A”.

"Lessee"	DELL FINANCIAL SERVICES L.L.C. “Lessor”
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Dell Financial Services

[LESSEE NAME]
MASTER LEASE AGREEMENT SCHEDULE NO. XXX-XXXXXX-XXX

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. _____AND ANY AMENDMENTS, IF APPLICABLE, ("Agreement") DATED _____ BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND _____ ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER: [Dell, One Dell Way, Round Rock, TX 78682 / OTHER VENDOR NAME]

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**

Total Product Acquisition Cost: $_____

Rent is payable: ____in advance; ____in arrears [specify]

Interest Rate: _____%

Payment Period: _____ Monthly _____ Quarterly _____ Annually _____ Other (specify _____)

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

NATURE OF SCHEDULE: Lessee and Lessor acknowledge that this Schedule is strictly a financing arrangement providing for the repayment of a lease purchase in the amount of the Lessor's Basis (as defined below) made by Lessor to Lessee by performing Lessee's payment obligations to the Product Seller under Lessee's Purchase Order referenced above and is to be repaid as and when set forth herein. The amount of the Rent payments provided for herein represents payments of principal and interest on such lease purchase.

ACCEPTANCE, MASTER AGREEMENT PROVISIONS, TERMINATION: Lessee agrees that for the purpose of this Schedule, all Products, Software and services covered by this Schedule and identified on Exhibit A have been delivered, installed, and accepted by Lessee. Upon Lessee's acceptance of the Products under this Schedule, title to the Products shall vest in Lessee. Lessee and Lessor agree that (i) any language in the Agreement pertaining to Lessor's ownership of the Products, Software and services and (ii) the following sections of the Agreement shall not apply to this Schedule: 7 (Return); 9 (Alterations); 13(a)(ii) (in so far as it purports to provide Lessor a right to sell, lease, or otherwise dispose of the Products consisting of Software licenses that would violate the underlying license agreement); and, 16 (Ownership; Liens and Encumbrances; Labels). Notwithstanding the foregoing, Lessee acknowledges that the remaining terms and conditions of the Agreement shall apply to this Schedule including without limitation: Sections 4 (Rent; Taxes; Payment Obligation); 5 (Licensed Materials); 11 (Warranty Assignment; Exclusion of Warranties; Limitation of Liability; Finance Lease); 15 (Indemnification); and, 21(i) (Limit on Interest Charges). This Schedule shall terminate upon the expiration of the Primary Term without extension or renewal; provided, however, that such termination of the Schedule shall not affect obligations of Lessee accruing prior to the termination.

ADDITIONAL PROVISIONS: For purposes of this Schedule, the "Lessor's Basis" shall consist of the following amounts: (i) the Total Product Acquisition Cost set forth above; plus (ii) all other amounts that become due and owing under this Schedule that are not included in the amounts paid to Lessor pursuant to clause (i). As security for Lessee's obligations hereunder and subject to applicable law and the Software license agreement, Lessee grants Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products (including with respect to any Software or services, Lessee's right to use the Software and right to obtain the services) and all proceeds thereof (including without limitation any refunds with respect to the Products, Software or services financed under this Schedule (each a "Refund") that are received by Lessee or that Lessee has a right to receive), free and clear of all security interests, liens or encumbrances whatsoever.

Upon Lessor's written instructions after an Event of Default with respect to this Schedule, Lessee agrees to (a) immediately cease using Software and services, (b) deinstall and delete all copies of the Software from any computer systems owned or controlled by Lessee or used for Lessee's benefit, and (c) provide Lessor with a certificate signed by an authorized representative of Lessee attesting to such cessation of use and maintenance, deinstallation, deletion and destruction. In the event that Lessee shall be entitled to a Refund from the Seller, Software licensor or service provider, Lessee authorizes Lessor to deliver a copy of this Schedule to the such party as evidence of Lessee's consent to Lessor's collection and receipt of the Refund directly; provided, however, nothing herein shall obligate Lessor to pursue Lessee's Refund rights (if any do exist) or modify, excuse or limit Lessee's obligations pursuant to this Schedule that Lessee acknowledges and agrees are absolute and unconditional. Lessor shall apply any Refund actually received by Lessor against the next scheduled Rent payment(s) and all other amounts owed under this Schedule. Lessee agrees that it shall owe any unpaid amounts hereunder remaining after application of such Refund.

Notwithstanding anything in the Agreement to the contrary, the Stipulated Loss Value that Lessee may be required to pay Lessor upon an Event of Default under this Schedule shall equal the total sum of the then remaining payments due and unpaid under this Schedule for the Primary Term, discounted at the lesser of (x) the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of this Schedule and (y) the interest rate set forth above.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers (or similar information) of the Products, Software and services as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

_____	**DELL FINANCIAL SERVICES L.L.C.**
(Lessee)	(Lessor)
By: _____	By: _____
(Authorized Signature)	(Authorized Signature)
_____	_____
(Name/Title)	(Name/Title)
_____	_____
(Date)	(Date)

Dell Financial Services

[LESSEE NAME]
MASTER LEASE AGREEMENT SCHEDULE NO.
(SOFTWARE AND/OR SERVICES ONLY FINANCING SCHEDULE)

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. AND ANY AMENDMENTS, IF APPLICABLE, ("Agreement") DATED BETWEEN DELL FINANCIAL SERVICES L.L.C. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit “A” attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Interest Rate:

Payment Period:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit “A”.

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

NATURE OF SCHEDULE: Lessee and Lessor acknowledge that this Schedule is strictly a financing arrangement providing for the repayment of a lease purchase in the amount of the Lessor's Basis (as defined below) made by Lessor to Lessee by performing Lessee's payment obligations to the Product Seller under Lessee's Purchase Order referenced above and is to be repaid as and when set forth herein. The amount of the Rent payments provided for herein represents payments of principal and interest on such lease purchase.

PRODUCTS CONSISTING SOLELY OF SOFTWARE AND/OR SERVICES: The Products covered by this Schedule consist exclusively of the Software and/or services identified on Exhibit A; that Lessee hereby acknowledges have been delivered, installed, and accepted by Lessee. Lessee and Lessor agree that (i) any language in the Agreement pertaining to Lessor's ownership of the Products and (ii) the following sections of the Agreement shall not apply to this Schedule: 7 (Return); 9 (Alterations); 13(a)(ii) (in so far as it purports to provide Lessor a right to sell, lease, or otherwise dispose of any Products that would violate the underlying license, service or similar agreement); and, 16 (Ownership; Liens and Encumbrances; Labels). Notwithstanding the foregoing, Lessee acknowledges that the remaining terms and conditions of the Agreement shall apply to this Schedule including without limitation: Sections 4 (Rent; Taxes; Payment Obligation); 5 (Licensed Materials); 11 (Warranty Assignment; Exclusion of Warranties; Limitation of Liability; Finance Lease); 15 (Indemnification); and, 21(i) (Limit on Interest Charges). This Schedule shall terminate upon the expiration of the Primary Term without extension or renewal; provided, however, that such termination of the Schedule shall not effect obligations of Lessee accruing prior to the termination.

ADDITIONAL PROVISIONS: For purposes of this Schedule, the "Lessor's Basis" shall consist of the following amounts: (i) the Total Product Acquisition Cost set forth above; plus (ii) all other amounts that become due and owing under this Schedule that are not included in the amounts paid to Lessor pursuant to clause (i). As security for Lessee's obligations hereunder, Lessee grants Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products (including with respect to any Software or services, Lessee's right to use the Software and right to obtain the services) and all proceeds thereof (including without limitation any refunds with respect to the Software and services financed under this Schedule (each a "Refund") that are received by Lessee or that Lessee has a right to receive), free and clear of all security interests, liens or encumbrances whatsoever. Upon Lessor's written instructions after an Event of Default with respect to this Schedule, Lessee agrees to (a) immediately cease using the Software and obtaining the services, (b) deinstall and delete all copies of the Software from any computer systems owned or controlled by Lessee or used for Lessee's benefit, and (c) provide Lessor with a certificate signed by an authorized representative of Lessee attesting to such cessation of use and services, deinstallation, deletion and destruction. In the event that Lessee shall be entitled to a Refund from the Seller, Lessee authorizes Lessor to deliver a copy of this Schedule to the Seller as evidence of Lessee's consent to Lessor's collection and receipt of the Refund directly; provided, however, nothing herein shall obligate Lessor to pursue Lessee's Refund rights (if any do exist) or modify, excuse or limit Lessee's obligations pursuant to this Schedule that Lessee acknowledges and agrees are absolute and unconditional. Lessor shall apply any Refund actually received by Lessor against the next scheduled Rent payment(s) and all other amounts owed under this Schedule. Lessee agrees that it shall owe any unpaid amounts hereunder remaining after application of such Refund. Finally, notwithstanding anything in the Agreement to the contrary, the Stipulated Loss Value that Lessee may be required to pay Lessor upon an Event of Default under this Schedule shall equal the total sum of the then remaining payments due and unpaid under this Schedule for the Primary Term discounted at the lesser of (x) the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of this Schedule and (y) the interest rate set forth above.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

"Lessee"	DELL FINANCIAL SERVICES L.L.C. "Lessor"
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Pharos Financial Services Public Master Lease Agreement

EFFECTIVE DATE:
MASTER LEASE AGREEMENT NO.

LESSOR: PHAROS FINANCIAL SERVICES L.P. Mailing Address: One Dell Way Round Rock, TX 78682	LESSEE: Principal Address: Fax: Attention:

This Master Lease Agreement ("Agreement"), effective as of the Effective Date set forth above, is between the Lessor and Lessee named above. Capitalized terms have the meaning set forth in this Agreement.

1. LEASE.

Lessor hereby leases to Lessee and Lessee hereby leases the equipment ("Products"), Software (defined below), and services or fees, where applicable, as described in any lease schedule ("Schedule"). Each Schedule shall incorporate by reference the terms and conditions of this Agreement and contain such other terms as are agreed to by Lessee and Lessor. Each Schedule shall constitute a separate lease of Products ("Lease"). In the event of any conflict between the terms of a Schedule and the terms of this Agreement, the terms of the Schedule shall prevail. Lessor reserves all rights to the Products not specifically granted to Lessee in this Agreement or in a Schedule. Execution of this Agreement does not create an obligation of either party to lease to or from the other.

2. ACCEPTANCE DATE; SCHEDULE.

(a) Subject to any right of return provided by the Product seller ("Seller"), named on the Schedule, Products are deemed to have been irrevocably accepted by Lessee upon delivery to Lessee's ship to location ("Acceptance Date"). Lessee shall be solely responsible for unpacking, inspecting and installing the Products.

(b) Lessor shall deliver to Lessee a Schedule for Products. Lessee agrees to sign or otherwise authenticate (as defined under the Uniform Commercial Code, "UCC") and return each Schedule by the later of the Acceptance Date or five (5) days after Lessee receives a Schedule from Lessor. If the Schedule is not signed or otherwise authenticated by Lessee within the time provided in the prior sentence, then upon written notice from Lessor and Lessee's failure to cure within five (5) days of such notice, Lessor may require the Lessee to purchase the Products by paying the Product Cost charged by the Seller, plus any shipping charges, Taxes or Duties (defined below) and interest at the Overdue Rate accruing from the date the Products are shipped through the date of payment. If Lessee returns any leased Products in accordance with the Seller's return policy, it will notify Lessor. When Lessor receives a credit from the Seller for the returned Product, the Schedule will be deemed amended to reflect the return of the Product and Lessor will adjust its billing records and Lessee's invoice for the applicable Lease. In addition, Lessee and Lessor agree that a signed Schedule may be amended by written notice from Lessor to Lessee provided such notice is (i) to correct the serial (or service tag) number of Products or (ii) to adjust the related Rent (defined below) on the Schedule (any increase up to 15% or any decrease) caused by any change made by Lessee in Lessee's order with the Seller.

3. TERM.

The initial term (the "Primary Term") for each Lease shall begin on the date set forth on the Schedule as the Commencement Date (the "Commencement Date"). The period beginning on the Acceptance Date and ending on the last day of the Primary Term, together with any renewals or extensions thereof, is defined as the "Lease Term". The Lease is noncancelable by Lessee, except as expressly provided in Section 5.

4. RENT; TAXES; PAYMENT OBLIGATION.

(a) The rental payment amount ("Rent") and the payment period for each installment of Rent ("Payment Period") shall be stated in the Schedule. A prorated portion of Rent calculated based on a 30-day month, 90-day quarter or 360-day year (as appropriate) for the period from the Acceptance Date to the Commencement Date shall be added to the first payment of Rent. All Rent and other amounts due and payable under this Agreement or any Schedule shall be paid to Lessor in lawful funds of the United States of America at the payment address for Lessor set forth above or at such other address as Lessor may designate in writing from time to time. Whenever Rent and other amounts payable under a Lease are not paid when due, Lessee shall pay interest on such amounts at a rate equal to the lesser of 1% per month or the highest such rate permitted by applicable law ("Overdue Rate"). Rent shall be due and payable whether or not Lessee has received an invoice showing such Rent is due. Late charges and reasonable attorney's fees necessary to recover Rent and other amounts owed hereunder are considered an integral part of this Agreement. The rate factors used for the calculation of the payment are based in part on similar or like term swap or T-bill rates as published by the US Federal Reserve Board. In the event the applicable rates change between Lessor initially providing the rate factors and the commencement of a Schedule, Lessor reserves the right to change the applicable rate factor commensurate with the change in the applicable rates.

(b) EACH LEASE SHALL BE A NET LEASE. In addition to Rent, Lessee shall pay sales, use, excise, purchase, property, added value or other taxes, fees, levies or assessments lawfully assessed or levied against Lessor or with respect to the Products and the Lease (collectively "Taxes"), and customs, duties or surcharges on imports or exports (collectively, "Duties"), plus all expenses incurred in connection with Lessor's purchase and Lessee's use of the Products, including but not limited to shipment, delivery, installation, and insurance. Unless Lessee provides Lessor with a tax exemption certificate acceptable to the relevant taxing authority prior to Lessor's payment of such Taxes, Lessee shall pay to Lessor all Taxes and Duties upon demand by Lessor. Lessor may, at its option, invoice Lessee for estimated personal property tax with the Rent Payment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Products.

(c) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5, LESSEE'S OBLIGATION TO PAY ALL RENT AND OTHER AMOUNTS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THIS AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER WHETHER ARISING OUT OF ANY CLAIMS BY LESSEE

AGAINST LESSOR, LESSOR'S ASSIGNS, THE SELLER, OR THE SUPPLIER OR MANUFACTURER OF THE PRODUCTS, TOTAL OR PARTIAL LOSS OF THE PRODUCTS OR THEIR USE OR POSSESSION, OR OTHERWISE. If any Product is unsatisfactory for any reason, Lessee shall make its claim solely against the Seller of such Product (or the Licensor in the case of Software, as defined below) and shall nevertheless pay Lessor or its assignee all amounts due and payable under the Lease.

5. APPROPRIATION OF FUNDS.

(a) Lessee intends to continue each Schedule for the Primary Term and to pay the Rent and other amounts due thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Rent during the Primary Term can be obtained and agrees to do all things lawfully within its power to obtain and maintain funds from which the Rent and other amounts due may be paid.

(b) Lessee may terminate a Schedule in whole, but not in part by giving at least sixty (60) days' notice prior to the end of the then current Fiscal Period (as defined in the Lessee's Secretary/Clerk's Certificate provided to Lessor) certifying that: (1) sufficient funds were not appropriated and budgeted by Lessee's governing body or will not otherwise be available to continue the Lease beyond the current Fiscal Period; and (2) that the Lessee has exhausted all funds legally available for payment of the Rent beyond the current Fiscal Period. Upon termination of the Schedule, Lessee's obligations under the Schedule (except those that expressly survive the end of the Lease Term) and any interest in the Products shall cease and Lessee shall surrender the Products in accordance with Section 8. Notwithstanding the foregoing, Lessee agrees that, without creating a pledge, lien or encumbrance upon funds available to Lessee in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Schedule, including making budget requests for each Fiscal Period during each applicable Lease Term for adequate funds to meet its Lease obligations and to continue the Schedule in force..

(c) Lessor and Lessee intend that the obligation of Lessee to pay Rent and other amounts due under a Lease constitutes a current expense of Lessee and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Lessee's current Fiscal Period.

6. LICENSED MATERIALS.

Software means any operating system software or computer programs included with the Products (collectively, "Software"). "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including, without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Products. Lessee agrees that this Agreement and any Lease (including the sale of any Product pursuant to any purchase option) does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," "lease," and the like in this Agreement or any Schedule with respect to Software shall be interpreted in accordance with this Section 6.

7. USE; LOCATION; INSPECTION.

Lessee shall: (a) comply with all terms and conditions of any Licensed Materials; and (b) possess and operate the Products only (i) in accordance with the Seller's supply contract and any service provider's maintenance and operating manuals, the documentation and applicable laws; and (ii) for the business purposes of Lessee. Lessee agrees not to move Products from the location specified in the Schedule without providing Lessor with at least 30 days prior written notice, and then only to a location within the continental United States and at Lessee's expense. Without notice to Lessor, Lessee may temporarily use laptop computers at other locations, including outside the United States, provided Lessee complies with the United States Export Control Administration Act of 1979 and the Export Administration Act of 1985, as those Acts are amended from time to time (or any successor or similar legislation). Provided Lessor complies with Lessee's reasonable security requirements, Lessee shall allow Lessor to inspect the premises where the Products are located from time to time during reasonable hours after reasonable notice in order to confirm Lessee's compliance with its obligations under this Agreement.

8. RETURN.

At the expiration or earlier termination of the Lease Term of any Schedule, and except for Products purchased pursuant to any purchase option under the Lease, Lessee will (a) remove all proprietary data from the Products and (b) return them to Lessor at a place within the contiguous United States designated by Lessor. Upon return of the Products, Lessee`s right to the operating system Software in returned Products will terminate and Lessee will return the Products with the original certificate of authenticity (attached and unaltered) for the original operating system Software. Lessee agrees to deinstall and package the Products for return in a manner which will protect them from damage. Lessee shall pay all costs associated with the packing and return of the Products and shall promptly reimburse Lessor for all costs and expenses for missing or damaged Products or operating system Software. If Lessee fails to return all of the Products at the expiration of the Lease Term or earlier termination (other than for non-appropriation) in accordance with this Section, the Lease Term with respect to the Products that are not returned shall continue to be renewed as described in the Schedule.

9. RISK OF LOSS; MAINTENANCE; INSURANCE.

(a) From the date the Products are delivered to Lessee's ship to location until the Products are returned to Lessor's designated return location or purchased by Lessee, Lessee agrees: (i) to assume the risk of loss or damage to the Products; (ii) to maintain the Products in good operating condition and appearance, ordinary wear and tear excepted; (iii) to comply with all requirements necessary to enforce all warranty rights; and (iv) to promptly repair any repairable damage to the Products. During the Lease Term, Lessee at its sole discretion has the option to purchase a maintenance agreement from the provider of its choice (including, if it so chooses, to self-maintain the Products) or to forgo such maintenance agreement altogether; regardless of Lessee's choice, Lessee will continue to be responsible for its obligations as stated in the first sentence of this Section. At all times, Lessee shall provide the following insurance: (x) casualty loss insurance for the Products for no less than the Stipulated Loss Value (defined below) naming Lessor as loss payee; and (y) liability insurance with respect to the Products for no less than an amount as required by Lessor, with Lessor named as an additional insured; and (z) such other insurance as may be required by law which names Lessee as an insured and Lessor as an additional insured. Upon Lessor's prior written consent, Lessee may provide this insurance pursuant to Lessee's existing self-insurance policy or as provided for under state law. Lessee shall provide Lessor with either an annual certificate of third party insurance or a written description of its self-insurance policy or relevant law, as applicable. The certificate of insurance will provide that Lessor shall receive at least ten (10) days prior written notice of any material change to or cancellation of the insurance policy or Lessee's self-insurance program, if previously approved by Lessor. If Lessee does not give Lessor evidence of insurance in accordance with the standards herein, Lessor has the right, but not the obligation, to obtain such insurance covering Lessor's interest in the Products for the Lease Term, including renewals. If Lessor obtains such insurance, Lessor will add a monthly, quarterly or annual charge (as appropriate) to the Rent to reimburse Lessor for the insurance premium and Lessor's then current insurance administrative fee.

(b) If the Products are lost, stolen, destroyed, damaged beyond repair or in the event of any condemnation, confiscation, seizure or expropriation of such Products ("Casualty Products"), Lessee shall promptly (i) notify Lessor of the same and (ii) pay to Lessor the Stipulated Loss Value for the Casualty Products. The Stipulated Loss Value is an amount equal to the sum of (a) all Rent and other amounts then due and owing (including interest at the Overdue Rate from the due date until payment is received) under the Lease, plus (b) the present value of all future Rent to become due under the Lease during the remainder of the Lease Term, plus (c) the present value of the estimated in place Fair Market Value of the Product at the end of the Primary Term as determined by Lessor; plus (d) all other amounts to become due and owing during the remaining Lease Term. Unless priced as a tax-exempt Schedule, each of (b) and (c) shall be calculated using the federal funds rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule. The discount rate applicable to tax-exempt Schedules shall be federal funds

rate target reported in the Wall Street Journal on the Commencement Date of the applicable Schedule less 100 basis points.

10. ALTERATIONS.

Lessee shall, at its expense, make such alterations to Products during the Lease Term as are legally required or provided at no charge by Seller. Lessee may make other alterations, additions or improvements to Products provided that any alteration, addition or improvement shall be readily removable and shall not materially impair the value or utility of the Products. Upon the return of any Product to Lessor, any alteration, addition or improvement that is not removed by Lessee shall become the property of Lessor free and clear of all liens and encumbrances.

11. REPRESENTATIONS AND WARRANTIES OF LESSEE.

Lessee represents, warrants and covenants to Lessor and will provide to Lessor at Lessor's request all documents deemed necessary or appropriate by Lessor, including Certificates of Insurance, financial statements, Secretary or Clerk Certificates, essential use information or documents (such as affidavits, notices and similar instruments in a form satisfactory to Lessor) and Opinions of Counsel (in substantially such form as provided to Lessee by Lessor and otherwise satisfactory to Lessor) to the effect that, as of the time Lessee enters into this Agreement and each Schedule that:

(a) Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of its state and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder as in effect and applicable to the Agreement or any Schedule, with full power and authority to enter into this Agreement and any Schedules and perform all of its obligations under the Leases;

(b) This Agreement and each Schedule have been duly authorized, authenticated and delivered by Lessee by proper action of its governing board at a regularly convened meeting and attended by the requisite majority of board members, or by other appropriate official authentication, as applicable, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement against Lessee;

(c) This Agreement and each Schedule constitute the valid, legal and binding obligations of Lessee, enforceable in accordance with their terms;

(d) No other approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by Lessee of the Agreement or any Schedule and the transactions contemplated thereby;

(e) Lessee has complied with such public bidding requirements and other state and federal laws as may be applicable to the Agreement and any Schedule and the acquisition by Lessee of the Products;

(f) The entering into and performance of the Agreement or any Schedule will not (i) violate any judgment, order, law or regulation applicable to Lessee; (ii) result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound; or (iii) result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created pursuant to this Agreement;

(g) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best of Lessee's knowledge and belief is there any basis therefor, which if determined adversely to Lessee will have a material adverse effect on the ability of Lessee to fulfill its obligations under the Agreement or any Schedule;

(h) The Products are essential to the proper, efficient and economic operation of Lessee or to the services which Lessee provides to its citizens. Lessee expects to make immediate use of the Products, for which it has an immediate need that is neither temporary nor expected to diminish during the applicable Lease Term. The Products will be used for the sole purpose of performing one or more of Lessee's governmental or proprietary functions consistent within the permissible scope of Lessee's authority; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make all Rent payments and other obligations under this Agreement and any Schedule during the current Fiscal Period, and such funds have not been expended for other purposes.

12. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATION OF LIABILITY; FINANCE LEASE.

(a) Provided no Event of Default has occurred and is continuing, Lessor assigns to Lessee for the Lease Term the benefit of any Product warranty and any right of return provided by any Seller.

(b) LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, MANUFACTURE, SUPPLY OR LICENSE ANY PRODUCT AND THAT LESSEE HAS MADE THE SELECTION OF PRODUCTS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS. LESSOR LEASES THE PRODUCTS AS-IS AND MAKES NO WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR OR ITS ASSIGNEE FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY PRODUCTS.

(c) IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY SCHEDULE OR THE SALE, LEASE OR USE OF ANY PRODUCTS EVEN IF LESSOR IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF LESSEE ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

(d) Lessee agrees that it is the intent of both parties that each lease qualify as a statutory finance lease under Article 2A of the UCC. Lessee acknowledges either (i) that Lessee has reviewed and approved any written supply contract covering the Products purchased from the Seller for lease to Lessee or (ii) that Lessor has informed or advised Lessee, in writing, either previously or by this Agreement, that Lessee may have rights under the supply contract evidencing the purchase of the Products and that Lessee should contact the Seller for a description of any such rights. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UCC.

13. EVENTS OF DEFAULT.

It shall be an event of default hereunder and under any Schedule ("Event of Default") if:

(a) Lessee fails to pay any Rent or other amounts payable under this Agreement or any Schedule within 15 days after the date that such payment is due;

(b) Any representation or warranty made by Lessee to Lessor in connection with this Agreement, any Schedule or any other Document is at the time made materially untrue or incorrect;

(c) Lessee fails to comply with any other obligation or provision of this Agreement or any Schedule and such failure shall have continued for 30 days after notice from Lessor;

(d) Lessee (i) is generally not paying its debts as they become due or (ii) takes action for the purpose of invoking the protection of any bankruptcy or insolvency law, or any such law is invoked against or with respect to Lessee or its property and such petition is not dismissed within 60 days; or

(e) Any provision of this Agreement ceases to be valid and binding on Lessee, is declared null and void, or its validity or enforceability is contested by Lessee or any governmental agency or authority whereby the loss of such provision would materially adversely affect the rights or

security of Lessor, or Lessee denies any further liability or obligation under this Agreement; or

(f) Lessee is in default under any other lease, contract, or obligation now existing or hereafter entered into with Lessor or Seller or any assignee of Lessor.

14. REMEDIES: TERMINATION

(a) Upon an Event of Default under any Schedule all of Lessee's rights (including its rights to the Products), but not its obligations thereunder, shall automatically be cancelled without notice and Lessor may exercise one or more of the following remedies in its sole discretion:

(i) require Lessee to return any and all such Products in accordance with Section 8, or if requested by Lessor, to assemble the Products in a single location designated by Lessor and to grant Lessor the right to enter the premises where such Products are located (regardless of where assembled) for the purpose of repossession;

(ii) sell, lease or otherwise dispose of any or all Products (as agent and attorney-in-fact for Lessee to the extent necessary) upon such terms and in such manner (at public or private sale) as Lessor deems advisable in its sole discretion (a "Disposition");

(iii) declare immediately due and payable as a pre-estimate of liquidated damages for loss of bargain and not as a penalty, the Stipulated Loss Value of the Products in lieu of any further Rent, in which event Lessee shall pay such amount to Lessor within 10 days after the date of Lessor's demand; or

(iv) proceed by appropriate court action either at law or in equity (including an action for specific performance) to enforce performance by Lessee or recover damages associated with such Event of Default or exercise any other remedy available to Lessor in law or in equity.

(b) Lessee shall pay all costs and expenses arising or incurred by Lessor, including reasonable attorney fees, in connection with or related to an Event of Default or the repossession, transportation, re-furbishing, storage and Disposition of any or all Products ("Default Expenses"). In the event Lessor recovers proceeds (net of Default Expenses) from its Disposition of the Products, Lessor shall credit such proceeds against the owed Stipulated Loss Value. Lessee shall remain liable to Lessor for any deficiency. With respect to this Section, to the extent the proceeds of the Disposition (net of Default Expenses) exceed the Stipulated Loss Value owed under the Lease, or Lessee has paid Lessor the Stipulated Loss Value, the Default Expenses and all other amounts owing under the Lease, Lessee shall be entitled to such excess and shall have no further obligations with respect to such Lease. All rights of Lessor are cumulative and not alternative and may be exercised by Lessor separately or together.

15. QUIET ENJOYMENT.

Lessor shall not interfere with Lessee's right to possession and quiet enjoyment of Products during the relevant Lease Term, provided no Event of Default has occurred and is continuing. Lessor represents and warrants that as of the Commencement Date of the applicable Schedule, Lessor has the right to lease the Products to Lessee.

16. INDEMNIFICATION.

To the extent permitted by law, Lessee shall indemnify, defend and hold Lessor, its assignees, and their respective officers, directors, employees, representatives and agents harmless from and against, all claims, liabilities, costs or expenses, including legal fees and expenses (collectively, "Claims"), arising from or incurred in connection with this Agreement, any Schedule, or the selection, manufacture, possession, ownership, use, condition, or return of any Products (including Claims for personal injury or death or damage to property, and to the extent Lessee is responsible, Claims related to the subsequent use or Disposition of the Products or any data in or alteration of the Products. This indemnity shall not extend to any loss caused solely by the gross negligence or willful misconduct of Lessor. Lessee shall be responsible for the defense and resolution of such Claim at its expense and shall pay any amount for resolution and all costs and damages awarded against or incurred by Lessor or any other person indemnified hereunder; provided, however, that any person indemnified hereunder shall have the right to participate in the defense of such Claim with counsel of its choice and at its expense and to approve any such resolution. Lessee shall keep Lessor informed at all times as to the status of the Claim.

17. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

As between Lessor and Lessee, title to Products (other than any Licensed Materials) is and shall remain with Lessor. Products are considered personal property and Lessee shall, at Lessee's expense, keep Products free and clear of liens and encumbrances of any kind (except those arising through the acts of Lessor) and shall immediately notify Lessor if Lessor's interest is subject to compromise. Lessee shall not remove, cover, or alter plates, labels, or other markings placed upon Products by Lessor, Seller or any other supplier.

18. NON PERFORMANCE BY LESSEE.

If Lessee fails to perform any of its obligations hereunder or under any Schedule, Lessor shall have the right but not the obligation to effect such performance and Lessee shall promptly reimburse Lessor for all out of pocket and other reasonable expenses incurred in connection with such performance, with interest at the Overdue Rate.

19. NOTICES.

All notices shall be given in writing and, except for billings and communications in the ordinary course of business, shall be delivered by overnight courier service, delivered personally or sent by certified mail, return receipt requested, and shall be effective from the date of receipt unless mailed, in which case the effective date will be four (4) Business Days after the date of mailing. Notices to Lessor by Lessee shall be sent to: Pharos Financial Services L.P., Attn. Legal Department, One Dell Way, Round Rock, TX 78682, or such other mailing address designated in writing by Lessor. Notice to Lessee shall be to the address on the first page of this Agreement or such other mailing address designated in writing by Lessee.

20. ASSIGNMENT.

(a) LESSEE MAY ASSIGN THIS AGREEMENT OR ANY SCHEDULE, OR SUBLEASE ANY PRODUCT(S) WITH THE PRIOR WRITTEN CONSENT OF LESSOR (SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD). LESSOR, AT ITS SOLE DISCRETION, MAY ASSESS AN ADMINISTRATIVE FEE FOR ANY APPROVED ASSIGNMENT OR SUBLEASE. No assignment or sublease shall in any way discharge Lessee's obligations to Lessor under this Agreement or Schedule.

(b) Lessor may at any time without notice to Lessee, but subject to the rights of Lessee, transfer, assign, or grant a security interest in any Product, this Agreement, any Schedule, or any rights and obligations hereunder or thereunder in whole or in part. Lessee hereby consents to such assignments, agrees to comply fully with the terms thereof, and agrees to execute and deliver promptly such acknowledgments, opinions of counsel and other instruments reasonably requested to effect such assignment.

(c) Subject to the foregoing, this Agreement and each Schedule shall be binding upon and inure to the benefit of Lessor, Lessee and their successors and assigns.

21. GOVERNING LAW; JURISDICTION AND VENUE; WAIVER OF JURY TRIAL.

THIS AGREEMENT AND EACH SCHEDULE SHALL BE GOVERNED BY LAW WITHOUT REGARD TO ITS CONFLICTS OF LAWS PRINCIPLES AND, TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. LESSEE CONSENTS TO THE JURISDICTION OF ANY FEDERAL COURT LOCATED IN , , AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURT, AND FURTHER WAIVES ANY RIGHT TO A TRIAL BY JURY.

22. MISCELLANEOUS.

(a) The headings used in this Agreement are for convenience only and shall have no legal effect. This Agreement shall be interpreted without any strict construction in favor of or against either party.

(b) The provisions of Sections 6, 8, 11, 12(b), 12(c), 12(d), 16, 21 and 22 shall continue in full force and effect even after the term or expiration of this Agreement or any Schedule.

(c) Failure of Lessor at any time to require Lessee's performance of any obligation shall not affect the right to require performance of that obligation. No term, condition or provision of this Agreement or any Schedule shall be waived or deemed to have been waived by Lessor unless it is in writing and signed by a duly authorized representative of Lessor. A valid waiver is limited to the specific situation for which it was given.

(d) Lessee shall furnish such financial statements of Lessee (prepared in accordance with generally accepted accounting principles) and other information as Lessor may from time to time reasonably request.

(e) If any provision(s) of this Agreement is deemed invalid or unenforceable to any extent (other than provisions going to the essence of this Agreement) the same shall not in any respect affect the validity, legality or enforceability (to the fullest extent permitted by law) of the remainder of this Agreement, and the parties shall use their best efforts to replace such illegal, invalid or unenforceable provisions with an enforceable provision approximating, to the extent possible, the original intent of the parties.

(f) Unless otherwise provided, all obligations hereunder shall be performed or observed at the respective party's expense.

(g) Lessee shall take any action reasonably requested by Lessor for the purpose of fully effectuating the intent and purposes of this Agreement or any Schedule. If any Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a first priority security interest in the Products and all proceeds thereof. Lessee acknowledges that by signing this Agreement, Lessee has authorized Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate. Lessor may file a copy of this Agreement or any Schedule in lieu of a financing statement.

(h) This Agreement and any Schedule may be signed in any number of counterparts each of which when so executed or otherwise authenticated and delivered shall be an original but all counterparts shall together constitute one and the same instrument. To the extent each Schedule would constitute chattel paper as such term is defined in the UCC, no security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Lessor's possession marked by Lessor as either “Original” or “Counterpart Number 1”.

(i) This Agreement and the Schedules hereto between Lessor and Lessee set forth all of the understandings and agreements between the parties and supersede and merge all prior written or oral communications, understandings, or agreements between the parties relating to the subject matter contained herein. Except as permitted herein, this Agreement and any Schedule may be amended only by a writing duly signed or otherwise authenticated by Lessor and Lessee.

(j) If Lessee delivers this signed Master Lease, or any Schedule, amendment or other document related to the Master Lease (each a “Document”) to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor’s database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee’s representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor’s option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

{Lessee Name}
"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Secretary/Clerk Certificate Instructions

1. In the blocks under paragraph (ii) with the headings “NAME OF AUTHORIZED SIGNATORY”, “TITLE OF AUTHORIZED SIGNATORY” and “SIGNATURE OF AUTHORIZED SIGNATORY”, all persons who are authorized to execute and deliver the Agreement and any related Lease Schedule(s) from time to time thereunder between the Public Entity and Customer should write or type his/her name under the “Name of Authorized Signatory” heading, write or type his/her title under the “Title of Authorized Signatory” heading, and sign his/her name under the “Signature of Authorized Signatory” heading in the block across from his/her name and title. **The person(s) listed and executing in the blocks under paragraph (ii) must not be the same person executing the Certificate on behalf of the Public Entity (Clerk, Secretary, etc.) listed at the top of the Certificate and executing in the signature block at the bottom of the Certificate under the “In Witness Whereof” language;**

2. The Clerk, Secretary, etc. should insert the Agreement No. in paragraph (iii), if known;

3. The Clerk, Secretary, etc. should strike paragraph (v) of the Certificate if this paragraph is not applicable to the Public Entity;

4. If paragraph (v) of the Certificate is applicable to the Public Entity, the Clerk, Secretary, etc. should insert “regular” or “special” in the first blank and then insert the date of the meeting of the governing body of the Public Entity in the second blank;

5. The Clerk, Secretary, etc. should write or type the Fiscal Period of the Public Entity in paragraph (ix);

6. The Clerk, Secretary, etc. should write or type his/her name, title, name and State of the Public Entity in the top portion of the Certificate and date, sign & print his/her name and title at the bottom of the Certificate under the “In Witness Whereof” language; and

7. If required by local law, the Certificate should be notarized by a notary public. The notary public should be a person other than the Clerk, Secretary, etc. executing under the “In Witness Whereof” language of the Certificate.

SECRETARY/CLERK CERTIFICATE

I, _____, do hereby certify that:

(i) I am the duly elected, qualified, and acting _____ (Clerk, Secretary, etc.) of , a public entity (the "Public Entity").

(ii) Each of the persons whose name, title and signature appear below is a duly authorized representative of the Public Entity and holds on the date of this Certificate the formal title set forth opposite his/her name and the signature appearing opposite each such person's name is his/her genuine signature:

NAME OF AUTHORIZED SIGNATORY (cannot be Clerk/Secretary authenticating this certificate)	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY

(iii) Each such representative is duly authorized for and on behalf of the Public Entity to execute and deliver that certain Master Lease Agreement No. (the "Agreement") and any related Lease Schedules from time to time thereunder (the "Schedules") between the Public Entity and Customer, or its assignee (collectively, "Lessor"), and all agreements, documents, and instruments in connection therewith, including without limitation, schedules, riders and certificates of acceptance.

(iv) The execution and delivery of any such Agreement and/or Schedule and all agreements, documents, and instruments in connection therewith for and on behalf of the Public Entity are not prohibited by or in any manner restricted by the terms of the Charter or other document pursuant to which the Public Entity is organized or of any loan agreement, indenture or contract to which the Public Entity is a party or by which it or any of its property is bound.

(v) [STRIKE IF NOT APPLICABLE] The Public Entity did, at a duly called _____ (regular or special) meeting of the governing body of the Public Entity attended throughout by the requisite majority of the members thereof held on the _____ day of _____ by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith on behalf of the Public Entity by the authorized representative(s) of the Public Entity named in paragraph (ii) above. Such action approving the Agreement, the related Schedule(s) and all agreements, documents, and instruments in connection therewith and authorizing the execution thereof has not been altered or rescinded by the Public Entity.

(vi) No event or condition that constitutes (or with notice or lapse of time or both, would constitute) an Event of Default, as defined in the Agreement, exists at the date hereof.

(vii) All insurance required in accordance with the Agreement is currently maintained by the Public Entity.

Internal Use - Confidential

(viii) The Public Entity has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Rent payments scheduled to come due during the first Fiscal Period and to meet the Public Entity's other obligations for the first Fiscal Period, as such terms are defined in the Agreement, and such funds have not been expended for other purposes.

(ix) The Fiscal Period of the Public Entity is from _____ to _____.

(x) The foregoing authority and information shall remain true and in full force and effect, and Lessor shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same in whole or in part, has been delivered to Lessor, but in any event shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Lessor of said written notice of said modification, rescission or revocation.

IN WITNESS WHEREOF:

By: _____

Name: _____

Title: _____
(Clerk or Secretary)

Date: _____

Subscribed to and sworn before me:

Notary Public: _____.
(Name)

Date: _____.

My commission expires: _____.

Pharos Financial Services

Billing and Schedule Information

Welcome to Pharos Financial Services (PFS). We look forward to establishing a long-lasting relationship with you and your team. To ensure your account is setup properly in our systems please provide the information below, working with your Accounts Payable team as needed. Once ready, return it to your PFS Sales Representative or send it to DFS_Customer_Setup@Dell.com. If you have any questions about the form, contact your representative. Thank you.

I. Preparing Your A/P System to Remit PFS Payments:

Below is the most commonly requested information by our customers to assist them in setting up their systems to successfully remit PFS payments. If you require any other information, please contact your representative.

ACH Instructions (preferred)	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	PFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT and SCHEDULE NUMBER OR INVOICE NUMBER CTX+ format should be first choice if it is an option Email remittance to **USDFSCASHPAYMENTS@dell.com**
Wire Transfer Instructions	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	PFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT and SCHEDULE NUMBER OR INVOICE NUMBER Email remittance to **USDFSCASHPAYMENTS@dell.com** JPM Swift Code for international wires only: **CHASUS33**
Payee Information	Pharos Financial Services, L.P., Payment Processing Center Federal Tax ID# 04-3652033	PO Box 6549 Carol Stream, IL 60197-6549

II. Your Company Information:

Company Name: _____

Physical Address (primary location): _____

City, State, ZIP: _____

Federal Tax ID: _____

III. Schedules:

Name of recipient(s) to receive monthly schedules **for reconciliation:**

Attention: _____ Email Address: _____

Name of individual(s) that **will sign** schedules (this individual should be named as an authorized signatory on the Incumbency or Secretary Clerk Certificate)

Attention: _____ Title: _____

Telephone Number: _____ Email Address: _____

Would you prefer to sign your documents electronically via Echosign? ☐ Yes ☐ No (not available to Public entities)

Do any of the following criteria need to appear on your schedule?*

☐ Cost Center ☐ Equipment Type ☐ Equipment Location ☐ PO Number

*Invoices will follow the format of the schedule and include a breakout of the items above if requested.

IV. Purchase Orders:

Your PO should be issued to Pharos Financial Services L.P.

If you are unable to issue purchase orders to PFS please specify how the PO will be issued:

Do you utilize blanket PO's? ☐ Yes ☐ No

Do you use a different PO for payment versus procurement? ☐ Yes ☐ No

Is PO fulfillment required for scheduling? ☐ Yes ☐ No

PFS will consolidate shipped orders and place on a schedule for your review. If you have any special consolidation requirements, please contact your PFS Sales representative.

Is board approval necessary? ☐ Yes ☐ No If yes, when are meetings held? _____

Fiscal Year is from _____ to _____

V. Invoicing/Billing Contact Information:

Accounts Payable (AP) Contact Name: _____

Does this billing address match the primary location above? ☐ Yes (If yes, please skip and proceed to Invoice Preference) ☐ No

AP Address: _____

City, State, ZIP: _____

County: _____

AP Email Address: _____ AP Direct Telephone Number: _____

Email Address for PDF or Electronic Invoices (if different than AP contact): _____

VI. Invoice Preferences (choose one from each category):

Invoice Options: ☐ **Contract Level** (one invoice per contract) ☐ **Consolidated** (one invoice for all contracts that have the same due date)

Invoice Format: ☐ **Detail** (asset level) ☐ **Summary**

Delivery Format: ☐ **Paper** (USPS) ☐ **PDF** (paper copy is not mailed) ☐ **Electronic CSV** (converted to Excel)

☐ **3rd Party Invoicing Tool, Ariba/SAP** (enter tool name): _____

Do you need separate invoices for miscellaneous billings? ☐ Yes ☐ No

Do you require a PO number on the invoice to process payment? ☐ Yes ☐ No

Note: the typical invoice processing time is 30 days. If you require more time, please contact your PFS Sales Representative.

VII. Taxes and Fees:

Is your company/entity tax exempt? ☐ Yes ☐ No

If not exempt, do you intend to finance upfront tax (if applicable) on the schedules (contracts)? ☐ Yes ☐ No

Personal Property Tax (PPT): ☐ Rebill Annually ☐ Monthly Property Management Fee

California Environmental Fee: Do you intend to finance the California Environmental Fee, if applicable? ☐ Yes ☐ No

Do you intend to finance shipping by adding shipping costs for the products to your schedule? ☐ Yes ☐ No

VIII. Additional Tax Information:

Sales/Use Tax Exemption: Please provide your tax exemption or direct pay certificate to both PFS and the product vendor. Certificates intended for Leases should be issued to Pharos Financial Services, L.P. and those for Loans should be issued to the product vendor. Where required, sales/use taxes will be assessed and invoiced to PFS by the vendor.

Note: If tax exempt, a valid Tax Exemption or Direct Pay Certificate must be provided **for each state** in which the products are located.

Tax Exempt Certificate Requirements:

- Address to Pharos Financial Services L.P.
- Should coincide with the date the schedule is signed
- List a description of the items; computer hardware/software is generally sufficient
- Signed by an authorized employee/owner

The following are not acceptable forms of Tax Exemption Certificates:

- IRS letter declaring the company as a non-profit (501-C) entity*
- CA letter exempting a company from Franchise and Income Tax
- W-9 form
- State registration certificates

*Mississippi is the only state that accepts the IRS letter as an acceptable exemption certificate

Business Personal Property Tax: Tangible business personal property is taxable in most states. In general, the definition of tangible property is personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses but does not include a document that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

We appreciate for taking the time to provide the information above. Our goal is to provide a seamless schedule and invoice delivery. Thank you for choosing Pharos Financial Services.

PHAROS

Pharos Financial Services Lease Schedules

Fair Market Value

Software

TRUE LEASE SCHEDULE NO.
MASTER LEASE AGREEMENT NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN PHAROS FINANCIAL SERVICES L.P. ("Lessor") AND ("Lessee").

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit “A” attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit “A”.

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

TRUE LEASE PROVISIONS

The following provisions shall apply with respect to this Schedule in addition to those provisions in the Agreement:

1. **TRUE LEASE**: The parties intend for this lease to constitute a true lease of Products under the UCC and all applicable laws. If this Lease is determined to be a lease intended as security, in no event shall Lessee be obligated to pay any time price balance differential in excess of the maximum amount permitted by applicable law (as specified herein or the state where the Products are located, whichever law permits the greater amount). In the event Lessor shall receive anything of value under a Lease that is deemed interest which would exceed the maximum amount of interest allowed under the law, the excess amount shall be applied to the reduction of the unpaid time price balance or shall be refunded to Lessee. In order to reduce the unpaid time price balance, any amount deemed interest shall, to the fullest extent permitted by applicable law, be amortized and spread uniformly throughout the Lease Term."

2. **END OF LEASE OPTIONS**.

(a) Provided that no Event of Default has occurred and is continuing, and at least 90 days but no more than 180 days prior to the expiration of the Primary Term (the "Expiration Date"), Lessee will give irrevocable written notice to Lessor of its intention to either:

(i) purchase all of the Products at the Fair Market Value (as defined below);
(ii) renew the Lease Term for a minimum of six (6) months at a rate and for a term agreed upon by both parties; or
(iii) return all of the Products in accordance with the Agreement.

(b) If Lessee exercises the option to purchase the Products then, upon receipt of payment of the "Fair Market Value" (defined below), plus applicable taxes, Lessor will sell the Products to Lessee AS IS-WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. The Fair Market Value purchase price shall be paid on or before the last day of the Primary Term. "Fair Market Value" means the price of the Products, installed, in use and in the condition required by the Agreement as determined by Lessor in its reasonable judgment. If Lessee disagrees with the Fair Market Value, Lessee shall notify Lessor in writing within 60 days prior to the Expiration Date and, upon Lessee's request, and within ten (10) days after receipt of Lessee's notice, Lessor shall appoint a qualified appraiser reasonably acceptable to Lessee to appraise the retail value of the Products. The amount determined by such appraiser shall be the final Fair Market Value. Lessor and Lessee shall share the expense of such appraisal equally.

(c) If Lessee desires to renew a lease, Lessee and Lessor shall enter into a supplement to this Schedule describing the length of the renewal Lease Term and the renewal Rent provided, however, all other terms of this Schedule and the Agreement shall remain in full force and effect.

(d) Whether or not Lessee has given Lessor notice if its intent as described above, if Lessee does not return or purchase the Products or renew the Lease as required above, the Lease Term shall automatically extend on a month-to-month basis at the Rent in effect on the Expiration Date (prorated on a monthly basis if the Payment Period was other than monthly during the Primary Term). Such extension shall continue until Lessee: (i) provides thirty (30) days prior written notice of its intention to return or purchase the Products (to take effect on the next Rent payment date that is at least 30 days after the notice is received by Lessor) and (ii) either returns or purchases all of the Products in accordance with the End of Lease options above. Payments of Rent during the month-to-month extension are due and payable monthly as specified in Lessor's invoice. If Lessee fails to return or purchase any Products, the Schedule and associated Rent for the Products that have not been returned or purchased shall extend on a month-to-month basis in accordance with the prior sentence.

3. **COMPLETION OF SCHEDULE.** Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time if necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit “A”.

"Lessee"

By: _____

Name: _____

Title: _____

Date: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
“Lessor”

By: _____

Name: _____

Title: _____

Date: _____

MASTER LEASE AGREEMENT SCHEDULE NO.
(SOFTWARE AND/OR SERVICES ONLY FINANCING SCHEDULE)

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. AND ANY AMENDMENTS, IF APPLICABLE, ("Agreement") DATED BETWEEN PHAROS FINANCIAL SERVICES L.P. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit “A” attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Interest Rate:

Payment Period:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit “A”.

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

NATURE OF SCHEDULE: Lessee and Lessor acknowledge that this Schedule is strictly a financing arrangement providing for the repayment of a lease purchase in the amount of the Lessor's Basis (as defined below) made by Lessor to Lessee by performing Lessee's payment obligations to the Product Seller under Lessee's Purchase Order referenced above and is to be repaid as and when set forth herein. The amount of the Rent payments provided for herein represents payments of principal and interest on such lease purchase.

PRODUCTS CONSISTING SOLELY OF SOFTWARE AND/OR SERVICES: The Products covered by this Schedule consist exclusively of the Software and/or services identified on Exhibit A; that Lessee hereby acknowledges have been delivered, installed, and accepted by Lessee. Lessee and Lessor agree that (i) any language in the Agreement pertaining to Lessor's ownership of the Products and (ii) the following sections of the Agreement shall not apply to this Schedule: 7 (Return); 9 (Alterations); 13(a)(ii) (in so far as it purports to provide Lessor a right to sell, lease, or otherwise dispose of any Products that would violate the underlying license, service or similar agreement); and, 16 (Ownership; Liens and Encumbrances; Labels). Notwithstanding the foregoing, Lessee acknowledges that the remaining terms and conditions of the Agreement shall apply to this Schedule including without limitation: Sections 4 (Rent; Taxes; Payment Obligation); 5

(Licensed Materials); 11 (Warranty Assignment; Exclusion of Warranties; Limitation of Liability; Finance Lease); 15 (Indemnification); and, 21(i) (Limit on Interest Charges). This Schedule shall terminate upon the expiration of the Primary Term without extension or renewal; provided, however, that such termination of the Schedule shall not effect obligations of Lessee accruing prior to the termination.

ADDITIONAL PROVISIONS: For purposes of this Schedule, the "Lessor's Basis" shall consist of the following amounts: (i) the Total Product Acquisition Cost set forth above; plus (ii) all other amounts that become due and owing under this Schedule that are not included in the amounts paid to Lessor pursuant to clause (i). As security for Lessee's obligations hereunder, Lessee grants Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products (including with respect to any Software or services, Lessee's right to use the Software and right to obtain the services) and all proceeds thereof (including without limitation any refunds with respect to the Software and services financed under this Schedule (each a "Refund") that are received by Lessee or that Lessee has a right to receive), free and clear of all security interests, liens or encumbrances whatsoever. Upon Lessor's written instructions after an Event of Default with respect to this Schedule, Lessee agrees to (a) immediately cease using the Software and obtaining the services, (b) deinstall and delete all copies of the Software from any computer systems owned or controlled by Lessee or used for Lessee's benefit, and (c) provide Lessor with a certificate signed by an authorized representative of Lessee attesting to such cessation of use and services, deinstallation, deletion and destruction. In the event that Lessee shall be entitled to a Refund from the Seller, Lessee authorizes Lessor to deliver a copy of this Schedule to the Seller as evidence of Lessee's consent to Lessor's collection and receipt of the Refund directly; provided, however, nothing herein shall obligate Lessor to pursue Lessee's Refund rights (if any do exist) or modify, excuse or limit Lessee's obligations pursuant to this Schedule that Lessee acknowledges and agrees are absolute and unconditional. Lessor shall apply any Refund actually received by Lessor against the next scheduled Rent payment(s) and all other amounts owed under this Schedule. Lessee agrees that it shall owe any unpaid amounts hereunder remaining after application of such Refund. Finally, notwithstanding anything in the Agreement to the contrary, the Stipulated Loss Value that Lessee may be required to pay Lessor upon an Event of Default under this Schedule shall equal the total sum of the then remaining payments due and unpaid under this Schedule for the Primary Term discounted at the lesser of (x) the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of this Schedule and (y) the interest rate set forth above.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

{Lessee Name}
"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

SAMPLE VALIDITY OPINION LETTER
TO BE EXECUTED ON COUNSEL'S LETTERHEAD

To:

Ladies and Gentlemen:

We are counsel to (the "Lessee") and, in that capacity, we have examined Master Lease Agreement No. , dated as of , and the Lease Schedule No. to Master Lease Agreement No thereto, dated as of (collectively the "Agreement"), between the Lessee and [LESSOR NAME HERE] (the "Lessor").

Based on our examination of the Agreement and such other examinations as we have deemed appropriate, we are of the opinion as follows:

(a) The Lessee is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of _____ and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, with full power and authority to enter into the Agreement and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The Agreement has been duly authorized, executed and delivered by _____*, _____ of the Lessee by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Agreement against the Lessee;

(c) The Agreement constitutes the valid, legal and binding obligation of the Lessee, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Lessee of the Agreement and the transactions contemplated thereby;

(e) Lessee has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the Agreement and the transactions contemplated thereby;

(f) The entering into and performance of the Agreement will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, any instrument to which the Lessee is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or on the Products, other than those created by the Agreement;

(g) The Products are tangible personal property and when subject to use by the Lessee will not be or become fixtures or real property under the laws of the State of _____;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Lessee, will have a material adverse effect on the ability of the Lessee to fulfill its obligations under the Agreement; and

(i) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Lessee's current Fiscal Period to make the Rent payments scheduled to come due during Lessee's current Fiscal Period and to meet its other obligations under the Agreement for the current Fiscal Period, and such funds have not been expended for other purposes.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the Agreement.

Very truly yours,

*Authorized Signatory of Lessee under the Agreement.

Pharos Financial Services Private Entity/Commercial Master Lease Agreement

NO.
EFFECTIVE DATE:

MASTER LEASE AGREEMENT

LESSOR: PHAROS FINANCIAL SERVICES L.P.	LESSEE:
Mailing Address: One Dell Way Round Rock, TX 78682	Principal Address: Fax: Attention:

This Master Lease Agreement ("Agreement"), effective as of the Effective Date set forth above, is between the Lessor and Lessee named above. Capitalized terms have the meaning set forth in this Agreement.

1. LEASE.

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the equipment ("Products"), software, services or fees described in any lease schedule ("Schedule"). Each Schedule shall incorporate by reference the terms and conditions of this Agreement and contain such other terms as are agreed by Lessee and Lessor. Each Schedule signed or otherwise authenticated by Lessee and Lessor shall constitute a separate lease of Products ("Lease"). In the event of any conflict between the terms of a Schedule and the terms of this Agreement, the terms of the Schedule shall prevail. Lessor reserves all rights to the Products not specifically granted to Lessee in this Agreement or in a Schedule. Execution of this Agreement does not create an obligation of either party to lease to or from the other.

2. ACCEPTANCE DATE; SCHEDULE.

(a) Subject to any right of return provided by the Product seller ("Seller"), named on the Schedule, Products are deemed to have been irrevocably accepted by Lessee upon delivery to Lessee's ship to location ("Acceptance Date"). Lessee shall be solely responsible for unpacking, inspecting and installing the Products.

(b) Lessor shall deliver to Lessee a Schedule for Products. Provided that the Schedule contains no material error, Lessee agrees to sign or otherwise authenticate and return each Schedule by the later of the Acceptance Date or 5 days after Lessee receives a Schedule from Lessor. If the Schedule is not signed or otherwise authenticated by Lessee and returned to Lessor within the time provided in the prior sentence, then upon written notice from Lessor and Lessee's failure to cure within 5 days of such notice, Lessor may require the Lessee to purchase the Products by paying the Product cost charged by the Seller, plus any shipping charges, Taxes and Duties (defined below) and interest at the Overdue Rate (defined below) accruing from the date the Products are shipped through the date of payment. If Lessee returns any leased Products in accordance with the Seller's return policy, it will notify Lessor. When Lessor receives a credit from Seller for the returned Product, the Schedule will be deemed amended to reflect the return of the Product and Lessor will adjust its billing records and Lessee's invoice for the applicable Lease. In addition, Lessee and Lessor agree that a signed Schedule may be amended by written notice from Lessor to Lessee provided such notice is (i) to correct the serial (or service tag) number of Products or (ii) to adjust the related Rent (defined below) on the Schedule (any increase up to 15% or any decrease) caused by any change made by Lessee in Lessee's order with the Seller.

3. TERM.

The initial term ("Primary Term") for each Lease shall begin on the date set forth on the Schedule as the Commencement Date ("Commencement Date") and continue for the number of months set forth in the Schedule. The period beginning on the Acceptance Date and ending on the last day of the Primary Term, together with any renewals or extensions thereof, is defined as the "Lease Term". The Lease is non-cancelable by Lessee.

4. RENT; TAXES; PAYMENT OBLIGATION.

(a) The rental payment amount ("Rent") and the payment period for each installment of Rent ("Payment Period") shall be stated in the Schedule. A prorated portion of Rent, calculated on a 30-day month, 90-day quarter or 360-day year as appropriate, for the period from the Acceptance Date to the Commencement Date shall be added to the first payment of Rent. All Rent and other amounts due and payable under this Agreement or any Schedule shall be paid to Lessor in lawful funds of the United States of America at the payment address set forth above or at such other address as Lessor may designate from time to time in writing. Whenever Rent and other amounts payable under a Lease are not paid when due, Lessee shall pay interest on such amounts at a rate equal to the lesser of 1-1/2% per month or the highest rate permitted by applicable law ("Overdue Rate"). Lessor shall use reasonable commercial efforts to invoice Lessee for all amounts due. The rate factors used for the calculation of the payment are based in part on similar or like term swap or T-bill rates as published by the US Federal Reserve Board. In the event the applicable rates change between Lessor initially providing the rate factors and the commencement of a Schedule, Lessor reserves the right to change the applicable rate factor commensurate with the change in the applicable rates.

(b) Each Lease shall be a net lease. In addition to Rent, Lessee shall pay sales, use, property, added value or other taxes (excepting taxes based on Lessor's income), fees, levies or assessments (collectively, "Taxes"), and customs, duties or surcharges on imports or exports (collectively, "Duties") plus all expenses incurred in connection with Lessor's purchase of the Products, including but not limited to shipment, delivery, installation, and insurance. Unless Lessee provides Lessor with a tax exemption certificate acceptable to the relevant taxing authority prior to Lessor's payment of such Taxes, Lessee shall pay Lessor all Taxes upon demand by Lessor. Unless otherwise set forth in the Schedule and where applicable, Lessee agrees to pay a periodic personal property tax fee ("PPT Fee") calculated by Lessor as a prorated portion of the annual estimated property tax assessed by the applicable taxing authority on the Products during the Lease Term. The PPT Fee shall be payable with each installment of Rent.

(c) LESSEE'S OBLIGATION TO PAY ALL RENT AND OTHER AMOUNTS WHEN DUE AND TO OTHERWISE PERFORM AS REQUIRED UNDER THIS AGREEMENT AND EACH SCHEDULE SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT

TO ANY ABATEMENT, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, INTERRUPTION, DEFERMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER WHETHER ARISING OUT OF ANY CLAIMS BY LESSEE AGAINST LESSOR, SELLER, OR THE SUPPLIER OR MANUFACTURER OF THE PRODUCTS, TOTAL OR PARTIAL LOSS OF THE PRODUCTS OR THEIR USE OR POSSESSION, OR OTHERWISE. If any Product is unsatisfactory for any reason, Lessee shall make its claim solely against the Seller of such Product (or the Licensor in the case of Software, each as defined below) and shall, nevertheless, pay Lessor or its assignee all amounts due and payable under the Lease.

5. LICENSED MATERIALS.

Software means any operating system software or computer programs included with the Products (collectively, "Software"). "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including, without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Products. Lessee agrees that this Agreement and any Lease (including the sale of any Product pursuant to any purchase option) does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," "lease," and the like in this Agreement or any Schedule with respect to Software shall be interpreted in accordance with this Section 5.

6. USE; LOCATION; INSPECTION.

Lessee shall: (a) comply with all terms and conditions of any Licensed Materials; and (b) possess and operate the Products only (i) in accordance with the Seller's supply contract and any service provider's maintenance and operating manuals, the documentation and applicable laws; and (ii) for the business purposes of Lessee. Lessee may move Products from the location specified in the Schedule provided that Lessee notifies Lessor by the following May 31st or November 30th (whichever occurs next), and then only to a location within the United States and at Lessee's expense. Without notice to Lessor, Lessee may temporarily use laptop computers at other locations, including outside of the United States, provided Lessee complies with the United States Export Control Administration Act of 1979 and the Export Administration Act of 1985, as those Acts are amended from time to time (or any successor or similar legislation). Provided Lessor complies with Lessee's reasonable security requirements, Lessee shall allow Lessor to inspect the premises where the Products are located from time to time during reasonable hours after reasonable notice in order to confirm Lessee's compliance with its obligations under this Agreement.

7. RETURN.

At the expiration or earlier termination of the Lease Term of any Schedule, and except for Products purchased pursuant to any purchase option under the Lease, Lessee will (a) remove all proprietary data from the Products and (b) return them to Lessor at a place within the contiguous United States designated by Lessor. Upon return of the Products, Lessee's right to the operating system Software in returned Products will terminate and Lessee will return the Products with the original certificate of authenticity (attached and unaltered) for the original operating system Software. Lessee agrees to deinstall and package the Products for return in a manner which will protect them from damage. Lessee shall pay all costs associated with the packing and return of the Products and shall promptly reimburse Lessor for all costs and expenses for missing or damaged Products or operating system Software. If Lessee fails to return all of the Products at the expiration of any applicable Lease Term, the Lease Term with respect to the Products that are not returned shall continue to be renewed as described in the Schedule.

8. RISK OF LOSS; MAINTENANCE; INSURANCE.

(a) From the date the Products are delivered to Lessee's ship to location until the Products are returned to Lessor's designated return location or purchased by Lessee, Lessee agrees: (i) to assume the risk of loss or damage to the Products; (ii) to maintain the Products in good operating condition and appearance, ordinary wear and tear excepted; (iii) to comply with all requirements necessary to enforce all warranty rights; and (iv) to promptly repair any repairable damage to the Products. During the Lease Term, Lessee at its sole discretion has the option to purchase a maintenance agreement from the provider of its choice (including, if it so chooses, to self-maintain the Products) or to forgo such maintenance agreement altogether; regardless of Lessee's choice, Lessee will continue to be responsible for its obligations as stated in the first sentence of this Section. At all times, Lessee shall provide the following insurance: (i) casualty loss insurance for the Products for no less than the Stipulated Loss Value (defined below) naming Lessor as loss payee; and (ii) liability insurance with respect to the Products in an amount as required by Lessor, naming Lessor as an additional insured. Upon Lessor's prior written consent, Lessee may provide this insurance pursuant to Lessee's existing self insurance policy. Lessee shall either provide Lessor with an annual certificate of third party insurance or a written description of its self insurance policy, as applicable. The certificate of insurance will provide that Lessor shall receive at least ten (10) days prior written notice of any material change to or cancellation of the insurance policy.

(b) If the Products are lost, stolen, destroyed, damaged beyond repair or in the event of any condemnation, confiscation, seizure or expropriation of any Products ("Casualty Products"), Lessee shall promptly (i) notify Lessor of the same, and (ii) pay to Lessor the Stipulated Loss Value for the Casualty Products. The "Stipulated Loss Value" of any Product is an amount equal to the sum of (a) all Rent and other amounts then due and owing (including interest at the Overdue Rate from the due date until payment is received) under the Lease, plus (b) the present value of all future Rent to become due under the Lease during the remainder of the Lease Term, plus (c) the present value of the estimated in place Fair Market Value of the Product at the end of the Primary Term as determined by Lessor. Each of (b) and (c) shall be calculated using the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of the applicable Schedule.

9. ALTERATIONS.

Lessee shall, at its expense, make such alterations to Products during the Lease Term as are legally required or provided at no charge by Seller. Lessee may make other alterations, additions or improvements to Products provided that any alteration, addition or improvement shall be readily removable and shall not materially impair the value or utility of the Product. Upon the return of any Product to Lessor, any alteration, addition or improvement that is not removed by Lessee shall become the property of Lessor, free and clear of all liens and encumbrances.

10. REPRESENTATIONS AND WARRANTIES OF LESSEE.

(a) Lessee represents, warrants and covenants to Lessor at the time Lessee enters into this Agreement and each Schedule that:

(i) Lessee is an entity duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and in all jurisdictions with respect to which its ownership or its conduct of business or leasing of property requires such qualification;

(ii) The execution and delivery of and performance under this Agreement, any Schedules, Certificates of Incumbency or other documents related to a Lease ("Documents") to which Lessee is a party have been authorized by all necessary action, and have been executed and delivered on Lessee's behalf by persons duly authorized in that regard. The Documents constitute legal, valid and binding agreements of Lessee, enforceable against Lessee in accordance with their respective terms except as limited by bankruptcy or other similar laws;

(iii) The execution and delivery of or performance under the Documents do not contravene Lessee's charter or bylaws or any law, regulation, order, writ, decree, judgment, or other form of prohibition of which Lessee is aware is binding on it or its assets; and does not and will not contravene the provisions of, or constitute a default under, or result in the creation of a lien upon the Products under any material indenture, mortgage, contract, or other instrument to which it is a party or by which it or its assets are bound;

(iv) To the best of Lessee's knowledge, there is no action, suit or proceeding pending or, to the knowledge of Lessee, threatened in any court or tribunal or before any competent authority against Lessee or any of its property or assets which challenges the Documents or any of the

transactions contemplated hereunder or which may have a material adverse effect on the financial condition or business of Lessee; and

(v) The financial statements and other information furnished and to be furnished to Lessor by Lessee are and shall be true and correct in all material respects, and since the date that such financial statements or information were prepared, there has not been any material adverse change in Lessee's business or condition, financial or otherwise.

(b) If any person guarantees payment or performance by Lessee of any liabilities or obligations of Lessee under this Agreement or any Schedule (a "Guarantor"), the preceding representations, warranties and covenants shall be deemed to be made by Lessee on behalf of such Guarantor as if such Guarantor were named in addition to Lessee therein.

11. WARRANTY ASSIGNMENT; EXCLUSION OF WARRANTIES; LIMITATION OF LIABILITY; FINANCE LEASE.

(a) Provided no Event of Default has occurred and is continuing, Lessor assigns to Lessee for the Lease Term the benefit of any Product warranty and any right of return provided by any Seller.

(b) LESSEE ACKNOWLEDGES THAT LESSOR DID NOT SELECT, MANUFACTURE, SUPPLY OR LICENSE ANY PRODUCT AND THAT LESSEE HAS MADE THE SELECTION OF PRODUCTS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS. LESSOR LEASES THE PRODUCTS AS-IS AND MAKES NO WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. LESSEE HEREBY WAIVES ANY CLAIM IT MIGHT HAVE AGAINST LESSOR OR ITS ASSIGNEE FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY OR WITH RESPECT TO ANY PRODUCTS.

(c) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY SCHEDULE OR THE SALE, LEASE OR USE OF ANY PRODUCTS, EVEN IF THE OTHER PARTY IS ADVISED IN ADVANCE OF THE POSSIBILITY OR CERTAINTY OF SUCH DAMAGES AND EVEN IF THAT PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT.

(d) Lessee agrees that it is the intent of both parties that each Lease qualify as a statutory finance lease under Article 2A of the Uniform Commercial Code ("UCC"). Lessee acknowledges either (i) that Lessee has reviewed and approved any written supply contract covering the Products purchased from the Seller for lease to Lessee or (ii) that Lessor has informed or advised Lessee, in writing, either previously or by this Agreement, that Lessee may have rights under the supply contract evidencing the purchase of the Products and that Lessee should contact the Seller for a description of any such rights. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LESSEE HEREBY WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A of the UCC.

12. EVENTS OF DEFAULT.

It shall be an event of default hereunder and under any Schedule ("Event of Default") if:

(a) Lessee fails to pay any Rent or other amounts payable under this Agreement or any Schedule within 30 days after the date that such payment is due;

(b) Any representation or warranty made by Lessee or any Guarantor to Lessor in connection with this Agreement, any Schedule or any other Document is at the time made materially untrue or incorrect;

(c) Lessee fails to comply with any other obligation or provision of this Agreement or any Schedule and such failure shall have continued for 30 days after notice from Lessor;

(d) Lessee (i) is generally not paying its debts as they become due or (ii) takes action for the purpose of invoking the protection of any bankruptcy or insolvency law, or any such law is invoked against or with respect to Lessee or its property and such petition is not dismissed within 60 days; or

(e) Lessee or any Guarantor is in default under any other lease, contract, or obligation now existing or hereafter entered into with Lessor or Seller or any assignee of Lessor.

13. REMEDIES.

(a) Upon an Event of Default under any Schedule, all of Lessee's rights (including its rights to the Products), but not its obligations thereunder, shall automatically be cancelled without notice and Lessor may exercise one or more of the following remedies in its sole discretion:

(i) require Lessee to return any or all Products as provided in Section 7 and/or if requested by Lessor, assemble the Products in a single location designated by Lessor granting Lessor the right to enter the premises where such Products are located for the purpose of repossession;

(ii) sell, lease or otherwise dispose of any or all Products (as agent and attorney-in-fact for Lessee to the extent necessary) upon such terms and in such manner (at public or private sale) as Lessor deems advisable in its sole discretion (a "Disposition");

(iii) declare immediately due and payable as a pre-estimate of liquidated damages for loss of bargain and not as a penalty, the Stipulated Loss Value of the Products in lieu of any further Rent, in which event Lessee shall pay such amount to Lessor within 10 days after the date of Lessor's demand; or

(iv) proceed by appropriate court action either at law or in equity (including an action for specific performance) to enforce performance by Lessee or recover damages associated with such Event of Default or exercise any other remedy available to Lessor in law or in equity.

(b) Lessee shall pay all costs incurred by Lessor in connection with an Event of Default, including reasonable legal fees and expenses, and all costs related to the repossession, transportation, re-furbishing, storage and Disposition of any or all Products ("Default Expenses"). In the event Lessor recovers proceeds from its Disposition of the Products, Lessor shall credit such proceeds (net of Default Expenses) against the owed Stipulated Loss Value. Lessee shall remain liable to Lessor for any deficiency. With respect to this Section, to the extent the proceeds of a Disposition (net of Default Expenses) exceed the Stipulated Loss Value owed under the Lease, or if Lessee has paid Lessor the Stipulated Loss Value, the Default Expenses and all other amounts owing under the Lease, Lessee shall be entitled to such excess and shall have no further obligations with respect to such Lease. All rights of Lessor are cumulative and not alternative and may be exercised by Lessor separately or together.

14. QUIET ENJOYMENT.

Lessor shall not interfere with Lessee's right to possession and quiet enjoyment of Products during the relevant Lease Term, provided no Event of Default has occurred and is continuing. Lessor represents and warrants that as of the Commencement Date of the applicable Schedule, Lessor has the right to lease the Products to Lessee.

15. INDEMNIFICATION.

Lessee is responsible for losses, damages, penalties, claims, costs (including attorneys' fees and expenses), actions, suits and proceedings of every kind, (collectively "Claims") whether based on a theory of strict liability or otherwise caused by or related to this Lease or the Products, (including any defects in the Products). Upon Lessor's request Lessee will reimburse and defend Lessor against any Claims.

16. OWNERSHIP; LIENS AND ENCUMBRANCES; LABELS.

As between Lessor and Lessee, title to Products (other than any Licensed Materials) is and shall remain with Lessor. Products are considered personal property and Lessee shall, at Lessee's expense, keep Products free and clear of liens and encumbrances of any kind (except those arising through the acts of Lessor) and shall immediately notify Lessor if Lessor's interest is subject to compromise. Lessee shall not remove, cover, or alter

plates, labels, or other markings placed upon Products by Lessor, Seller or any other supplier.

17. NON PERFORMANCE BY LESSEE.

If Lessee fails to perform any of its obligations hereunder or under any Schedule, Lessor shall have the right but not the obligation to effect such performance and Lessee shall promptly reimburse Lessor for all out of pocket and other reasonable expenses incurred in connection with such performance, with interest at the Overdue Rate.

18. NOTICES.

All notices shall be given in writing and, except for billings and communications in the ordinary course of business, shall be delivered by overnight courier service, delivered personally or sent by certified mail, return receipt requested and shall be effective from the date of receipt unless mailed, in which case the effective date will be 4 Business Days after the date of mailing. Notices to Lessor by Lessee shall be sent to: PHAROS FINANCIAL SERVICES L.P., Legal Department, One Dell Way, Round Rock, TX 78682, or such other mailing address designated in writing by Lessor. Notice to Lessee shall be to the address on the first page of this Agreement or such other mailing address designated in writing by Lessee.

19. ASSIGNMENT.

(a) LESSEE MAY ASSIGN THIS AGREEMENT OR ANY SCHEDULE, OR SUBLEASE ANY PRODUCT(S) WITH THE PRIOR WRITTEN CONSENT OF LESSOR (SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD). LESSOR, AT ITS SOLE DISCRETION, MAY ASSESS AN ADMINISTRATIVE FEE FOR ANY APPROVED ASSIGNMENT OR SUBLEASE. No assignment or sublease shall in any way discharge Lessee's obligations to Lessor under this Agreement or any Schedule.

(b) Lessor may at any time and without notice, but subject to the rights of Lessee, transfer, assign, or grant a security interest in any Product, this Agreement, any Schedule, or any rights and obligations hereunder or thereunder, in whole or in part.

(c) Subject to the foregoing, this Agreement and each Schedule shall be binding upon and inure to the benefit of Lessor, Lessee and their successors and assigns.

20. GOVERNING LAW; JURISDICTION AND VENUE; WAIVER OF JURY TRIAL.

THIS AGREEMENT AND EACH SCHEDULE SHALL BE GOVERNED BY TEXAS LAW WITHOUT REGARD TO ITS CONFLICTS OF LAWS PRINCIPLES AND, TO THE EXTENT APPLICABLE, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. LESSEE CONSENTS TO THE JURISDICTION OF ANY FEDERAL COURT LOCATED IN TRAVIS COUNTY, TEXAS AND WAIVES ANY OBJECTION TO VENUE, AND FURTHER WAIVES ANY RIGHT TO A TRIAL BY JURY.

21. MISCELLANEOUS.

(a) The headings used in this Agreement are for convenience only and shall have no legal effect. This Agreement shall be interpreted without any strict construction in favor of or against either party.

(b) The provisions of Sections 5, 10, 11(b), 11(c), 11(d), 15, 20 and 21 shall continue in full force and effect even after the term or expiration of this Agreement or any Schedule.

(c) Failure of Lessor at any time to require Lessee's performance of any obligation shall not affect the right to require performance of that obligation. No term, condition or provision of this Agreement or any Schedule shall be waived or deemed to have been waived by Lessor unless it is in writing and signed by a duly authorized representative of Lessor. A valid waiver is limited to the specific situation for which it was given.

(d) Lessee shall furnish such financial statements of Lessee and any Guarantor (prepared in accordance with generally accepted accounting principles) and other financial information, Certificates of Incumbency or other documents related to a Lease as Lessor may from time to time reasonably request.

(e) If any provision(s) of this Agreement is deemed invalid or unenforceable to any extent (other than provisions going to the essence of this Agreement) the same shall not in any respect affect the validity, legality or enforceability (to the fullest extent permitted by law) of the remainder of this Agreement, and the parties shall use their best efforts to replace such illegal, invalid or unenforceable provisions with an enforceable provision approximating, to the extent possible, the original intent of the parties.

(f) Unless otherwise provided, all obligations hereunder shall be performed or observed at the respective party's expense.

(g) Lessee shall take any action reasonably requested by Lessor for the purpose of fully effectuating the intent and purposes of this Agreement or any Schedule. The parties intend for each Lease to constitute a true lease under the UCC and all applicable laws; however, if any Lease is determined to be other than a true lease, Lessee hereby grants to Lessor a first priority security interest in the Products and all proceeds thereof. Lessee acknowledges that by signing this Agreement, Lessee has authorized Lessor to file any financing statements or related filings as Lessor may reasonably deem necessary or appropriate. Lessor may file a copy of this Agreement or any Schedule in lieu of a financing statement.

(h) This Agreement and any Schedule may be signed in any number of counterparts each of which when so executed or otherwise authenticated and delivered shall be an original but all counterparts shall together constitute one and the same instrument. To the extent each Schedule would constitute chattel paper as such term is defined in the UCC, no security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Lessor's possession marked by Lessor as either "Original" or "Counterpart Number 1".

(i) If any Lease is determined to be a lease intended as security, in no event shall Lessee be obligated to pay any time price balance differential in excess of the maximum amount permitted by applicable law (as specified herein or the state where the Products are located, whichever law permits the greater amount). In the event Lessor shall receive anything of value under a Lease that is deemed interest which would exceed the maximum amount of interest allowed under the law, the excess amount shall be applied to the reduction of the unpaid time price balance or shall be refunded to Lessee. In order to reduce the unpaid time price balance, any amount deemed interest shall, to the fullest extent permitted by applicable law, be amortized and spread uniformly throughout the Lease Term.

(j) This Agreement and the Schedules hereto between Lessor and Lessee set forth the entire agreement between the parties and supersede and merge all prior written or oral communications, understandings, or agreements between the parties relating to the subject matter contained herein. Except as permitted herein, this Agreement and any Schedule may be amended only by a writing duly signed or otherwise authenticated by Lessor and Lessee.

(k) If Lessee delivers this signed Master Lease, or any Schedule, amendment or other document related to the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that

the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

{Lessee Name}
"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS

Instructions for completing the attached Certificate of Incumbency and Authority form.

1. The person named here should have the authority to designate one or more other people to sign multi-year contracts on behalf of your business. Please include your title (CEO, CFO, CTO, President, Vice President or Secretary).

I,_____ do hereby certify that (i) I am the duly elected, qualified, and acting _____of , (the "Lessee"); (ii) each of the persons whose name, title

2. The persons named/signatures in this section are those authorized by the person listed above (CEO, CFO,etc.) to sign a multi-year contract that will create a liabilityfor your business. The same person cannot designate authority and be an authorized signatory.

NAME OF AUTHORIZED SIGNATORY	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Include here the signature, printed name, and title of the person identified in No. 1 above.

By:_____

Name: _____

Title:_____

Date: _____

LESSEE'S CERTIFICATE OF
INCUMBENCY AND AUTHORITY

I, _____, do hereby certify that (i) I am the duly elected, qualified, and acting of {Lessee Name}, a {Governing State} {Business Entity Type} (the "Lessee"); (ii) each of the persons whose name, title and signature appear below is a duly authorized representative of the Lessee and holds on the date of this Certificate the formal title(s) set forth opposite his/her name; (iii) the signature appearing opposite each such person's name is his/her genuine signature; (iv) each such representative is duly authorized for and on behalf of the Lessee to execute and deliver that certain Master Lease Agreement No. _____ ("Agreement") and any related Schedules from time to time thereunder between the Lessee and Pharos Financial Services L.P., a limited partnership company or its assignee or designee (collectively "Lessor"), and all agreements, documents, and instruments in connection therewith, including without limitation, schedules, riders, and acceptance certificates, and (v) the execution and delivery of any such Agreement and/or Schedules and all agreements, documents, and instruments in connection therewith for and on behalf of the Lessee are not prohibited by or in any manner restricted by the terms of the Lessee's Certificate or Articles of Incorporation, By-laws or other document pursuant to which it is organized or of any loan agreement, indenture or contract to which the Lessee is a party or by which it or any of its property is bound. I do further certify that the foregoing authority shall remain in full force and effect, and Lessor shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same, in whole or in part, has been delivered to Lessor, but in any event, shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Lessor of such written notice.

NAME OF AUTHORIZED SIGNATORY	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

By: _____

Name: _____

Title: _____

Date: _____

Pharos Financial Services

Billing and Schedule Information

Welcome to Pharos Financial Services (PFS). We look forward to establishing a long-lasting relationship with you and your team. To ensure your account is setup properly in our systems please provide the information below, working with your Accounts Payable team as needed. Once ready, return it to your PFS Sales Representative or send it to DFS_Customer_Setup@Dell.com. If you have any questions about the form, contact your representative. Thank you.

I. Preparing Your A/P System to Remit PFS Payments:

Below is the most commonly requested information by our customers to assist them in setting up their systems to successfully remit PFS payments. If you require any other information, please contact your representative.

ACH Instructions (preferred)	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	PFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT and SCHEDULE NUMBER OR INVOICE NUMBER CTX+ format should be first choice if it is an option Email remittance to **USDFSCASHPAYMENTS@dell.com**
Wire Transfer Instructions	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	PFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT and SCHEDULE NUMBER OR INVOICE NUMBER Email remittance to **USDFSCASHPAYMENTS@dell.com** JPM Swift Code for international wires only: **CHASUS33**
Payee Information	Pharos Financial Services, L.P., Payment Processing Center Federal Tax ID# 04-3652033	PO Box 6549 Carol Stream, IL 60197-6549

II. Your Company Information:

Company Name: _____

Physical Address (primary location): _____

City, State, ZIP: _____

Federal Tax ID: _____

III. Schedules:

Name of recipient(s) to receive monthly schedules **for reconciliation:**

Attention: _____ Email Address: _____

Name of individual(s) that **will sign** schedules (this individual should be named as an authorized signatory on the Incumbency or Secretary Clerk Certificate)

Attention: _____ Title: _____

Telephone Number: _____ Email Address: _____

Would you prefer to sign your documents electronically via Echosign? ☐ Yes ☐ No (not available to Public entities)

Do any of the following criteria need to appear on your schedule?*

☐ Cost Center ☐ Equipment Type ☐ Equipment Location ☐ PO Number

*Invoices will follow the format of the schedule and include a breakout of the items above if requested.

IV. Purchase Orders:

Your PO should be issued to Pharos Financial Services L.P.

If you are unable to issue purchase orders to PFS please specify how the PO will be issued:

Do you utilize blanket PO's? ☐ Yes ☐ No

Do you use a different PO for payment versus procurement? ☐ Yes ☐ No

Is PO fulfillment required for scheduling? ☐ Yes ☐ No

PFS will consolidate shipped orders and place on a schedule for your review. If you have any special consolidation requirements, please contact your PFS Sales representative.

Is board approval necessary? ☐ Yes ☐ No If yes, when are meetings held? _____

Fiscal Year is from _____ to _____

V. Invoicing/Billing Contact Information:

Accounts Payable (AP) Contact Name: _____

Does this billing address match the primary location above? ☐ Yes (If yes, please skip and proceed to Invoice Preference) ☐ No

AP Address: _____

City, State, ZIP: _____

County: _____

AP Email Address: _____ AP Direct Telephone Number: _____

Email Address for PDF or Electronic Invoices (if different than AP contact): _____

VI. Invoice Preferences (choose one from each category):

Invoice Options: ☐ **Contract Level** (one invoice per contract) ☐ **Consolidated** (one invoice for all contracts that have the same due date)

Invoice Format: ☐ **Detail** (asset level) ☐ **Summary**

Delivery Format: ☐ **Paper** (USPS) ☐ **PDF** (paper copy is not mailed) ☐ **Electronic CSV** (converted to Excel)

☐ **3rd Party Invoicing Tool, Ariba/SAP** (enter tool name): _____

Do you need separate invoices for miscellaneous billings? ☐ Yes ☐ No

Do you require a PO number on the invoice to process payment? ☐ Yes ☐ No

Note: the typical invoice processing time is 30 days. If you require more time, please contact your PFS Sales Representative.

VII. Taxes and Fees:

Is your company/entity tax exempt? ☐ Yes ☐ No

If not exempt, do you intend to finance upfront tax (if applicable) on the schedules (contracts)? ☐ Yes ☐ No

Personal Property Tax (PPT): ☐ Rebill Annually ☐ Monthly Property Management Fee

California Environmental Fee: Do you intend to finance the California Environmental Fee, if applicable? ☐ Yes ☐ No

Do you intend to finance shipping by adding shipping costs for the products to your schedule? ☐ Yes ☐ No

VIII. Additional Tax Information:

Sales/Use Tax Exemption: Please provide your tax exemption or direct pay certificate to both PFS and the product vendor. Certificates intended for Leases should be issued to Pharos Financial Services, L.P. and those for Loans should be issued to the product vendor. Where required, sales/use taxes will be assessed and invoiced to PFS by the vendor.

Note: If tax exempt, a valid Tax Exemption or Direct Pay Certificate must be provided **for each state** in which the products are located.

Tax Exempt Certificate Requirements:

- Address to Pharos Financial Services L.P.
- Should coincide with the date the schedule is signed
- List a description of the items; computer hardware/software is generally sufficient
- Signed by an authorized employee/owner

The following are not acceptable forms of Tax Exemption Certificates:

- IRS letter declaring the company as a non-profit (501-C) entity*
- CA letter exempting a company from Franchise and Income Tax
- W-9 form
- State registration certificates

*Mississippi is the only state that accepts the IRS letter as an acceptable exemption certificate

Business Personal Property Tax: Tangible business personal property is taxable in most states. In general, the definition of tangible property is personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses but does not include a document that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

We appreciate for taking the time to provide the information above. Our goal is to provide a seamless schedule and invoice delivery. Thank you for choosing Pharos Financial Services.

PHAROS

Pharos Financial Services Private Entity Lease Schedules

Fair Market Value

$ Out

Software

MASTER LEASE AGREEMENT SCHEDULE NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN PHAROS FINANCIAL SERVICES L.P. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit “A” attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

Pro-rated Rent:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit “A”.
**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

END OF LEASE OPTIONS: Provided that no Event of Default has occurred and is continuing, and at least 90 days but no more than 180 days prior to the expiration of the Primary Term (the "Expiration Date"), Lessee will give irrevocable written notice to Lessor of its intention to either:

(i) purchase some or all of the Products, as long as the Products comprise a full system configuration (including CPU, monitor, keyboard and mouse for desktops and CPU, cables, modem and other essential accessories for laptops), at Fair Market Value (defined below);
(ii) renew the Lease Term for a minimum of six (6) months at a rate and for a term agreed upon by both parties; or
(iii) return Products not purchased or renewed pursuant to (i) or (ii) above in accordance with the Agreement.

If Lessee exercises the option to purchase the Products then, on receipt of payment of the "Fair Market Value" (defined below) plus applicable taxes, Lessor will sell the Products to Lessee AS IS-WHERE IS, WITHOUT WARRANTY OR RECOURSE, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. The Fair Market Value purchase price shall be paid on or before the last day of the Primary Term. "Fair Market Value" means the price of the Products, installed, in use and in the condition required by the Agreement as determined by Lessor in its reasonable judgment. If Lessee disagrees with the Fair Market Value, Lessee shall notify Lessor in writing within 60 days prior to the Expiration Date and, upon Lessee's request and within ten (10) days after receipt of Lessee's notice, Lessor shall appoint a qualified appraiser reasonably acceptable to Lessee to appraise the retail value of the Products. The amount determined by such appraiser shall be the final Fair Market Value. Lessor and Lessee shall share the expense of such appraisal equally.

If Lessee desires to renew a Lease, Lessee and Lessor shall enter into a supplement to this Schedule describing the length of the renewal Lease Term and the renewal Rent provided, however, all other terms of this Schedule and the Agreement shall remain in full force and effect.

Whether or not Lessee has given Lessor notice of its intent to purchase, renew or return as described above, if Lessee does not return or purchase the Products or renew the Lease as required above, the Lease Term shall automatically extend on a month-to-month basis at the Rent in effect on the last day of the Primary Term (prorated on a monthly basis if the Payment Period was other than monthly during the Primary Term). Such extension shall continue until Lessee: (i) provides 30 days prior written notice of its intention to return or purchase the Products (to take effect on the next Rent payment date that is at least 30 days after the notice is received by Lessor) and (ii) either returns or purchases all of the Products in accordance with the End of Lease options above. Payments of Rent during the month-to-month extension are due and payable monthly as specified in Lessor's invoice. If Lessee fails to return or purchase any Products, the Schedule and associated Rent for the Products that have not been returned or purchased shall extend on a month-to-month basis in accordance with the prior sentence.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

{Lessee Name}
"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

MASTER LEASE AGREEMENT SCHEDULE NO.

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. ("Agreement") DATED BETWEEN PHAROS FINANCIAL SERVICES L.P. ("Lessor") AND ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER:

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**
See Exhibit 'A'	See Exhibit 'A'				

Total Product Acquisition Cost:

Rent is payable: in

Payment Period:

Pro-rated Rent:

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

END OF LEASE OPTIONS: Provided that no Event of Default has occurred and is continuing at the expiration of the Lease Term, Lessee shall have the option to (i) purchase the Products for $1.00; or (ii) return the Products in accordance with the Agreement for a disposal fee agreed upon by both parties.

SECURITY INTEREST: As a continuing security interest for Lessee's obligation hereunder, Lessee hereby grants to Lessor a first priority security interest in all of Lessee's rights and interests in and to the Products and all proceeds thereof, free and clear of all security interests, liens or encumbrances whatsoever.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers of the Products from time to time as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may

produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties hereto agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit “A”.

"Lessee"

By: _____

Name: _____

Title: _____

Date: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
“Lessor”

By: _____

Name: _____

Title: _____

Date: _____

[LESSEE NAME]
MASTER LEASE AGREEMENT SCHEDULE NO. XXX-XXXXXX-XXX

THIS SCHEDULE IS SUBJECT TO AND INCORPORATES THE TERMS AND CONDITIONS OF MASTER LEASE AGREEMENT NO. _____ AND ANY AMENDMENTS, IF APPLICABLE, ("Agreement") DATED _____ BETWEEN PHAROS FINANCIAL SERVICES L.P., ("Lessor") AND _____ ("Lessee"). If the entity named on this Schedule is not the Lessee named under the Agreement, then such entity, if an affiliate of Lessee approved in writing in advance by Lessor, shall be deemed the Lessee under this Schedule.

Lessor hereby agrees to lease and/or make available to Lessee subject to the terms, conditions and provisions set forth in this Schedule and in the Agreement, the Products described below. Any capitalized term used herein and not defined herein shall have the meaning ascribed to it in the Agreement.

PRODUCT DESCRIPTION AND LOCATION: See below or Exhibit "A" attached to and made a part hereof.

PRODUCT SELLER: [VENDOR NAME]

Product Description	Product Location	Lessee Purchase Order No.	Rent*	Primary Term (Mos.)	Commencement Date**

Total Product Acquisition Cost: $_____

Rent is payable: ____in advance; ____in arrears [specify]

Interest Rate: _____%

Payment Period: ____ Monthly ____ Quarterly ____ Annually ____ Other (specify _____)

*Lessee is responsible for applicable taxes, shipping and other amounts as described in the Agreement, and, with the first payment of Rent, any prorated Rent if applicable. Such amounts are further described in Exhibit "A".

**The Commencement Date may be extended for one Payment Period until the Schedule is returned in accordance with the terms stated in the Agreement. Lessor may charge Lessee prorated Rent accruing from the Acceptance Date to the Commencement Date, as such date is finally determined.

NATURE OF SCHEDULE: Lessee and Lessor acknowledge that this Schedule is strictly a financing arrangement providing for the repayment of a lease purchase in the amount of the Lessor's Basis (as defined below) made by Lessor to Lessee by performing Lessee's payment obligations to the Product Seller under Lessee's Purchase Order referenced above and is to be repaid as and when set forth herein. The amount of the Rent payments provided for herein represents payments of principal and interest on such lease purchase.

ACCEPTANCE, MASTER AGREEMENT PROVISIONS, TERMINATION: Lessee agrees that for the purpose of this Schedule, all Products, Software and services covered by this Schedule and identified on Exhibit A have been delivered, installed, and accepted by Lessee. Upon Lessee's acceptance of the Products under this Schedule, title to the Products shall vest in Lessee. Lessee and Lessor agree that (i) any language in the Agreement pertaining to Lessor's ownership of the Products, Software and services and (ii) the following sections of the Agreement shall not apply to this Schedule: 7 (Return); 9 (Alterations); 13(a)(ii) (in so far as it purports to provide Lessor a right to sell, lease, or otherwise dispose of the Products consisting of Software licenses that would violate the underlying license agreement); and, 16 (Ownership; Liens and Encumbrances; Labels). Notwithstanding the foregoing, Lessee acknowledges that the remaining terms and conditions of the Agreement shall apply to this Schedule including without limitation: Sections 4 (Rent; Taxes; Payment Obligation); 5 (Licensed Materials); 11 (Warranty Assignment; Exclusion of Warranties; Limitation of Liability; Finance Lease); 15 (Indemnification); and, 21(i) (Limit on Interest Charges). This Schedule shall terminate upon the expiration of the Primary Term without extension or renewal; provided, however, that such termination of the Schedule shall not affect obligations of Lessee accruing prior to the termination.

ADDITIONAL PROVISIONS: For purposes of this Schedule, the "Lessor's Basis" shall consist of the following amounts: (i) the Total Product Acquisition Cost set forth above; plus (ii) all other amounts that become due and owing under this Schedule that are not

included in the amounts paid to Lessor pursuant to clause (i). As security for Lessee's obligations hereunder and subject to applicable law and the Software license agreement, Lessee grants Lessor, a first-priority security interest in all of Lessee's rights and interest in and to the Products (including with respect to any Software or services, Lessee's right to use the Software and right to obtain the services) and all proceeds thereof (including without limitation any refunds with respect to the Products, Software or services financed under this Schedule (each a "Refund") that are received by Lessee or that Lessee has a right to receive), free and clear of all security interests, liens or encumbrances whatsoever.

Upon Lessor's written instructions after an Event of Default with respect to this Schedule, Lessee agrees to (a) immediately cease using Software and services, (b) deinstall and delete all copies of the Software from any computer systems owned or controlled by Lessee or used for Lessee's benefit, and (c) provide Lessor with a certificate signed by an authorized representative of Lessee attesting to such cessation of use and maintenance, deinstallation, deletion and destruction. In the event that Lessee shall be entitled to a Refund from the Seller, Software licensor or service provider, Lessee authorizes Lessor to deliver a copy of this Schedule to the such party as evidence of Lessee's consent to Lessor's collection and receipt of the Refund directly; provided, however, nothing herein shall obligate Lessor to pursue Lessee's Refund rights (if any do exist) or modify, excuse or limit Lessee's obligations pursuant to this Schedule that Lessee acknowledges and agrees are absolute and unconditional. Lessor shall apply any Refund actually received by Lessor against the next scheduled Rent payment(s) and all other amounts owed under this Schedule. Lessee agrees that it shall owe any unpaid amounts hereunder remaining after application of such Refund.

Notwithstanding anything in the Agreement to the contrary, the Stipulated Loss Value that Lessee may be required to pay Lessor upon an Event of Default under this Schedule shall equal the total sum of the then remaining payments due and unpaid under this Schedule for the Primary Term, discounted at the lesser of (x) the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of this Schedule and (y) the interest rate set forth above.

COMPLETION OF SCHEDULE: Lessee hereby authorizes Lessor to insert or update the serial numbers (or similar information) of the Products, Software and services as necessary.

If Lessee delivers this signed Schedule, any amendment or other document related to this Schedule or the Master Lease (each a "Document") to Lessor by facsimile transmission, and Lessor does not receive all of the pages of that Document, Lessee agrees that, except for any pages which require a signature, Lessor may supply the missing pages to the Document from Lessor's database which conforms to the version number at the bottom of the page. If Lessee delivers a signed Document to Lessor as an e-mail attachment, facsimile transmission or by U.S. mail, Lessee acknowledges that Lessor is relying on Lessee's representation that the Document has not been altered. Lessee further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to a Document, Lessor may produce a tangible copy of the Document transmitted by Lessee to Lessor by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that the Document constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of the Document shall be the copy designated by Lessor or its assignee, from time to time, as the copy available for access and review by Lessee, Lessor or its assignee. All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Lessor's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document.

By signing below, each of the parties agrees to be bound by the terms of the Agreement, this Schedule and the attached Exhibit "A".

EXECUTED by the undersigned on the dates set forth below, to be effective as of the Effective Date.

{Lessee Name}
"Lessee"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

PHAROS FINANCIAL SERVICES L.P.
By: PHAROS FINANCIAL SERVICES, INC. ITS GENERAL PARTNER
"Lessor"

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Dell Financial Services Payment Agreement

Public version

Commercial/Private Entity version

Proprietary to Dell Financial Services, LLC

Dell Financial Services Public Payment Agreement

DFS Public Payment Agreement Sep2021

Internal Use -

Dell Financial Services

Customer:
Address:

Billing Contact:
Billing Address:

Software Licensor: [SW Licensor]
Vendor: [Name of reseller/seller]

Products: Software, equipment and services as described in [Description of Vendor Contract/Order/Agreement (s) #] ("**Agreement**")

This Payment Agreement ("**PA**") is made effective as of _[DATE]_____between the Customer named above ("**Customer**") and Dell Financial Services L.L.C. ("**Payee**") pursuant to the following: Customer and the Software Licensor and/or Vendor have entered into the above referenced Agreement (including any addenda, amendments, exhibits and schedules attached thereto) in connection with the acquisition of **"Products"** including as applicable, certain equipment, software licenses ("**Licensed Software**"), and services to Customer. Pursuant to the Agreement, Customer is obligated to pay Vendor(s) the total fees described below ("**Fees**"). Payee and Customer have agreed that instead of Customer paying the Fees as described in the Agreement, Customer shall pay Payee installment payments ("**Payment Amounts**") as set forth in the Payment Schedule below and Payee shall pay the Vendor on Customer's behalf.

1. FEES: The Fees set forth in the Agreement consist of $_[AMOUNT FUNDING TO VENDOR(s)]_____for Products. Customer hereby agrees to pay the Payment Amounts to Payee on an installment basis in accordance with the Payment Schedule set forth below.

2. PAYMENT SCHEDULE: Customer shall pay the Payment Amounts in accordance with the schedule ("**Payment Schedule**") below, with each Payment Amount due and payable on the date indicated ("**Due Date**"). Customer shall remit Payment Amounts to the address noted in the invoice from Payee. **PAYMENT AMOUNTS DO NOT INCLUDE APPLICABLE TAX, UNLESS SPECIFIED OTHERWISE.**

3. OBLIGATIONS ABSOLUTE: For the purposes of this PA Products shall be conclusively deemed accepted upon receipt, subject to any right of return provided by the Vendor, and upon Customer's execution of this PA, Customer acknowledges that (i) it has selected the Products based on its own judgment and (ii) Payee is entering into this PA as an accommodation to Customer, and the Agreement, including all obligations, rights and remedies hereunder are separate and distinct from this PA and any remedies which Customer may have, at law or in equity, against Vendor or Software Licensor shall be made independently and without regard to this PA and Customer's obligations hereunder, and (iii) Customer's obligation to remit Payment Amounts to Payee, in accordance with the Payment Schedule and subject only to Customer's right to non-appropriate under Section 7 herein, shall be absolute, unconditional, non-cancelable, and nonrefundable, and shall not be withheld or subject to any abatement, set-off, claim, counterclaim, adjustment, reduction, or defense that Customer may have arising out of or relating to the Agreement, the Products or otherwise for any reason whatsoever, including but not limited to requirements applicable to negotiable instruments (such as presentment for payment and notice of dishonor); termination of the Agreement or any change in, update to or transfer of the Products. If full payment of each Payment Amount and other amounts due and payable is not received by Payee within 10 days of the Due Date, Customer agrees to pay to Payee interest on the overdue amount at the lesser of 1.5% per month or as provided for under any applicable Prompt Payment Act. . Customer hereby grants Payee a security interest in the Products (including Customer's right to use Licensed Software and to receive services, credits and refunds from Vendor) and all proceeds related to this PA, to the extent permitted by law. Payee may make related filings as Payee reasonably deems necessary. Customer agrees it is responsible for and will pay or reimburse Payee upon invoice for all government imposed taxes, duties, fines assessed or imposed on the PA, the Products and the Payment Amounts (but excluding taxes imposed on Payee's income) or any other amount payable with respect to the PA (collectively "Taxes").

4. ASSIGNMENT; WAIVER OF DEFENSES, CLAIMS: Customer hereby consents to Payee's assignment of Payee's rights and interests in and to all or a portion of the Payment Amounts to a third party ("Assignee"). Customer shall not transfer or assign any of Customer's rights or obligations under this PA or grant third-party liens or encumbrances in Products without Payee's prior written consent. Customer agrees that neither Payee nor any Assignee shall assume any of Vendor's or Software Licensor's obligations to Customer under the Agreement, and further, expressly waives, as against Payee and any Assignee, any rights Customer may have or claim related to any matter whatsoever including, without limitation, the design or condition of Products, their merchantability or fitness or capacity or durability for any particular purpose, the quality of the material or workmanship of the Products or conformity of the Products to the provisions and specifications of any purchase order or orders relating thereto, and Customer expressly disclaims the same, and, as to Payee and any Assignee, Customer accepts the Products "AS IS". Payee and any Assignee shall have no liability to Customer or third parties for any claim, loss or damage caused or alleged to be caused directly, indirectly, incidentally or consequentially by the Products, or by any inadequacy thereof or deficiency or defect therein, by any incident whatsoever in connection therewith, arising in strict liability, negligence or otherwise. Customer waives any claim that it may have against Payee for any loss, damage or expense caused by the Products or the Vendor or Software Licensor, even if holder has been advised of the possibility of such damage, loss, expense or cost. Customer acknowledges that Customer ordered the Products from Vendor, and that Customer may have rights under the Agreement and may be entitled to the benefit of warranties provided by Vendor or Software Licensor, and that Customer has received an accurate and complete

SAMPLE

description of any such rights including any disclaimers or limitations on them or of the remedies thereunder, and Customer shall make any claims under the Agreement solely and directly against Vendor or Software Licensor, but shall nevertheless pay Payee and any Assignee all amounts due and payable under this PA.

5. DEFAULT, RIGHTS AND REMEDIES: In the event (a) Customer fails to pay, when due, *any* Payment Amount on the Due Date, and such failure shall continue for a period of fifteen (15) days; (b) Customer materially breaches any term herein or other contract with Payee; (c) Customer materially breaches or terminates the Agreement; or (d) Customer invokes the protection of any bankruptcy or insolvency law (any of (a), (b), (c) or (d) above, a "**Default**"), then any and all Payment Amounts and all other amounts due hereunder and scheduled to become due hereunder shall become immediately due and payable by Customer, without demand or notice, and Vendor or Software Licensor may terminate (upon notification by Payee of Default) all of Customer's rights to use of the Licensed Software and services. After the occurrence of a Default hereunder by Customer, Customer agrees to immediately cease using the Licensed Software, to de-install and delete all copies of Licensed Software from any computer systems owned or controlled by Customer or used for Customer's benefit. Customer further agrees to provide a certificate signed by a Customer officer who is responsible for Customer's information systems attesting to such cessation of use and maintenance, de-installation and deletion of Licensed Software and services. With regard to Products comprised of hardware or tangible personal property and following an uncured Default, Customer shall at Customer's expense, ship such Products to or make them available at Payee's designated location for the purpose of repossession, with clear and unincumbered title reverting back to and vesting in Payee. In the event Payee shall institute any action for the enforcement of the collection of the Payment Amounts pursuant to applicable law, there shall be immediately due from Customer, in addition to the unpaid Payment Amounts, all costs and expenses of such action, including reasonable attorneys' fees. No failure or delay on the part of Payee to exercise any right or remedy hereunder shall operate as a waiver thereof. All remedies are cumulative and not exclusive.

6. FUNDING INTENT: Customer intends to continue this PA for the entire Term and to pay all Payment Amounts and other costs and fees due hereunder. Customer reasonably believes that legally available funds in an amount sufficient to make all Payment Amounts during the Term can be obtained and agrees to do all things lawfully within its power to obtain and maintain funds from which all Payment Amounts and other costs and fees due may be paid. Customer intends and Payee agrees that Customer's obligation to make Payment Amounts under the PA constitutes a current expense of Customer and is not to be construed to be a debt in contravention of applicable law or constitutional or statutory limitations or requirements on the creation of indebtedness or as a pledge of funds beyond Customer's current Fiscal Period.

7. NON-APPROPRIATION OF FUNDS: Customer may terminate this PA in whole, but not in part, by giving at least sixty (60) days written notice prior to the end of the then current Fiscal Period (as defined in the Customer's Secretary/Clerk's Certificate provided to Payee) certifying that: (a) sufficient funds were not appropriated and budgeted by Customer or will not otherwise be available beyond the current Fiscal Period for Payment Amounts or other costs and fees and (b) the Customer has exhausted all funds legally available for payment of such Payment Amounts or other costs and fees due under the PA beyond the current Fiscal Period. Upon termination of the PA, Customer's obligations under the PA (except those that expressly survive the end of the Term) and any interest in the Products shall cease and Customer shall surrender the Products in accordance with Section 5. Notwithstanding the foregoing, Customer agrees that, without creating a pledge, lien, or encumbrance upon funds available to Customer in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of this PA, including making budget requests for each Fiscal Period during each applicable PA Term for adequate funds to meet its obligations and to continue the PA in force.

8. ESSENTIAL USE: Customer represents that the use of the Products is essential to Customer's proper, efficient, and economic operation or to the service which Customer provides to its citizens. Customer expects to make immediate use of the Products, for which it has an immediate need that is neither temporary nor expected to diminish during the applicable PA Term. The Products will be used for the sole purpose of performing one or more of Customer's governmental or proprietary functions consistent within the permissible scope of Customer's authority.

9. AUTHORITY AND AUTHORIZATION: Customer represents and agrees that: (a) Customer is a state or a political subdivision or agency of a state pursuant to Section 103 of the U.S. Treasury Code; (b) the entering into and performance of the PA is authorized under Customer's state laws and Constitution and does not violate or contradict any judgment, law, order or regulation, or cause any default under any agreement to which Customer is a party; (c) Customer has complied with all public bidding requirements, if applicable, and, where necessary, has properly presented the PA for approval and adoption as a valid obligation on Customer's part; and (d) Customer has sufficient appropriated funds or other monies available to pay all amounts due under the PA for Customer's current fiscal period. Upon Payee's request, Customer agrees to provide us with an opinion of counsel as to clauses (a) through (d) above, a secretary's or clerk's certificate of incumbency and authority, and other documents that Payee reasonably requests from time to time in a form satisfactory to Payee.

10. CHOICE OF LAW: This PA will be governed by and construed in all respects in accordance with the laws of the state in which the Customer is located without regard to conflicts of law principles. Subject to applicable laws, the parties' consent and submit to the jurisdiction of federal courts located within or for the county within the State where Customer is located, or as may otherwise be required by applicable law. The parties waive any objection relating to improper venue or *forum non conveniens* to the conduct of any proceeding in any such courts. **EACH PARTY WAIVES ANY OBJECTION TO SUCH JURISDICTION AS WELL AS ITS RIGHT TO A TRIAL BY JURY**.

SAMPLE

11. MISCELLANEOUS: This PA including riders, attachments and exhibits, constitutes the entire agreement regarding the subject matter herein between Customer and Payee and shall supersede any inconsistent terms set forth in the Agreement and all prior oral and written understandings. No term or provision of this PA may be amended except by a written instrument signed by both Payee and Customer; provided that the parties agree that this PA may be amended by written notice from Payee to Customer to adjust the related Payment Amount (any increase up to 15% or any decrease) caused by any change to the Agreement, or to update Product descriptions. Performance under this PA will not violate Customer's bylaws, other agreement or judgement to which it is bound, or any law or regulation. No part of this PA is intended to permit or provide for payment of any amount in excess of lawful amounts. In the event any unlawful excess is collected, Payee shall apply such excess as credit or otherwise refund it to Customer, and the rate or amount involved will automatically be reduced to the maximum lawful rate or amount. To the extent (if any) that this PA or related documentation constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of this PA shall be the copy designated by Payee from time to time, as the copy available for access and review by Customer and Payee. All other copies are copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, the authoritative copy may be restored from a backup, and the restored copy shall become the authoritative copy. Customer agrees to take actions and provide documentation (such as Certificates of Acceptance or financial information) reasonably requested by Payee to effect the intent of this PA. Customer agrees to maintain liability insurance naming Payee as loss payee and property insurance in commercially reasonable amounts adequate to cover repair or replacement of any equipment covered by this PA.

Payment Schedule

See attached Exhibit A.

Customer:	xxxxxxxxxxxxxxxxxxxxxxxxxxxx	Payee:	Dell Financial Services L.L.C.
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

SAMPLE

SECRETARY OR CLERK'S CERTIFICATE OF INCUMBANCY AND AUTHORITY

Regarding the above referenced "**Contract**" between_____("**Customer**") and Dell Financial Services L.L.C. ("**DFS**")

The undersigned hereby certifies to DFS, including its successors and assigns, that:

(a) the undersigned is the Secretary or Clerk of the Customer, which is a state or a political subdivision or agency of the state in which it is formed,
(b) the signer on the Contract has full right, capacity and power and is duly authorized by all requisite governmental action to execute, deliver, and bind Customer to the Contract, and
(c) the signature appearing on the Contract is in fact the signature of such signer.

By:* _____

Name: _____

Title: _____

Date: _____

** The signers on the Contract and this Secretary/Clerk's Certificate of Authority must be two different authorized signatories.*

SAMPLE

SAMPLE OPINION LETTER FOR PAYMENT AGREEMENT TRANSACTIONS
TO BE EXECUTED ON COUNSEL'S LETTERHEAD

To: Dell Financial Services L.L.C.
Add correct address

Ladies and Gentlemen:

We are counsel to _____(the “Customer” or "Maker") and, in that capacity, we have examined the Payment Agreement No. _____, dated as of _____, 20__, and the Payment Schedule thereto (collectively the "PA") between the Maker and Dell Financial Services L.L.C. (the "Payee").

Based on our examination of the PA and such other examinations as we have deemed appropriate, we are of the opinion as follows:

(a) The Maker is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of _____ and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, with full power and authority to enter into the PA and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The PA has been duly authorized, executed and delivered by _____*, _____ of the Maker by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the PA against the Maker;

(c) The PA constitutes the valid, legal and binding obligation of the Maker, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Maker of the PA and the transactions contemplated thereby;

(e) Maker has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the PA and the transactions contemplated thereby;

(f) The entering into and performance of the PA will not violate any judgment, order, law or regulation applicable to the Maker or result in any breach of, or constitute a default under, any instrument to which the Maker is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Maker or on the Products, other than those created by the PA;

(g) The Products are tangible personal property and when subject to use by the Maker will not be or become fixtures or real property under the laws of the State of _____;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Maker, will have a material adverse effect on the ability of the Maker to fulfill its obligations under the PA; and

(i) Maker has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Maker’s current Fiscal Period to make the Payments scheduled to come due during Maker’s current Fiscal Period and to meet its other obligations under the PA for the current Fiscal Period, and such funds have not been expended for other purposes.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the PA.

Very truly yours,

*Authorized Signatory of Lessee under the Agreement.

Exhibit A Payment Schedule

[ADD AMORTIZATION TABLE HERE]

SAMPLE

Dell Financial Services

PAYMENT AGREEMENT

Customer:
Address:

Billing Contact:
Billing Address:

Software Licensor: [SW Licensor]
Vendor: [Name of reseller/seller]

Products: Software, equipment and services as described in [Description of Vendor Contract/Order/Agreement (s) #] ("**Agreement**")

This Payment Agreement ("**PA**") is made effective as of _[DATE]_____ between the Customer named above ("**Customer**") and Dell Financial Services L.L.C. ("**Payee**") pursuant to the following: Customer and the Software Licensor and/or Vendor have entered into the above referenced Agreement (including any addenda, amendments, and schedules attached thereto) in connection with the acquisition of **"Products"** including as applicable, certain equipment, software licenses ("**Licensed Software**"), and services to Customer. Pursuant to the Agreement, Customer is obligated to pay Vendor(s) the total fees described below ("**Fees**"). Payee and Customer have agreed that instead of Customer paying the Fees as described in the Agreement, Customer shall pay Payee installment payments ("**Payment Amounts**") as set forth in the Payment Schedule below and Payee shall pay the Vendor on Customer's behalf.

1. FEES: The Fees set forth in the Agreement consist of $_[AMOUNT FUNDING TO VENDOR(s)]_____ for Products. Customer hereby agrees to pay the Payment Amounts to Payee on an installment basis in accordance with the Payment Schedule set forth below.

2. PAYMENT SCHEDULE: Customer shall pay the Payment Amounts in accordance with the schedule ("**Payment Schedule**") below, with each Payment Amount due and payable on the date indicated ("**Due Date**"). Customer shall remit Payment Amounts to the address noted in the invoice from Payee. **PAYMENT AMOUNTS DO NOT INCLUDE APPLICABLE TAX, UNLESS SPECIFIED OTHERWISE.**

3. OBLIGATIONS ABSOLUTE: For the purposes of this PA Products shall be conclusively deemed accepted upon receipt, subject to any right of return provided by the Vendor, and upon Customer's execution of this PA, Customer acknowledges that (i) it has selected the Products based on its own judgment and (ii) Payee is entering into this PA as an accommodation to Customer, and the Agreement, including all obligations, rights and remedies hereunder are separate and distinct from this PA and any remedies which Customer may have, at law or in equity, against Vendor or Software Licensor shall be made independently and without regard to this PA and Customer's obligations hereunder, and (iii) Customer's obligation to remit Payment Amounts to Payee, in accordance with the Payment Schedule shall be absolute, unconditional, non-cancelable, and nonrefundable, and shall not be withheld or subject to any abatement, set-off, claim, counterclaim, adjustment, reduction, or defense that Customer may have arising out of or relating to the Agreement, the Products or otherwise for any reason whatsoever, including but not limited to requirements applicable to negotiable instruments (such as presentment for payment and notice of dishonor); termination of the Agreement or any change in, update to or transfer of the Products. If full payment of each Payment Amount and other amounts due and payable is not received by Payee within 10 days of the Due Date, Customer agrees to pay to Payee interest on the overdue amount at the lesser of 1.5% per month or the maximum rate allowed by applicable law. Customer hereby grants Payee a security interest in the Products (including Customer's right to use Licensed Software and to receive services, credits and refunds from Vendor) and all proceeds related to this PA, to the extent permitted by law. Payee may make related filings as Payee reasonably deems necessary. Customer agrees it is responsible for and will pay or reimburse Payee upon invoice for all government imposed taxes, duties, fines assessed or imposed on the PA, the Products and the Payment Amounts (but excluding taxes imposed on Payee's income) or any other amount payable with respect to the PA (collectively "Taxes").

4. ASSIGNMENT; WAIVER OF DEFENSES, CLAIMS: Customer hereby consents to Payee's assignment of Payee's rights and interests in and to all or a portion of the Payment Amounts to a third party ("Assignee"). Customer shall not transfer or assign any of Customer's rights or obligations under this PA or grant third-party liens or encumbrances in Products without Payee's prior written consent. Customer agrees that neither Payee nor any Assignee shall assume any of Vendor's or Software Licensor's obligations to Customer under the Agreement, and further, expressly waives, as against Payee and any Assignee, any rights Customer may have or claim related to any matter whatsoever including, without limitation, the design or condition of Products, their merchantability or fitness or capacity or durability for any particular purpose, the quality of the material or workmanship of the Products or conformity of the Products to the provisions and specifications of any purchase order or orders relating thereto, and Customer expressly disclaims the same, and, as to Payee and any Assignee, Customer accepts the Products "AS IS". Payee and any Assignee shall have no liability to Customer or third parties for any claim, loss or damage caused or alleged to be caused directly, indirectly, incidentally or consequentially by the Products, or by any inadequacy thereof or deficiency or defect therein, by any incident whatsoever in connection therewith, arising in strict liability, negligence or otherwise. Customer waives any claim that it may have against Payee for any loss, damage or expense caused by the Products or the Vendor or Software Licensor, even if holder has been advised of the possibility of such damage, loss, expense or cost. Customer acknowledges that Customer ordered the Products from Vendor, and that Customer may have rights under the Agreement and may be entitled to the benefit of warranties provided by Vendor or Software Licensor, and that Customer has received an accurate and complete description of any such rights including any disclaimers or limitations on them or of the remedies thereunder, and Customer shall make

any claims under the Agreement solely and directly against Vendor or Software Licensor, but shall nevertheless pay Payee and any Assignee all amounts due and payable under this PA.

5. DEFAULT, RIGHTS AND REMEDIES: In the event (a) Customer fails to pay, when due, *any* Payment Amount on the Due Date, and such failure shall continue for a period of fifteen (15) days; (b) Customer materially breaches any term herein or other contract with Payee; (c) Customer materially breaches or terminates the Agreement; or (d) Customer invokes the protection of any bankruptcy or insolvency law (any of (a), (b), (c) or (d) above, a "**Default**"), then any and all Payment Amounts and all other amounts due hereunder and scheduled to become due hereunder shall become immediately due and payable by Customer, without demand or notice, and Vendor or Software Licensor may terminate (upon notification by Payee of Default) all of Customer's rights to use of the Licensed Software and services. After the occurrence of a Default hereunder by Customer, Customer agrees to immediately cease using the Licensed Software, to de-install and delete all copies of Licensed Software from any computer systems owned or controlled by Customer or used for Customer's benefit. Customer further agrees to provide a certificate signed by a Customer officer who is responsible for Customer's information systems attesting to such cessation of use and maintenance, de-installation and deletion of Licensed Software and services. With regard to Products comprised of hardware or tangible personal property and following an uncured Default, Customer shall at Customer's expense, ship such Products to or make them available at Payee's designated location for the purpose of repossession. In the event Payee shall institute any action for the enforcement of the collection of the Payment Amounts, there shall be immediately due from Customer, in addition to the unpaid Payment Amounts, all costs and expenses of such action, including reasonable attorneys' fees. No failure or delay on the part of Payee to exercise any right or remedy hereunder shall operate as a waiver thereof. All remedies are cumulative and not exclusive.

6. MISCELLANEOUS: This PA including riders, attachments and exhibits, constitutes the entire agreement regarding the subject matter herein between Customer and Payee and shall supersede any inconsistent terms set forth in the Agreement and all prior oral and written understandings. No term or provision of this PA may be amended except by a written instrument signed by both Payee and Customer; provided that the parties agree that this PA may be amended by written notice from Payee to Customer to adjust the related Payment Amount (any increase up to 15% or any decrease) caused by any change to the Agreement, or to update Product descriptions. Performance under this PA will not violate Customer's bylaws, other agreement or judgement to which it is bound, or any law or regulation. No part of this PA is intended to permit or provide for payment of any amount in excess of lawful amounts. In the event any unlawful excess is collected, Payee shall apply such excess as credit or otherwise refund it to Customer, and the rate or amount involved will automatically be reduced to the maximum lawful rate or amount. To the extent (if any) that this PA or related documentation constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of this PA shall be the copy designated by Payee from time to time, as the copy available for access and review by Customer and Payee. All other copies are copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, the authoritative copy may be restored from a backup, and the restored copy shall become the authoritative copy. Customer agrees to take actions and provide documentation (such as Certificates of Acceptance or financial information) reasonably requested by Payee to effect the intent of this PA. Customer agrees to maintain liability insurance naming Payee as loss payee and property insurance in commercially reasonable amounts adequate to cover repair or replacement of any equipment covered by this PA. This PA shall be governed by the laws of Texas and shall be deemed executed in this state as of the effective date. Any legal action related to this PA must be brought in Williamson County, Texas. **EACH PARTY WAIVES ANY OBJECTION TO SUCH JURISDICTION AS WELL AS ITS RIGHT TO A TRIAL BY JURY**.

Payment Schedule

XX [monthly/quarterly/annual] payments of $XXXX.XX with the first payment due on mm/dd/yyyy and on the same day of each period thereafter. Total Payment Amounts $XX.XX.

Interest Rate: {{$eir }}%

Customer:	xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx	Payee:	Dell Financial Services L.L.C.
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

Contract Number xxx-xxxxxx-xxx

CERTIFICATE OF INCUMBANCY AND AUTHORITY

Regarding the above referenced "**Contract**" between _____ ("**Customer**") and Dell Financial Services L.L.C. ("**DFS**")

The undersigned hereby certifies to DFS, including its successors and assigns, that:

(a) the undersigned is a Corporate Officer or authorized signatory of Customer,
(b) the signer on the Contract has full right, capacity and power and is duly authorized by all requisite corporate action to execute, deliver and bind Customer to the Contract, and
(c) the signature appearing on the Contract is in fact the signature of such signer.

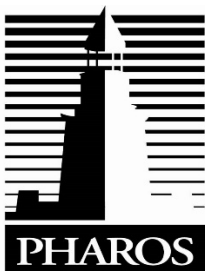
By:* _____

Name: _____

Title: _____

Date: _____

** The signers on the Contract and this Certificate of Authority must be two different authorized signatories.*



Pharos Financial Services Commercial/Private Entity Payment Agreement

Contract Number xxx-xxxxxx-xxx

PAYMENT AGREEMENT

Customer:
Address:

Billing Contact:
Billing Address:

Software Licensor: [SW Licensor]
Vendor: [Name of reseller/seller]

Products: Software, equipment and services as described in [Description of Vendor Contract/Order/Agreement (s) #] ("**Agreement**")

This Payment Agreement ("**PA**") is made effective as of _[DATE]_____ between the Customer named above ("**Customer**") and Pharos Financial Services L.P. ("**Payee**") pursuant to the following: Customer and the Software Licensor and/or Vendor have entered into the above referenced Agreement (including any addenda, amendments, and schedules attached thereto) in connection with the acquisition of **"Products"** including as applicable, certain equipment, software licenses ("**Licensed Software**"), and services to Customer. Pursuant to the Agreement, Customer is obligated to pay Vendor(s) the total fees described below ("**Fees**"). Payee and Customer have agreed that instead of Customer paying the Fees as described in the Agreement, Customer shall pay Payee installment payments ("**Payment Amounts**") as set forth in the Payment Schedule below and Payee shall pay the Vendor on Customer's behalf.

1. FEES: The Fees set forth in the Agreement consist of $_[AMOUNT FUNDING TO VENDOR(s)]_____ for Products. Customer hereby agrees to pay the Payment Amounts to Payee on an installment basis in accordance with the Payment Schedule set forth below.

2. PAYMENT SCHEDULE: Customer shall pay the Payment Amounts in accordance with the schedule ("**Payment Schedule**") below, with each Payment Amount due and payable on the date indicated ("**Due Date**"). Customer shall remit Payment Amounts to the address noted in the invoice from Payee. **PAYMENT AMOUNTS DO NOT INCLUDE APPLICABLE TAX, UNLESS SPECIFIED OTHERWISE.**

3. OBLIGATIONS ABSOLUTE: For the purposes of this PA Products shall be conclusively deemed accepted upon receipt, subject to any right of return provided by the Vendor, and upon Customer's execution of this PA, Customer acknowledges that (i) it has selected the Products based on its own judgment and (ii) Payee is entering into this PA as an accommodation to Customer, and the Agreement, including all obligations, rights and remedies hereunder are separate and distinct from this PA and any remedies which Customer may have, at law or in equity, against Vendor or Software Licensor shall be made independently and without regard to this PA and Customer's obligations hereunder, and (iii) Customer's obligation to remit Payment Amounts to Payee, in accordance with the Payment Schedule shall be absolute, unconditional, non-cancelable, and nonrefundable, and shall not be withheld or subject to any abatement, set-off, claim, counterclaim, adjustment, reduction, or defense that Customer may have arising out of or relating to the Agreement, the Products or otherwise for any reason whatsoever, including but not limited to requirements applicable to negotiable instruments (such as presentment for payment and notice of dishonor); termination of the Agreement or any change in, update to or transfer of the Products. If full payment of each Payment Amount and other amounts due and payable is not received by Payee within 10 days of the Due Date, Customer agrees to pay to Payee interest on the overdue amount at the lesser of 1.5% per month or the maximum rate allowed by applicable law. Customer hereby grants Payee a security interest in the Products (including Customer's right to use Licensed Software and to receive services, credits and refunds from Vendor) and all proceeds related to this PA, to the extent permitted by law. Payee may make related filings as Payee reasonably deems necessary. Customer agrees it is responsible for and will pay or reimburse Payee upon invoice for all government imposed taxes, duties, fines assessed or imposed on the PA, the Products and the Payment Amounts (but excluding taxes imposed on Payee's income) or any other amount payable with respect to the PA (collectively "Taxes").

4. ASSIGNMENT; WAIVER OF DEFENSES, CLAIMS: Customer hereby consents to Payee's assignment of Payee's rights and interests in and to all or a portion of the Payment Amounts to a third party ("Assignee"). Customer shall not transfer or assign any of Customer's rights or obligations under this PA or grant third-party liens or encumbrances in Products without Payee's prior written consent. Customer agrees that neither Payee nor any Assignee shall assume any of Vendor's or Software Licensor's obligations to Customer under the Agreement, and further, expressly waives, as against Payee and any Assignee, any rights Customer may have or claim related to any matter whatsoever including, without limitation, the design or condition of Products, their merchantability or fitness or capacity or durability for any particular purpose, the quality of the material or workmanship of the Products or conformity of the Products to the provisions and specifications of any purchase order or orders relating thereto, and Customer expressly disclaims the same, and, as to Payee and any Assignee, Customer accepts the Products "AS IS". Payee and any Assignee shall have no liability to Customer or third parties for any claim, loss or damage caused or alleged to be caused directly, indirectly, incidentally or consequentially by the Products, or by any inadequacy thereof or deficiency or defect therein, by any incident whatsoever in connection therewith, arising in strict liability, negligence or otherwise. Customer waives any claim that it may have against Payee for any loss, damage or expense caused by the Products or the Vendor or Software Licensor, even if holder has been advised of the possibility of such damage, loss, expense or cost. Customer acknowledges that Customer ordered the Products from Vendor, and that Customer may have rights under the Agreement and may be

entitled to the benefit of warranties provided by Vendor or Software Licensor, and that Customer has received an accurate and complete description of any such rights including any disclaimers or limitations on them or of the remedies thereunder, and Customer shall make any claims under the Agreement solely and directly against Vendor or Software Licensor, but shall nevertheless pay Payee and any Assignee all amounts due and payable under this PA.

5. DEFAULT, RIGHTS AND REMEDIES: In the event (a) Customer fails to pay, when due, *any* Payment Amount on the Due Date, and such failure shall continue for a period of fifteen (15) days; (b) Customer materially breaches any term herein or other contract with Payee; (c) Customer materially breaches or terminates the Agreement; or (d) Customer invokes the protection of any bankruptcy or insolvency law (any of (a), (b), (c) or (d) above, a "**Default**"), then any and all Payment Amounts and all other amounts due hereunder and scheduled to become due hereunder shall become immediately due and payable by Customer, without demand or notice, and Vendor or Software Licensor may terminate (upon notification by Payee of Default) all of Customer's rights to use of the Licensed Software and services. After the occurrence of a Default hereunder by Customer, Customer agrees to immediately cease using the Licensed Software, to de-install and delete all copies of Licensed Software from any computer systems owned or controlled by Customer or used for Customer's benefit. Customer further agrees to provide a certificate signed by a Customer officer who is responsible for Customer's information systems attesting to such cessation of use and maintenance, de-installation and deletion of Licensed Software and services. With regard to Products comprised of hardware or tangible personal property and following an uncured Default, Customer shall at Customer's expense, ship such Products to or make them available at Payee's designated location for the purpose of repossession. In the event Payee shall institute any action for the enforcement of the collection of the Payment Amounts, there shall be immediately due from Customer, in addition to the unpaid Payment Amounts, all costs and expenses of such action, including reasonable attorneys' fees. No failure or delay on the part of Payee to exercise any right or remedy hereunder shall operate as a waiver thereof. All remedies are cumulative and not exclusive.

6. MISCELLANEOUS: This PA including riders, attachments and exhibits, constitutes the entire agreement regarding the subject matter herein between Customer and Payee and shall supersede any inconsistent terms set forth in the Agreement and all prior oral and written understandings. No term or provision of this PA may be amended except by a written instrument signed by both Payee and Customer; provided that the parties agree that this PA may be amended by written notice from Payee to Customer to adjust the related Payment Amount (any increase up to 15% or any decrease) caused by any change to the Agreement, or to update Product descriptions. Performance under this PA will not violate Customer's bylaws, other agreement or judgement to which it is bound, or any law or regulation. No part of this PA is intended to permit or provide for payment of any amount in excess of lawful amounts. In the event any unlawful excess is collected, Payee shall apply such excess as credit or otherwise refund it to Customer, and the rate or amount involved will automatically be reduced to the maximum lawful rate or amount. To the extent (if any) that this PA or related documentation constitutes chattel paper under the Uniform Commercial Code, the authoritative copy of this PA shall be the copy designated by Payee from time to time, as the copy available for access and review by Customer and Payee. All other copies are copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, the authoritative copy may be restored from a backup, and the restored copy shall become the authoritative copy. Customer agrees to take actions and provide documentation (such as Certificates of Acceptance or financial information) reasonably requested by Payee to effect the intent of this PA. This PA shall be governed by the laws of Texas and shall be deemed executed in this state as of the effective date. Any legal action related to this PA must be brought in Williamson County, Texas. **EACH PARTY WAIVES ANY OBJECTION TO SUCH JURISDICTION AS WELL AS ITS RIGHT TO A TRIAL BY JURY**.

Payment Schedule

XX [monthly/quarterly/annual] payments of $XXXX.XX with the first payment due on mm/dd/yyyy and on the same day of each period thereafter. Total Payment Amounts $XX.XX.

Interest Rate: {{$eir }}%

Customer:	xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx	Payee:	Pharos Financial Services L.P. by and through its General Partner, Pharos Financial Services Inc.
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

Contract Number xxx-xxxxxx-xxx

CERTIFICATE OF AUTHORITY

Regarding the above referenced "**Contract**" between _____ ("**Customer**") and Pharos Financial Services L.P. ("**PFS**")

The undersigned hereby certifies to PFS, including its successors and assigns, that:

(a) the undersigned is a Corporate Officer or authorized signatory of Customer,
(b) the signer on the Contract has full right, capacity and power and is duly authorized by all requisite corporate action to execute, deliver and bind Customer to the Contract, and
(c) the signature appearing on the Contract is in fact the signature of such signer.

By:* _____

Name: _____

Title: _____

Date: _____

** The signers on the Contract and this Certificate of Authority must be two different authorized signatories.*

DELL Technologies

Dell EMC Master Flexible Consumption Agreements and Schedules

Proprietary to Dell Technologies

Dell EMC APEX Flex on Demand (FOD) – Public Sector Terms Only

This Exhibit states the public sector terms that apply specifically to the APEX Flex on Demand (FOD) offering for consumption-based as-a-service. The General Terms are incorporated by reference into this Exhibit, which is the public sector Master Flexible Consumption Agreement and sample Flex on Demand (FOD) Schedule(s). If there is a conflict between this Exhibit and the General Terms, this Exhibit controls.

This Exhibit is comprised of the following documents, which are hereby incorporated by referenced and attached on the following pages:

1. **Master Flexible Consumption Agreement (MFCA) – Public Sector Only**

2. **Flex on Demand (FOD) Schedule – Public Sector Only**

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MASTER FLEXIBLE CONSUMPTION AGREEMENT
APEX FLEX ON DEMAND TERMS AND CONDITIONS – PUBLIC SECTOR ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

MASTER FLEXIBLE CONSUMPTION AGREEMENT – U.S. STATE & LOCAL GOVERNMENT

This Master Flexible Consumption Agreement **(**this **"Master Agreement"** or **"MFCA")** is made effective as of _____ (the **"Effective Date"**) between the following parties:

EMC Corporation ("Dell EMC")		**Xxxxxxxxxxxxx ("Customer")**
176 South Street	**And**	**Xxxxxxxxxxxx**
Hopkinton, MA 01748		**Xxxxxxxxxxxxxxx**
Email for Legal Notices: LegalNotices@emc.com		**Email for Legal Notices:**

This MFCA governs Customer's access to and use of a configuration of Deployed Capacity on a Flexible Consumption basis at an agreed Customer location, as described in one or more separately executed Flex Consumption Schedules (the "**Schedule(s)**"). This MFCA shall govern each Schedule (including any related purchase order) that references this MFCA.

1. DEFINITIONS.

A. "Billing Period" means the period of time identified on a Schedule for which DELL EMC will invoice Customer for its Flexible Consumption.

B. "**Customer Data**" means all data stored on the Deployed Capacity by or on behalf of Customer or its end users and information derived from such data, including all file layouts and records associated therewith). As between Customer and DELL EMC, Customer Data is Customer's Confidential Information.

C. "Documentation" means the then-current, generally available, written user manuals and online help and guides provided by DELL EMC for Deployed Capacity.

D. "**Flexible Consumption**" means the amount of Customer's usage of the Deployed Capacity, as it may vary from time to time, measured pursuant to a description and metrics identified on the Schedule.

E. "**Flexible Consumption Fee"** means, for a particular Billing Period, (i) the fee for the Monthly Committed Capacity, and (ii) the fee charged by DELL EMC for Customer's Flexible Consumption above the Monthly Committed Capacity, calculated in accordance with the pricing set forth in the Schedule.

F. "**Flexible Consumption Period**" means the time period identified as such on a Schedule, and any DELL EMC approved extension(s) thereto.

G. "Installation Site" means the ship-to address or other location identified as such on the Schedule as the site of installation and/or use of a Deployed Capacity, or a subsequent location approved by DELL EMC**.**

H. "Monthly Committed Capacity" means the amount of capacity the Customer commits to paying for each monthas specified in a Schedule regardless of it actual consumption of capacity.

I. "Deployed Capacity" means collectively: (a)**"Equipment"** (which is EMC-branded or Dell-branded hardware that DELL EMC provides to Customer under this Master Agreement); and (b) **"Software"** (any EMC-branded or Dell-branded programming code licensed to Customer as a standard product, also including microcode, firmware and operating system software), as more specifically identified on a Schedule. The Deployed Capacity exclude Third Party Products.

J. "Prime Contract" means, if applicable, the contract (Prime Contract) and any applicable purchase order, task order or delivery order between Customer and the state or local government entity for the Deployed Capacity and Support Services described in an applicable Schedule issued under this Agreement.

K. "Return" of Deployed Capacity means the earlier to occur of (a) DELL EMC taking possession of the Deployed Capacity at the Installation Site, or (b) DELL EMC receiving and accepting a return of the Deployed Capacity.

L. "Support Services" mean services for the support and maintenance of Deployed Capacity as described in the Applicable Schedule.

M. "**Third Party Deployed Capacity**" means hardware, software, or services that are not "Dell" branded, "EMC" branded, or "DELL EMC" branded.

N. "Warranty Period" means for a specific Deployed Capacity, the period of warranty coverage listed at: https://www.delltechnologies.com/content/dam/digitalasset

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s/active/en/unauth/manual-warranty-informations/h4276-emc-prod-warranty-maint-table.pdf.

2. SCHEDULES, PURCHASING, FEES AND PAYMENT.

A. Schedules. The description of the Deployed Capacity, Support Services, and related pricing are as stated in the applicable Schedule. The product specific terms informs Customer of product-specific use rights and restrictions, unit of measure (if any), and the applicable maintenance (support) obligations.

B. Ordering. Customer indicates its approval of a specific Schedule by signing it and issuing a purchase order, task order or delivery order pursuant to the Prime Contract, if applicable, to DELL EMC that incorporates by reference in its entirety the terms and conditions of such Schedule and this Agreement. DELL EMC indicates its approval of Customer's purchase order by (i) counter-signing a Schedule and any purchase order, task order or delivery order, if applicable, executed by Customer and (ii) shipping the applicable Deployed Capacity to Customer.

C. Authorization to Monitor; Flexible Consumption Fees. During the Flexible Consumption Period, Customer shall pay a Flexible Consumption Fee calculated in accordance with pricing and frequency set forth on and defined in the applicable Schedule. DELL EMC is authorized to periodically monitor the Flexible Consumption in order to calculate the applicable Flexible Consumption Fee. DELL EMC may conduct such activity through the use of electronic means and/or on-site inspection by DELL EMC personnel and do so only in order to authenticate Customer as the user of the Flexible Consumption and verify Customer's usage levels. Customer is responsible for providing and maintaining the equipment (a physical server or virtual machine) necessary to run storage utilization scripts and to enable electronic communications between the Deployed Capacity and DELL EMC. Customer authorizes DELL EMC to store at the Installation Site, or load onto Deployed Capacity used for electronic communications, such equipment and programming as may be needed by DELL EMC to track usage levels or perform any Support Services for Deployed Capacity and shall not disable or interfere in the operation thereof. Customer shall (i) not copy or make any use thereof whatsoever; and (ii) protect such from disclosure to any third party and give DELL EMC reasonable access thereto. DELL EMC shall cooperate with Customer to minimize the impact of any DELL EMC on-site inspection to Customer's operations.

D. Payment and Assignment. DELL EMC or if applicable, its assignee, shall invoice Customer monthly. Customer shall pay invoices in full and in the same currency as the invoice within thirty (30) days after the date of invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate under any applicable Prompt Payment Act, if any. No credit cards will be accepted as a form of payment. Payments to DELL EMC's assignee of any amounts due shall not be subject to reduction or setoff. Subject to any right of non-appropriation pursuant to Section 10.B herein, Customer's obligation to pay the Monthly Flexible Consumption Fee for the Flexible Consumption Period is absolute, unconditional and non-cancellable and shall not be subject to any abatement, reduction, set off, defense, delay or counterclaim for any reason whatsoever.

E. Taxes. The charges due hereunder and any other items provided by DELL EMC are exclusive of, and Customer shall pay or reimburse DELL EMC for, all value added (VAT), sales, excise, withholding, state or other local governmental taxes, property taxes, use taxes and any other taxes, levies, customs and duties resulting from a Customer purchase order, except for taxes based on DELL EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to DELL EMC. Unless otherwise provided on Customer's purchase order, invoices shall be sent to the Customer contact point or Customer's Accounts Receivable department, as specified on the applicable Schedule.

F. Interruption of Monitoring Capabilities. For Schedules in which Flexible Consumption varies based upon usage or another metric, if, for more than five (5) days of any calendar month, DELL EMC is unable to monitor to determine the applicable Flexible Consumption Fee due to (i) any action by anyone other than DELL EMC, or (ii) a failure of any communications equipment provided by Customer that is used for purposes of monitoring, DELL EMC shall invoice, and Customer shall pay, a Flexible Consumption Fee for the affected Billing Period(s) that shall be based on the Flexible Consumption during the previous Billing Period; provided, however, that if DELL EMC is unable to monitor for a period of more than thirty (30) days, DELL EMC shall invoice, and the Customr shall pay, either (a) the maximum capacity of the Deployed Capacity, or (b) such other maximum rate described in the Schedule, if applicable. If DELL EMC is unable to monitor the Flexible Consumption due to any failure which is caused by DELL EMC (e.g. failure of the modem, software or other equipment used by DELL EMC to monitor Customer's usage), the amounts owed by Customer for such outage period shall be based on Customer's Flexible Consumption during the previous Billing Period. DELL EMC shall promptly notify Customer of an inability to electronically and or physically access the Deployed Capacity, as applicable, and work cooperatively to reestablish access.

3. DELIVERY, RISK, TITLE, USE AND RETURN.

A. Installation Site Preparation. On or before arrival of the Deployed Capacity, Customer shall arrange (i) appropriate space at the Installation Site; (ii) the necessary environment (power, cooling, etc.) required to support and operate the Deployed Capacity; and (iii) servers and network connectivity required to support Deployed Capacity.

B. Deployed Capacity Shipment. DELL EMC shall deliver the Deployed Capacity by common carrier to the Installation Site. Software may be provided by (i) shipment

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of physical media; or (ii) electronic download (when so offered by DELL EMC).

C. Risk of Loss. DELL EMC shall bear the entire risk of loss, theft, damage or destruction with respect to the DELL EMC Deployed Capacity until the time of arrival of the Deployed Capacity at the Installation Site(s) and Customer shall bear such risk from such time on until the Deployed Capacity is Returned. If any loss, theft, damage or destruction to the Deployed Capacity occurs during the time Customer bears such risk, DELL EMC shall be relieved of its Flexible Consumption obligations to the extent such event impacts DELL EMC's ability to provide such Flexible Consumption until such time as the Deployed Capacity is repaired or replaced. Charges shall continue to accrue during this period of such interruption. If Deployed Capacity is materially damaged, stolen or destroyed, Customer shall promptly notify DELL EMC**.**

D. Customer Insurance Coverage. Subject to any applicable law or regulation to the contrary, Customer must insure the Deployed Capacity (with a reputable insurance company) against all: (a) liability whatsoever to any third party arising directly or indirectly out of Customer's selection, possession or use of the Deployed Capacity, and (b) loss or damage to the Deployed Capacity from all insurable risks for the full cost of replacing it, and (c) other risks in respect of which a prudent owner or operator of Deployed Capacity of the same nature as the Deployed Capacity would normally insure such Deployed Capacity. In regard to (a) and (b), DELL EMC will be named as co-insured and loss payee respectively, unless otherwise prohibited by law. Upon DELL EMC's prior written consent, Customer may meet the above insurance requirements with its existing self-insurance program, as provided under applicable law. Upon DELL EMC's request Customer must show DELL EMC evidence that the insurance required under this Master Agreement is in place in respect of the relevant Schedule(s). Customer must immediately notify DELL EMC of any loss claim and Customer must not settle any claims without DELL EMC's agreement.

E. Personal Property and Identification. Title to Deployed Capacity provided by DELL EMC pursuant to any Schedule remains with DELL EMC at all times and Customer shall have no right or interest in such Deployed Capacity except as provided in this Master Agreement and related Schedule. All Deployed Capacity shall remain personal property of DELL EMC notwithstanding the manner in which such may be attached or affixed to realty. At any time, Customer shall (i) at request of DELL EMC, legibly mark each item of Equipment in a reasonably prominent location with a label, disc or other marking stating that the Equipment is owned by DELL EMC; and (ii) not remove such without the prior written consent of DELL EMC. Customer may not change the Installation Site without DELL EMC's prior written consent. Customer shall give DELL EMC immediate written notice of any attachment or judicial process affecting the Deployed Capacity or DELL EMC's ownership of which Customer becomes aware. In case the Equipment is installed at a third party Installation Site, Customer undertakes to notify in writing such third party that DELL EMC is the owner of the Equipment and that such Equipment (i) can not be treated as a fixture or fitting forming part of the third party property (ii) can not be seized by such third party in distress for monies owed by the Customer to such third party. Customer undertakes to guarantee that, at any time during the course of any Equipment applicable Schedule, DELL EMC have the right to enter the third party Installation Site to inspect the Equipment and to retake possession of the Equipment on expiry or termination of any Schedule.

F. Ownership of Customer Data. All Customer Data, shall remain the responsibility and property of Customer. The parties acknowledge and agree that DELL EMC does not handle, process, or direct the use of Customer Data.

G. Return of Deployed Capacity; Data Migration. Prior to any Return of Deployed Capacity, including in case of expiration or termination of the corresponding Schedule, Customer must completely migrate and erase (by use of a method that does not cause damage to the Deployed Capacity) its Customer Data and establish a mutually convenient date, generally coinciding with the end of a Billing Period, when the Deployed Capacity will be Returned to DELL EMC. Customer is liable for any Return costs and shall reimburse DELL EMC for the reasonable value of any Deployed Capacity that is not Returned or is Returned in a condition that evidences damage in excess of reasonable wear and tear.

4. LICENSE TERMS. License Grant. Customer is granted a non-exclusive, non-transferable license to use the Software and the Documentation during the Flexible Consumption Period solely for Customer's internal business operations, and, when so indicated on the applicable Schedule, for delivery of services to its end users. Customer's rights to use the Software provided by DELL EMC during the Flexible Consumption Period are governed by the terms of the Agreement and the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula for the relevant Software product family and effective as of the date of the applicable Quote shall apply taking into account the character of this Master Agreement. DELL EMC will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment item.

5. WARRANTY.

A. DELL EMC Warranty. During the Warranty Period, DELL EMC will maintain a Deployed Capacity's ability to

NOT FOR DELIVERY AND USE

perform substantially in accordance with the related Documentation. Customer shall promptly provide DELL EMC with written notice of any material defect of which it becomes aware. DELL EMC shall remedy such defect within thirty (30) days of receipt of notice (the "Cure Period"). If DELL EMC fails to cure such defect within the Cure Period, DELL EMC's entire liability and Customer's exclusive remedy shall be for DELL EMC to substitute the defective Deployed Capacity with an identical or equivalent Deployed Capacity model.

B. Exclusions. DELL EMC shall not be responsible for, and shall have the right to charge Customer for, and Customer shall promptly pay any charges for, Deployed Capacity related problems that arise from (i) accident or neglect by Customer or any third party; (ii) any third party items or services with which the Deployed Capacity is used or other causes beyond DELL EMC's control; (iii) installation, operation or use not in accordance with DELL EMC's instructions or the applicable Documentation; (iv) use in an environment, in a manner or for a purpose for which the Deployed Capacity was not designed; (v) modification, alteration or repair by anyone other than DELL EMC or its authorized representatives; or (vi) in case of Equipment only, causes attributable to normal wear and tear. DELL EMC has no obligation whatsoever for Software installed or used beyond the licensed use, for Equipment which was moved from the Installation Site without DELL EMC's consent or whose original identification marks have been altered or removed.

C. No Further Warranties; Disclaimer. EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO DEPLOYED CAPACITY, SUPPORT SERVICES OR ANY OTHER ITEMS OR MATTERS ARISING HEREUNDER, DELL EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, UNDER THIS MASTER AGREEMENT 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. DELL EMC AND ITS SUPPLIERS DO NOT WARRANT THAT SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT IT WILL MEET CUSTOMER'S REQUIREMENTS.

D. Customer Warranties.

(i). Validity and Documentation. Customer represents, warrants and covenants to DELL EMC and will provide to DELL EMC at DELL EMC's request all documents deemed necessary or appropriate by DELL EMC, including Certificates of Insurance, financial statements, Secretary or Clerk Certificates, essential use information or documents (such as affidavits, notices and similar instruments in a form satisfactory to DELL EMC) and Opinions of Counsel (in substantially such form as provided to Customer by DELL EMC and otherwise satisfactory to DELL EMC)(together "Documentation") to the effect that, as of the time Customer enters into this Agreement and each Schedule that:

(a) Customer is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of its state and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder as in effect and applicable to the MFCA or any Schedule, with full power and authority to enter into this MFCA and any Schedules and perform all of its obligations under the Schedules;

(b) The MFCA and each Schedule have been duly authorized, authenticated and delivered by Customer by proper action of its governing board at a regularly convened meeting and attended by the requisite majority of board members, or by other appropriate official authentication, as applicable, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this MFCA and each Schedule against Customer;

(c) This MFCA and each Schedule constitute the valid, legal and binding obligations of Customer, enforceable in accordance with their terms;

(d) No other approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by Customer of the MFCA or any Schedule and the transactions contemplated thereby;

(e) Customer has complied with such public bidding requirements and other state and federal laws as may be applicable to the MFCA and any Schedule and the acquisition by Customer of the Deployed Capacity;

(f) The entering into and performance of the MFCA or any Schedule will not (i) violate any judgment, order, law or regulation applicable to Customer; (ii) result in any breach of, or constitute a default under, any instrument to which the Customer is a party or by which it or its assets may be bound; or (iii) result in the creation of any lien, charge, security interest or other encumbrance upon any assets of DELL EMC or on the Deployed Capacity, other than those created pursuant to this MFCA;

(g) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Customer, nor to the best of Customer's knowledge and belief is there any basis therefor, which if determined adversely to Customer will have a material adverse effect on the ability of Customer to fulfill its obligations under the MFCA or any Schedule;

(h) The Deployed Capacity is essential to the proper, efficient and economic operation of Customer or to the services which Customer provides to its citizens. Customer expects to make immediate use of the Commited Capacity, at a minimum, for which it has an immediate need that is neither temporary nor expected to diminish during

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the applicable Flexible Consumption Period. The Deployed Capacity will be used for the sole purpose of performing one or more of Customer's governmental or proprietary functions consistent within the permissible scope of Customer's authority; and

(i) Customer has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make all Flexible Consumtion Fees and other obligations under this MFCA and any Schedule during the current Fiscal Period, and such funds have not been expended for other purposes.

E. Operating Environment Warranty. Customer shall, at its expense, operate the Deployed Capacity with reasonable care and in accordance with the Documentation, and keep the Deployed Capacity located at the Installation Site free and clear from any liens or encumbrances. Customer shall operate and maintain a data back-up system in its data center environment. Customer shall provide for a daily back-up process including backing up data before performance of any remedial, upgrade or other works on Customer's production systems.

6. INDEMNITY.

A. IP Indemnity. DELL EMC will: (a) defend Customer against any third party claim that Deployed Capacity or Support Services (but excluding Third Party Products and open source software) infringe that party's patent, copyright or trade secret enforceable in the country where Customer acquired the Deployed Capacity from DELL EMC ("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 DELL EMC. In addition, should any Deployed Capacity or Support Service become, or in DELL EMC's opinion be likely to become, the subject of such a Claim, DELL EMC may, at its expense and in its discretion: (a) obtain a right for Customer to continue using the affected Deployed Capacity or Support Service; (b) modify the affected Deployed Capacity or Support Service to make them non-infringing; (c) replace the affected Deployed Capacity or Support Service with non-infringing substitutes; or (d) notify Customer to return the Deployed Capacity and discontinue Support Services, and, upon receipt thereof, refund the remaining portion, if any, of any pre-paid Flexible Consumption Fee. Except as otherwise provided by law, this Section 6 states Customer's exclusive remedies for any third-party intellectual property claim relating to Deployed Capacity or Support Services, and nothing in this Master Agreement or elsewhere will obligate DELL EMC to provide any greater indemnity.

B. Exclusions from Indemnity. DELL EMC has no obligation under Section 6.1 above: (a) if Customer is in material breach of this Master Agreement; or (b) for any Claim resulting or arising from: (1) any combination, operation or use of a Deployed Capacity 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 Deployed Capacity or Support Service was not designed, or use after DELL EMC notifies Customer to cease such use due to a possible or pending Claim; (3) any modification to the Deployed Capacity or Support Service made by any person other than DELL EMC or its authorized representatives; (4) any modification to the Deployed Capacity or Support Service made by DELL EMC pursuant to instructions, designs, specifications or any other information provided to DELL EMC by or on behalf of Customer; (5) use of any version of a Deployed Capacity when an upgrade or newer iteration of the Deployed Capacity or Support Service made available by DELL EMC 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 Deployed Capacity or Support Services.

C. Indemnification Process. DELL EMC's duty to defend and indemnify under this section is contingent upon Customer: (a) sending prompt written notice of the Claim to DELL EMC and taking reasonable steps to mitigate damages; (b) granting to DELL EMC the sole right to control the defense and resolution of the Claim; and (c) cooperating with DELL EMC in the defense and resolution of the Claim and in mitigating any damages.

7. LIMITATION OF LIABILITY.

A. Limitation on Direct Damages. EXCEPT FOR CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED HEREUNDER, CUSTOMER'S VIOLATION OF DELL EMC'S OR ITS AFFILIATES' INTELLECTUAL PROPERTY RIGHTS, OR DELL EMC'S INDEMNITY OBLIGATION STATED IN SECTION 6 ABOVE, EACH PARTY'S TOTAL LIABILITY FOR ANY CLAIM ARISING UNDER THIS MASTER AGREEMENT SHALL BE LIMITED TO THE TOTAL OF THE FLEXIBLE CONSUMPTION FEES FOR THE DEPLOYED CAPACITY, SUPPORT SERVICES, OR BOTH TO WHICH THE CLAIM RELATES PAID DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CLAIM IS MADE, EXCLUDING AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES OR PAYMENT OF TAXES ACCRUED.

B. No Indirect Damages. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF DELL EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER CUSTOMER NOR DELL EMC SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL,

Not for Delivery and Use

EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

C. Limitation Period. All claims must be made within () the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if (a) no such period is specified at law; or (b) the applicable law allows the parties to agree to a shorter period than that specified therein.

8. CONFIDENTIALITY.

A. Existing Non-Disclosure Agreement: If Customer and DELL EMC have a non-disclosure agreement in place as of the date of this Master Agreement, then that non-disclosure agreement shall supersede this Section 8. Where no such non-disclosure agreement exists Section 8.B shall apply.

B. Confidential Information. "Confidential Information" means any information that is marked "confidential" or "proprietary" or any other similar term or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, is identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Master Agreement or any Schedule or purchase order hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer Data to which DELL EMC may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated in the above definition of Confidential Information applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, DELL EMC proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party and its assignees may disclose Confidential Information to (A) other companies within the receiving party's group, advisors, banks and agents for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such group companies, advisors, banks and agents comply with the foregoing; (B) to any third party for the purposes of raising funds secured on or collateralised by this Master Agreement and/or any Schedule (whether by way of bank loan or any other form of financing or fundraising or funding process); and (C) to the extent required by law, court order or regulation.

9. TRADE COMPLIANCE.

Customer's usage of DELL EMC's Deployed Capacity or Support Services and access to related technology (the "Materials") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except as in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria, and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions.

10.TERM; APPROPRIATION OF FUNDS; EVENTS OF DEFAULT; REMEDIES.

A. Master Agreement Term. This Master Agreement commences on its Effective Date, and unless otherwise terminated as set forth below, shall terminate for convenience when a party sends written notice of termination, which notice shall become effective forty-five (45) days after receipt thereof. Such termination shall not terminate any Schedule already in effect at the time thereof and shall not impact any renewal provisions of such Schedules. Any provision that by its nature or context is intended to survive any termination or expiration, including but not limited to provisions relating to payment and liability, shall so survive**.** Unless earlier terminated pursuant to its term, each Schedule shall commence and expire in accordance with its terms.

B. Appropriation of Funds.

(i) Customer reasonably believes that legally available funds in an amount sufficient to make all Monthly Flexible Consumption Fees during the Flexible Consumption Period defined in Table 3.3 on each applicable Schedule and will do all things lawfully within its power (notwithstanding its right to self rule) to obtain and maintain funds from which Monthly Flexible Consumption Fees may be paid. The parties intend that the obligation of Customer to pay the Monthly Flexible Consumption Fee and other amounts due under a Schedule constitutes a current expense of Customer and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Customer's current Fiscal Period.

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(ii) Customer may terminate a Schedule in whole, but not in part by giving at least sixty (60) days notice prior to the end of the then current Fiscal Period (as defined in the Customer's Secretary/Clerk's Certificate or other such documentation as reasonably requested by and provided to DELL EMC) certifying that: (1) sufficient funds were not appropriated and budgeted by Customer's governing body or will not otherwise be available to continue the Schedule beyond the current Fiscal Period; and (2) that Customer has exhausted all funds legally available for payment of the Monthly Flexible Consumption Fee beyond the current Fiscal Period. Upon termination of the Schedule, Customer's obligations under the Schedule (except those that expressly survive the end of the Flexible Consumption Period) and any interest in the Deployed Capacity shall cease and Customer shall surrender the Deployed Capacity in accordance with Section 3.F and/or if requested by DELL EMC, assemble the Deployed Capacity in a single location designated by DELL EMC granting DELL EMC the right to enter the premises where such Deployed Capacity is located for the purpose of repossession; free from all claims by Customer; provided that the parties shall reasonably cooperate to enable Customer to migrate and erase its data and for DELL EMC to recover such Deployed Capacity. Customer shall be responsible for the payment of the actual documented price of any component(s) of the DELL EMC Deployed Capacity not returned by Customer and for any damage to the DELL EMC Deployed Capacity beyond normal wear and tear. DELL EMC shall take reasonable steps to protect Customer Data for thirty (30) days after recovery of Deployed Capacity under this Subsection B.

(iii) Notwithstanding the foregoing, Customer agrees that, without creating a pledge, lien or encumbrance upon funds available to Customer in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Schedule, including making budget requests for each Fiscal Period during each applicable Flexible Consuption Period for adequate funds to meet its obligations hereunder and to continue the Schedule in force.

C. Events of Default. Notwithstanding Customer's rights under Section 10 B. to non-appropriate, the occurrence of any of the following in connection with the MFCA, any Schedule, or any amendments to either of the foregoing documents, shall constitute an Event of Default: (i) Customer shall fail to pay the Monthly Flexible Consumption Fee within thirty (30) days of its due date; (ii) Customer shall fail to perform any provision, covenant, condition or agreement, and such failure shall continue for thirty (30) days after notice thereof; or (iii) bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation, or other similar proceedings shall be instituted by or against Customer or all or any part of its property under the Federal Bankruptcy Code or other law of the United States or any state or jurisdiction in which Customer is organized, and it shall consent thereto or shall fail to cause the same to be discharged within sixty (60) days.

D. Remedies. If an Event of Default shall occur, DELL EMC may exercise any one or more of the following remedies: (i) immediately terminate any or all Schedules; (ii) by notice in writing to Customer, declare immediately due and payable, and Customer shall be obliged to pay immediately, (1) all past due Monthly Flexible Consumption Fees and other past due amounts plus (2) as the parties agreed upon pre-estimate of damages and not a penalty, all Monthly Flexible Consumption Fees for the Monthly Committed Capacity for the remainder of the Flexible Consumption Period with clause (2) being discounted to present value using the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of the applicable Schedule and (iii) require Customer to Return any or all Deployed Capacity as provided in Section 3G and/or if requested by DELL EMC, assemble the Deployed Capacity in a single location designated by DELL EMC granting DELL EMC the right to enter the premises where such Deployed Capacity is located for the purpose of repossession; free from all claims by Customer; provided that the parties shall reasonably cooperate to enable Customer to migrate and erase its data and for DELL EMC to recover such Deployed Capacity. Customer shall be responsible for the payment of the actual documented costs and reasonable attorney's fees incurred by DELL EMC in retaking possession of the Deployed Capacity and/or seeking to recover amounts due. DELL EMC shall take reasonable steps to protect Customer Data for thirty (30) days after recovery of Deployed Capacity under this Subsection D.

11. MISCELLANEOUS.

A. Notices. Notice to DELL EMC under this Master Agreement or any related transaction must be in writing and sent (i) by registered or certified mail, postage prepaid first-class mail with return receipt requested; or (ii) by overnight delivery service with verification of receipt, to the address below; or (iii) by electronic mail to: Dell_Legal_Notices@dell.com. All such notices will be effective upon receipt.

Dell EMC
Attn: Contracts Manager
Dell Legal Department
One Dell Way, Round Rock, TX 78682

B. Entire Agreement. This Master Agreement, applicable Schedule(s) and each purchase order (i) comprise the complete statement of the agreement of the parties with regard to the subject matter thereof; and (ii) may be modified only in a writing with evidence of acceptance by both parties. All terms of any purchase order or similar document provided by Customer, that are inconsistent or conflict with this Master Agreement and/or Schedule, shall be null and void and of no legal force or effect,

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C. Assignment and Change in Control. The assignment or transfer, whether by operation of law or otherwise, of a party's right(s) or delegation of obligation(s) hereunder, shall require the consent of the other party. However, such consent shall not be required of Customer if the assignment or transfer involves (i) assignment by DELL EMC or its assignee of the right to receive payments and related rights due by Customer (iii) the purchase of all or substantially all of DELL EMC's assets or any deemed assignment or transfer by DELL EMC by reason of merger, consolidation, change-in-control or corporate reorganization. DELL EMC may use its direct or indirect subsidiaries or other sufficiently qualified subcontractors to provide Services to Customer, provided that DELL EMC remains responsible to Customer for the Services' performance.

D. Governing Law.

This Master Agreement is governed by the laws of the State in which Customer is located. Subject to applicable state and local laws, the exclusive venue for all litigation arising between the parties related to this Agreement and any Schedules issued hereunder shall be in the federal courts sitting within the State in which Customer is located. BOTH PARTIES HEREBY WAIVE TRIAL BY JURY..

E. Waiver. Failure to enforce a provision of this Master Agreement will not constitute a waiver.

F. Independent Contractors. The parties shall act as independent contractors for all purposes under this Master Agreement. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other.

G. Financial Statements. In addition to providing the Documentation that may be requested by DELL EMC under Section 5D(i) above, Customer agrees to furnish Customer's financial statements (prepared in accordance with generally accepted accounting principles) and other financial information, relating to a Schedule within five (5) Business Days as DELL EMC may from time to time reasonably request and subject to the applicable confidentiality terms as provided for in Section 8.

H. Severability. If any part of this Master Agreement, Schedule, purchase order, or quote is held unenforceable, the validity of all remaining parts will not be affected.

I. Order of Precedence. In the event of a conflict between the provisions of the documentation related to this MFCA, the order of precedence with respect to the term in conflict will be: (a) the terms of a Schedule (as amended); (b) the terms of this MFCA (as amended) In the event of a conflict between the terms of the MFCA and any Prime Contract, the MFCA shall prevail.

In Witness Whereof, the parties have caused their duly authorized representatives to execute this Master Agreement as of the Effective Date.

EMC Corporation ("Dell EMC")	**CUSTOMER NAME ("Customer")**
By:_____	**By:**_____
Name (Print):_____	**Name (Print):**_____
Title:_____	**Title:**_____

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APEX FLEX ON DEMAND SCHEDULE TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – PUBLIC SECTOR ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) – U.S. STATE & LOCAL GOVERNMENT

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Deployed Capacity from the Dell entity identified below ("**DELL EMC**"). Customer's use of the Deployed Capacity is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with DELL EMC dated on or** about: _____
Name of Dell EMC entity ("DELL EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of DELL EMC and Customer with regard to the Deployed Capacity listed on the Attachment 1 hereto. This Schedule, when signed by DELL EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. The Flexible Consumption Period shall begin on either (i) the first day of the first month following the date the Deployed Capacity has been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Deployed Capacity, (ii) the first day of the second month following the Deployed Capacity's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Deployed Capacity; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Deployed Capacity. The Deployed Capacity subject to this Schedule is listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Software Use Rights Guide at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Deployed Capacity during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Deployed Capacity will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Deployed Capacity and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, DELL EMC will measure the usage of the Deployed Capacity on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for

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usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric:

3.2 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Deployed Capacity and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Deployed Capacity based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Deployed Capacity as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.3 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay DELL EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, DELL EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by DELL EMC..

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Deployed Capacity is made available for pick-up by DELL EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.4 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to DELL EMC in connection with this Schedule. If DELL EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then DELL EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When DELL EMC and Customer have agreed on the increase, DELL EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and DELL EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

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Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period			
80%	$ -	$ -	$ -
70%	$ -	$ -	$ -
60%	$ -	$ -	$ -
	48 Months	54 Months	60 Months

3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify DELL EMC that Customer no longer wishes to use the Deployed Capacity. Customer shall completely migrate its information and data off of the Deployed Capacity and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Deployed Capacity will be returned to DELL EMC. However, until Customer notifies DELL EMC that Customer has removed its data and the Deployed Capacity has been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to DELL EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. DELL EMC shall deliver all Deployed Capacity to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, DELL EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by DELL EMC, the assignee shall have all DELL EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against DELL EMC or any third party. Customer and DELL EMC agree that a signed Schedule may be amended by written notice from DELL EMC to Customer provided such notice is to correct the serial (or service tag) number of Deployed Capacity.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC CORPORATION ("DELL EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

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Attachment 1

Product list to be added

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Dell EMC APEX Flex on Demand (FOD) – Commercial Terms Only

This Exhibit states commercial terms that apply specifically to the APEX Flex on Demand (FOD) offering for consumption-based as-a-service. The General Terms are incorporated by reference into this Exhibit, which is the commercial Master Flexible Consumption Agreement and sample Flex on Demand (FOD) Schedule(s). If there is a conflict between this Exhibit and the General Terms, this Exhibit controls.

This Exhibit is comprised of the following documents, which are hereby incorporated by referenced and attached on the following pages:

1. **Master Flexible Consumption Agreement (MFCA) – Commercial Use Only**

2. **Flex on Demand (FOD) Schedule – Commercial Use Only**

MASTER FLEXIBLE CONSUMPTION AGREEMENT
APEX FLEX ON DEMAND TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

MASTER FLEXIBLE CONSUMPTION AGREEMENT – U.S.

This Master Flexible Consumption Agreement **(**this **"Master Agreement"** or **"MFCA")** is made effective as of _____ (the **"Effective Date"**) between the following parties:

EMC Corporation ("Dell EMC")		**Xxxxxxxxxxxxx ("Customer")**
176 South Street	**And**	**Xxxxxxxxxxxx**
Hopkinton, MA 01748		**Xxxxxxxxxxxxxxx**
Email for Legal Notices: LegalNotices@emc.com		**Email for Legal Notices:**

This MFCA governs Customer's access to and use of a configuration of Products on a Flexible Consumption basis at an agreed Customer location, as described in one or more separately executed Flex Consumption Schedules (the "**Schedule(s)**"). This MFCA shall govern each Schedule (including any related purchase order) that references this MFCA.

1. DEFINITIONS.

A. "Billing Period" means the period of time identified on a Schedule for which Dell EMC will invoice Customer for its Flexible Consumption.

B. "**Customer Data**" means all data stored on the Products by or on behalf of Customer or its end users and information derived from such data, including all file layouts and records associated therewith).

C. "Documentation" means the then-current, generally available, written user manuals and online help and guides provided by Dell EMC for Products.

D. "**Flexible Consumption**" means the amount of Customer's usage of the Products, as it may vary from time to time, measured pursuant to a description and metrics identified on the Schedule.

E. "**Flexible Consumption Fee"** means, for a particular Billing Period, (i) the fee for the Monthly Committed Capacity, and (ii) the fee charged by Dell EMC for Customer's Flexible Consumption above the Monthly Committed Capacity, calculated in accordance with the pricing set forth in the Schedule.

F. "**Flexible Consumption Period**" means the time period identified as such on a Schedule, and any Dell EMC approved extension(s) thereto.

G. "Installation Site" means the ship-to address or other location identified as such on the Schedule as the site of installation and/or use of a Product, or a subsequent location approved by Dell EMC**.**

H. "Monthly Committed Capacity" means the amount of capacity the Customer commits to paying for each month as specified in a Schedule regardless of it actual consumption of capacity.

I. "Products" means collectively: (a)**"Equipment"** (which is EMC-branded or Dell-branded hardware that Dell EMC provides to Customer under this Master Agreement); and (b) **"Software"** (any EMC-branded or Dell-branded programming code licensed to Customer as a standard product, also including microcode, firmware and operating system software), as more specifically identified on a Schedule. Products exclude Third Party Products.

J. "Return" of a Product means the earlier to occur of (a) Dell EMC taking possession of the Product at the Installation Site, or (b) Dell EMC receiving and accepting a return of the Product.

K. "Support Services" mean services for the support and maintenance of Products as described in the Applicable Schedule.

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

M. "Warranty Period" means for a specific Product, the period of warranty coverage listed at: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/h4276-emc-prod-warranty-maint-table.pdf.

2. SCHEDULES, PURCHASING, FEES AND PAYMENT.

A. Schedules. The description of the Products, Support Services, and related pricing are as stated in the applicable Schedule. The product specific terms informs Customer of product-specific use rights and restrictions, unit of measure (if any), and the applicable maintenance (support) obligations.

B. Ordering. Customer indicates its approval of a specific Schedule by signing it and issuing a purchase order to Dell EMC that references such Schedule. Dell EMC indicates its approval of Customer's purchase order by (i) counter-signing a Schedule executed by Customer and (ii) shipping the applicable Products to Customer.

C. Authorization to Monitor; Flexible Consumption Fees. During the Flexible Consumption Period, Customer shall pay a Flexible Consumption Fee calculated in accordance with pricing and frequency set forth on and defined in the applicable Schedule. Dell EMC is authorized to periodically monitor the Flexible Consumption in order to calculate the applicable Flexible Consumption Fee. Dell EMC may conduct such activity through the use of

electronic means and/or on-site inspection by Dell EMC personnel and do so only in order to authenticate Customer as the user of the Flexible Consumption and verify Customer's usage levels. Customer is responsible for providing and maintaining the equipment (a physical server or virtual machine) necessary to run storage utilization scripts and to enable electronic communications between the Products and Dell EMC. Customer authorizes Dell EMC to store at the Installation Site, or load onto Products used for electronic communications, such equipment and programming as may be needed by Dell EMC to track usage levels or perform any Support Services for Products and shall not disable or interfere in the operation thereof. Customer shall (i) not copy or make any use thereof whatsoever; and (ii) protect such from disclosure to any third party and give Dell EMC reasonable access thereto. Dell EMC shall cooperate with Customer to minimize the impact of any Dell EMC on-site inspection to Customer's operations.

D. Payment. Customer shall pay Dell EMC's invoices in full and in the same currency as the Dell EMC invoice within thirty (30) days after the date of Dell EMC's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate. Customer's obligation to pay the Monthly Flexible Consumption Fee for the Flexible Consumption Period is absolute, unconditional and non-cancellable and shall not be subject to any abatement, reduction, set off, defense, delay or counterclaim for any reason whatsoever.

E. Taxes. The charges due hereunder and any other items provided by Dell EMC are exclusive of, and Customer shall pay or reimburse Dell EMC for, all value added (VAT), sales, excise, withholding, state or other local governmental taxes, property taxes, use taxes and any other taxes, levies, customs and duties resulting from a Customer purchase order, except for taxes based on Dell EMC's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to Dell EMC. Unless otherwise provided on Customer's purchase order, invoices shall be sent to the Customer contact point or Customer's Accounts Receivable department, as specified on the applicable Schedule.

F. Interruption of Monitoring Capabilities. For Schedules in which Flexible Consumption varies based upon usage or another metric, if, for more than five (5) days of any calendar month, Dell EMC is unable to monitor to determine the applicable Flexible Consumption Fee due to (i) any action by anyone other than Dell EMC, or (ii) a failure of any communications equipment provided by Customer that is used for purposes of monitoring, Dell EMC shall invoice, and Customer shall pay, a Flexible Consumption Fee for the affected Billing Period(s) that shall be based on the Flexible Consumption during the previous Billing Period; provided, however, that if Dell EMC is unable to monitor for a period of more than thirty (30) days, Dell EMC shall invoice, and the Customr shall pay, either (a) the maximum capacity of the Products, or (b) such other maximum rate described in the Schedule, if applicable. If Dell EMC is unable to monitor the Flexible Consumption due to any failure which is caused by Dell EMC (e.g. failure of the modem, software or other equipment used by Dell EMC to monitor Customer's usage), the amounts owed by Customer for such outage period shall be based on Customer's Flexible Consumption during the previous Billing Period. Dell EMC shall promptly notify Customer of an inability to electronically and or physically access the Products, as applicable, and work cooperatively to reestablish access.

3. DELIVERY, RISK, TITLE, USE AND RETURN.

A. Installation Site Preparation. On or before arrival of the Products, Customer shall arrange (i) appropriate space at the Installation Site; (ii) the necessary environment (power, cooling, etc.) required to support and operate the Products; and (iii) servers and network connectivity required to support Products.

B. Product Shipment. Dell EMC shall deliver the Products by common carrier to the Installation Site. Software may be provided by (i) shipment of physical media; or (ii) electronic download (when so offered by Dell EMC).

C. Risk of Loss. Dell EMC shall bear the entire risk of loss, theft, damage or destruction with respect to the Dell EMC Products until the time of arrival of the Products at the Installation Site(s) and Customer shall bear such risk from such time on until the Products are Returned. If any loss, theft, damage or destruction to the Products occurs during the time Customer bears such risk, Dell EMC shall be relieved of its Flexible Consumption obligations to the extent such event impacts Dell EMC's ability to provide such Flexible Consumption until such time as the Products are repaired or replaced. Charges shall continue to accrue during this period of such interruption. If Products are materially damaged, stolen or destroyed, Customer shall promptly notify Dell EMC**.**

D. Customer Insurance Coverage. Customer must insure the Products (with a reputable insurance company) against all: (a) liability whatsoever to any third party arising directly or indirectly out of Customer's selection, possession or use of the Products, and (b) loss or damage to the Products from all insurable risks for the full cost of replacing it, and (c) other risks in respect of which a prudent owner or operator of Products of the same nature as the Products would normally insure such Products. In regard to (a) and (b), Dell EMC will be named as co-insured and loss payee respectively. Upon Dell EMC's request Customer must show Dell EMC evidence that the insurance required under this Master Agreement is in place in respect of the relevant Schedule(s). Customer must immediately notify Dell EMC of any loss claim and Customer must not settle any claims without Dell EMC's agreement.

E. Personal Property and Identification. Title to Products provided by Dell EMC pursuant to any Schedule remains with Dell EMC at all times and Customer shall have no right or interest in such Products except as provided in this Master Agreement and related Schedule. All Products shall remain personal property of Dell EMC notwithstanding the manner in which such may be attached or affixed to realty. At any time, Customer shall (i) at request of Dell EMC, legibly mark each item of Equipment in a reasonably prominent location with a label, disc or other marking stating that the Equipment is owned by Dell EMC; and (ii) not remove such without the prior written consent of Dell

EMC. Customer may not change the Installation Site without Dell EMC's prior written consent. Customer shall give Dell EMC immediate written notice of any attachment or judicial process affecting the Products or Dell EMC's ownership of which Customer becomes aware. In case the Equipment is installed at a third party Installation Site, Customer undertakes to notify in writing such third party that Dell EMC is the owner of the Equipment and that such Equipment (i) can not be treated as a fixture or fitting forming part of the third party property (ii) can not be seized by such third party in distress for monies owed by the Customer to such third party. Customer undertakes to guarantee that, at any time during the course of any Equipment applicable Schedule, Dell EMC have the right to enter the third party Installation Site to inspect the Equipment and to retake possession of the Equipment on expiry or termination of any Schedule.

F. Ownership of Customer Data. All Customer Data, shall remain the responsibility and property of Customer. The parties acknowledge and agree that Dell EMC does not handle, process, or direct the use of Customer Data.

G. Return of Products; Data Migration. Prior to any Return of Products, including in case of expiration or termination of the corresponding Schedule, Customer must completely migrate and erase (by use of a method that does not cause damage to the Products) its Customer Data and establish a mutually convenient date, generally coinciding with the end of a Billing Period, when the Products will be Returned to Dell EMC. Customer is liable for any Return costs and shall reimburse Dell EMC for the reasonable value of any Products that are not Returned or are Returned in a condition that evidences damage in excess of reasonable wear and tear.

4. LICENSE TERMS.

License Grant. Customer is granted a non-exclusive, non-transferable license to use the Software and the Documentation during the Flexible Consumption Period solely for Customer's internal business operations, and, when so indicated on the applicable Schedule, for delivery of services to its end users. Customer's rights to use the Software provided by Dell EMC during the Flexible Consumption Period are governed by the terms of the Agreement and the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula for the relevant Software product family and effective as of the date of the applicable Quote shall apply taking into account the character of this Master Agreement. Dell EMC will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment item.

5. WARRANTY.

A. Dell EMC Warranty. During the Warranty Period, Dell EMC will maintain a Product's ability to perform substantially in accordance with the related Documentation. Customer shall promptly provide Dell EMC with written notice of any material defect of which it becomes aware. Dell EMC shall remedy such defect within thirty (30) days of receipt of notice (the "Cure Period"). If Dell EMC fails to cure such defect within the Cure Period, Dell EMC's entire liability and Customer's exclusive remedy shall be for Dell EMC to substitute the defective Product with an identical or equivalent Product model.

B. Exclusions. Dell EMC shall not be responsible for, and shall have the right to charge Customer for, and Customer shall promptly pay any charges for, Product related problems that arise from (i) accident or neglect by Customer or any third party; (ii) any third party items or services with which the Product is used or other causes beyond Dell EMC's control; (iii) installation, operation or use not in accordance with Dell EMC's instructions or the applicable Documentation; (iv) use in an environment, in a manner or for a purpose for which the Product was not designed; (v) modification, alteration or repair by anyone other than Dell EMC or its authorized representatives; or (vi) in case of Equipment only, causes attributable to normal wear and tear. Dell EMC has no obligation whatsoever for Software installed or used beyond the licensed use, for Equipment which was moved from the Installation Site without Dell EMC's consent or whose original identification marks have been altered or removed.

C. No Further Warranties; Disclaimer. EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO PRODUCTS, SUPPORT SERVICES OR ANY OTHER ITEMS OR MATTERS ARISING HEREUNDER, Dell EMC (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, UNDER THIS MASTER AGREEMENT 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. Dell EMC AND ITS SUPPLIERS DO NOT WARRANT THAT SOFTWARE WILL OPERATE UNINTERRUPTED OR THAT IT WILL BE FREE FROM DEFECTS OR THAT IT WILL MEET CUSTOMER'S REQUIREMENTS.

D. Customer Operating Environment Warranty. Customer shall, at its expense, operate the Products with reasonable care and in accordance with the Documentation, and keep the Products located at the Installation Site free and clear from any liens or encumbrances. Customer shall operate and maintain a data back-up system in its data center environment**.** Customer shall provide for a daily back-up process including backing up data before performance of any remedial, upgrade or other works on Customer's production systems**.**

6. INDEMNITY.

6.1 IP Indemnity. Dell EMC will: (a) defend Customer against any third party claim that Products or Support Services (but excluding Third Party Products and open source software) infringe that party's patent, copyright or

trade secret enforceable in the country where Customer acquired the Product from Dell EMC ("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 Dell EMC. In addition, should any Product or Support Service become, or in Dell EMC's opinion be likely to become, the subject of such a Claim, Dell EMC 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; or (d) notify Customer to return the Product and discontinue Support Services, and, upon receipt thereof, refund the remaining portion, if any, of any pre-paid Flexible Consumption Fee. 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 Master Agreement or elsewhere will obligate Dell EMC to provide any greater indemnity.

6.2 Exclusions from Indemnity. Dell EMC has no obligation under section 6.1 above: (a) if Customer is in material breach of this Master Agreement; or (b) for any Claim resulting or arising from: (1) any combination, operation or use of a 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 Dell EMC 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 Dell EMC or its authorized representatives; (4) any modification to the Product or Support Service made by Dell EMC pursuant to instructions, designs, specifications or any other information provided to Dell EMC 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 Dell EMC 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 Indemnification Process. Dell EMC's duty to defend and indemnify under this section is contingent upon Customer: (a) sending prompt written notice of the Claim to Dell EMC and taking reasonable steps to mitigate damages; (b) granting to Dell EMC the sole right to control the defense and resolution of the Claim; and (c) cooperating with Dell EMC in the defense and resolution of the Claim and in mitigating any damages.

7. LIMITATION OF LIABILITY.

A. Limitation on Direct Damages. EXCEPT FOR CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED HEREUNDER, CUSTOMER'S VIOLATION OF DELL EMC'S OR ITS AFFILIATES' INTELLECTUAL PROPERTY RIGHTS, OR DELL EMC'S INDEMNITY OBLIGATION STATED IN SECTION 6 ABOVE, EACH PARTY'S TOTAL LIABILITY FOR ANY CLAIM ARISING UNDER THIS MASTER AGREEMENT SHALL BE LIMITED TO THE TOTAL OF THE FLEXIBLE CONSUMPTION FEES FOR THE PRODUCT, SUPPORT SERVICES, OR BOTH TO WHICH THE CLAIM RELATES PAID DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CLAIM IS MADE, EXCLUDING AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES OR PAYMENT OF TAXES ACCRUED.

B. No Indirect Damages. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF Dell EMC'S INTELLECTUAL PROPERTY RIGHTS, NEITHER CUSTOMER NOR Dell EMC SHALL HAVE LIABILITY TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

C. Limitation Period. All claims must be made within () the time period specified by applicable law; or (ii) eighteen (18) months after the cause of action accrues if (a) no such period is specified at law; or (b) the applicable law allows the parties to agree to a shorter period than that specified therein.

8. TRADE COMPLIANCE.

Customer's usage of Dell EMC's Products or Services and access to related technology (the "Materials") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except as in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria, and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions.

9. TERM; EVENTS OF DEFAULT; REMEDIES.

A. Master Agreement Term. This Master Agreement commences on its Effective Date, and unless otherwise terminated as set forth below, shall terminate for convenience when a party sends written notice of termination, which notice shall become effective forty-five (45) days after receipt thereof. Such termination shall not terminate any Schedule already in effect at the time thereof and shall not impact any renewal provisions of such Schedules. Any provision that by its nature or context is

intended to survive any termination or expiration, including but not limited to provisions relating to payment and liability, shall so survive**.** Unless earlier terminated pursuant to its term, each Schedule shall commence and expire in accordance with its terms.

B. Events of Default. The occurrence of any of the following in connection with the MFCA, any Schedule, or any amendments to either of the foregoing documents, shall constitute an Event of Default: (i) Customer shall fail to pay the Monthly Flexible Consumption Fee within thirty (30) days of its due date; (ii) Customer shall fail to perform any provision, covenant, condition or agreement, and such failure shall continue for thirty (30) days after notice thereof; or (iii) bankruptcy, receivership, insolvency, reorganization, dissolution, liquidation, or other similar proceedings shall be instituted by or against Customer or all or any part of its property under the Federal Bankruptcy Code or other law of the United States or any state or jurisdiction in which Customer is organized, and it shall consent thereto or shall fail to cause the same to be discharged within sixty (60) days.

C. Remedies. If an Event of Default shall occur, Dell EMC may exercise any one or more of the following remedies: (i) immediately terminate any or all Schedules; (ii) by notice in writing to Customer, declare immediately due and payable, and Customer shall be obliged to pay immediately, (1) all past due Monthly Flexible Consumption Fees and other past due amounts plus (2) as the parties agreed upon pre-estimate of damages and not a penalty, all Monthly Flexible Consumption Fees for the Monthly Committed Capacity for the remainder of the Flexible Consumption Period with clause (2) being discounted to present value using the discount rate of the Federal Reserve Bank of Chicago on the Commencement Date of the applicable Schedule and (iii) require Customer to Return any or all Products as provided in Section 3G and/or if requested by Dell EMC, assemble the Products in a single location designated by Dell EMC granting Dell EMC the right to enter the premises where such Products are located for the purpose of repossession; free from all claims by Customer; provided that the parties shall reasonably cooperate to enable Customer to migrate and erase its data and for Dell EMC to recover such Products. Customer shall be responsible for the payment of the actual documented costs and reasonable attorney's fees incurred by Dell EMC in retaking possession of the Products and/or seeking to recover amounts due. Dell EMC shall take reasonable steps to protect Customer Data for thirty (30) days after recovery of Products under this Subsection C.

10. MISCELLANEOUS.

A. Notices. Notice to Dell EMC under this Master Agreement or any related transaction must be in writing and sent (i) by registered or certified mail, postage prepaid first-class mail with return receipt requested; or (ii) by overnight delivery service with verification of receipt, to the address below; or (iii) by electronic mail to: Dell_Legal_Notices@dell.com. All such notices will be effective upon receipt.

Dell EMC
Attn: Contracts Manager
Dell Legal Department
One Dell Way, Round Rock, TX 78682

B. Entire Agreement. This Master Agreement, applicable Schedule(s) and each purchase order (i) comprise the complete statement of the agreement of the parties with regard to the subject matter thereof; and (ii) may be modified only in a writing with evidence of acceptance by both parties. All terms of any purchase order or similar document provided by Customer, that are inconsistent or conflict with this Master Agreement and/or Schedule, shall be null and void and of no legal force or effect.

C. Assignment and Change in Control. The assignment or transfer, whether by operation of law or otherwise, of a party's right(s) or delegation of obligation(s) hereunder, shall require the consent of the other party. However, such consent shall not be required of Customer if the assignment or transfer involves (i) assignment by Dell EMC or its assignee of the right to receive payments and related rights due by Customer (iii) the purchase of all or substantially all of Dell EMC's assets or any deemed assignment or transfer by Dell EMC by reason of merger, consolidation, change-in-control or corporate reorganization. Dell EMC may use its direct or indirect subsidiaries or other sufficiently qualified subcontractors to provide Services to Customer, provided that Dell EMC remains responsible to Customer for the Services' performance.

D. Governing Law. This Master Agreement is governed by the laws of the State of Texas (excluding its conflict of law rules) and the federal laws of the United States. To the extent permitted by law, the state and federal courts located in Texas will be the exclusive jurisdiction for disputes arising out of or in connection with this Master Agreement. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

E. Waiver. Failure to enforce a provision of this Master Agreement will not constitute a waiver.

F. Independent Contractors. The parties shall act as independent contractors for all purposes under this Master Agreement. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other.

G. Financial Statements. Customer agrees to furnish Customer's financial statements (prepared in accordance with generally accepted accounting principles) and other financial information, relating to a Schedule within five (5) Business Days as Dell EMC may from time to time reasonably request.

H. Severability. If any part of this Master Agreement, Schedule, purchase order, or quote is held unenforceable, the validity of all remaining parts will not be affected.

I. Order of Precedence. In the event of a conflict between the provisions of the documentation related to this MFCA, the order of precedence with respect to the term in conflict will be: (a) the terms of a Schedule (as amended); (b) the terms of this MFCA (as amended).

In Witness Whereof, the parties have caused their duly authorized representatives to execute this Master Agreement as of the Effective Date.

EMC Corporation ("Dell EMC")	**CUSTOMER NAME ("Customer")**
By:_____	**By:**_____
Name (Print):_____	**Name (Print):**_____
Title:_____	**Title:**_____

APEX FLEX ON DEMAND SCHEDULE (DIRECT) TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL Technologies

For DELL EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) – U.S.

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. The Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible

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Consumption Period, Dell EMC will measure the usage of the Products on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric:

3.2 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.3 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.4 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised

Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

	48 Months	54 Months	60 Months
80%	$ -	$ -	$ -
70%	$ -	$ -	$ -
60%	$ -	$ -	$ -

3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC that Customer no longer wishes to use the Products. Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Products will be returned to Dell EMC. However, until Customer notifies Dell EMC that Customer has removed its data and the Products have been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).

Licensed Software Ship-To Address (one address):	Installation Site(s), if any:

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

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Attachment 1

Product list to be added

APEX FLEX ON DEMAND SCHEDULE (VxRail) TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL EMC

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) VxRail – U.S.

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, Dell EMC will measure the usage of the Products on a daily basis and issue a monthly invoice, in arrears, to

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Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric: **"Consumed Raw Storage"** shall mean the amount of Storage written or reserved by the Asset(s) to provide Storage to Servers or used for maintaining replicas of Server Storage. This measure does not include storage used for disk formatting or dedicated spare disks and includes storage used for Protection/RAID overhead and (where appropriate) dynamic sparing overhead on the System. This measure is after the application of storage reduction techniques performed by the Asset(s) such as compression and de-duplication.

This definition means that storage consumed on the Asset(s) that cannot be reused by other means is converted to a Raw format by adding the parity and protection overheads.

"Consumed Physical Node RAM" shall mean the amount of a physical node's Random-Access Memory that is a utilized at a given point in time expressed in units of GiB.

This unit of measure is represented as a mean average over a defined period of time, e.g. daily, weekly or monthly. This measure includes RAM consumption as a result of the operating system, hypervisor or any other software running on the physical node.

3.3 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.4 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3 – Billing Information - Storage	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Table 3.3 – Billing Information - Memory	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when

customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

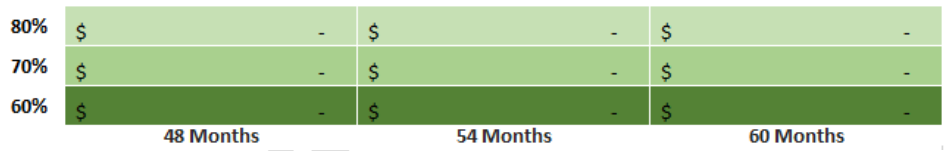
3.5 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

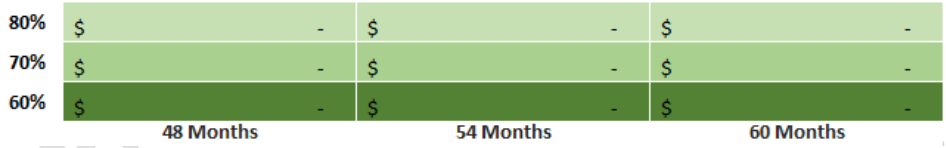
3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

STORAGE



MEMORY



3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC that Customer no longer wishes to use the Products. Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Products will be returned to Dell EMC. However, until Customer notifies Dell EMC that Customer has removed its data and the Products have been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

Attachment 1

Product list to be added

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APEX FLEX ON DEMAND SCHEDULE (PowerFlex) TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule for PowerFlex (Flex on Demand) - US

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2 Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, Dell EMC will measure the usage for compute on an hourly basis in Activated Node Hour (as defined below). Dell EMC will measure the usage for storage on a daily basis as Consumed Useable Storage (as defined below). Dell EMC shall issue a monthly invoice in arrears to Customer. The Monthly Flexible Consumption Fee for usage is based on (i) a minimum

committed amount of use for compute (the **"Monthly Committed Hours"**); (ii) a minimum committed amount for storage (the **"Monthly Committed Capacity"**), plus (iii) any use in excess thereof (**"Reserve Hours"** for compute and **"Reserve Capacity"** for storage) as applicable**.** (a) For compute, the Total Available Hours, Total Committed Hours and Reserve Hours are measured by means of the following metrics: "**Activated Node-Hour"** means the unit of measure that represents a single hour of a physical node that is activated. The Activated Node-Hour is derived from the physical node's aggregated peak CPU utilization percentage the amount of a physical node's CPU that is a utilized at a given point in time expressed as a percentage of the asset's total available CPU), for all CPUs within the node. This unit of measure uses a threshold of greater than or equal to 5%., meaning that should the server display a maximum (peak) CPU utilization of greater than or equal to 5% at any time during the hour and for any length of time, the whole hour is charged. This measure includes CPU utilization as a result of the operating system, hypervisor or any other software running on the physical node. (b) For storage, the Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric: "**Consumed Useable Storage"** shall mean the amount of Storage written or reserved by the Products(s) to provide storage to servers or used for maintaining replicas of server storage. This measure does not include storage used for (i) disk formatting or dedicated spare disks; (ii) storage used for Protection/RAID; and (iii) dynamic or virtual sparing overhead on the system. Consumed Useable Storage is determined after the application of storage reduction techniques performed by the Products such as compression and de-duplication. Any Consumed Useable Storage that Customer activates for use shall be charged.

3.2 Capacities and Asset Metering.

3.2.1 Compute. Table 3.2.1 Sets forth the Total Available Hours for compute. The Total Available Hours is based on the number of nodes and the number of days in the applicable calendar month as follows:

Table 3.2.1 – Available Hours Information- Compute				
	28 Day Month	29 Day Month	30 Day Month	31 Day Month
Total Available Hours per node	672 Available Hours	696 Available Hours	720 Available Hours	744 Available Hours
Monthly Committed Hours per Node	X% X Available Hours	X%, X Available Hours	X% X Available Hours	X% X Available Hours

The Total Reserve Hours available in any one month may vary depending on the number of nodes and the number of days in the applicable calendar month.

3.2.2 Storage. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. "Metered Total Capacity" means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.2.2). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.3 Rate, Billing Period and Flexible Consumption Fees.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxx (xx) months but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)

3.3.1 Compute: Table 3.3.1 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Hours. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Hours and plus the fee for the Reserve Hours, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. Customer is responsible to pay Dell EMC the fees for the Monthly Committed Hours in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Hours. If Customer's monthly use exceeds the Monthly Committed Hours, Dell EMC shall calculate the amount of charges for the Reserve Hours usage using the Monthly Unit Rate set forth in Table 3.3.1 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3.1 – Billing Information – Compute

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Total Available Nodes	X
Monthly Committed Hours as a Percentage of Total Available Hours	xx%
Monthly Unit Rate (Charge per Activated Node Hour per Month)	xxxx
Monthly Flexible Consumption Fee for Monthly Committed Hours	xxxx

3.3.2 Storage. Table 3.3.2 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity plus the fee for use of the Reserve Capacity, if any, during that Billing Period. The fee for use of Reserve Capacity is calculated by multiplying the applicable amount of use by the Monthly Unit Rate. Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If Customer's monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of charges for the Reserve Capacity usage using the Monthly Unit Rate set forth in Table 3.3.2 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3.2 – Billing Information- Storage	
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

3.4 Purchase Order Requirements. The minimum amount of the purchase order is shown in Table 3.4 below. Customer's initial purchase order shall specify an amount that is at least equal to the sum of the Monthly Committed Hours plus the Monthly Committed Capacity, together multiplied by the number of months in the Flexible Consumption Period. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Hours and Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s). If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify Customer. Upon agreement on the additional funds required for the remaining Flexible Consumption period, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount:	Xxxxxx

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Hours; (ii) its Monthly Committed Capacity; and/or (iii) the duration of the Flexible Consumption Period at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increased commitment in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer amending (inter alia) the Billing Information in Table 3.3.1 and 3.3.2. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised fees for the Monthly Committed Hours/Capacity and the revised rates for Monthly Unit Rate shall commence on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

Compute:

Rate table to be added

Storage:

Rate table to be added

3.6 Renewal and/or Month-to-Month Extension. . At least sixty (60) days prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC if Customer intends to continue to use the Product or to Return the Products. If Customer intends to Return the Products, Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, within seven (7) days of the end of a Billing Period, when the Products will be returned to Dell EMC. Until Customer notifies Dell EMC that Customer has removed its data and the Products have been Returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC. In order to implement a new agreement, the parties shall execute an amendment to this Schedule. In connection therewith, Customer shall issue a new purchase order that fulfills the requirements of the new agreement.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on Attachment 1 hereto. Other services may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).

Licensed Software Ship-To Address (one address):	Installation Site(s), if any:

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

Dell EMC PROPRIETARY AND CONFIDENTIAL

Attachment 1

Product list to be added

APEX FLEX ON DEMAND SCHEDULE (WITH DATA PROTECTION)
TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL EMC

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand with Data Protection) – U.S.

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and receive the benefit of certain Products and the Data Protection Service (as defined below) from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products and services listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products and Data Protection Service; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

2.5 Data Protection Service Description and Terms. The Data Protection Service subject to this Schedule is listed on Attachment1. The service description for the Data Protection Service identified in this Schedule is located at: https://i.dell.com/sites/csdocuments/Legal_Docs/en/us/managed-services-for-data-protection-with-flex-on-demand-sd-en.pdf ("Data Protection

DELL EMC PROPRIETARY AND CONFIDENTIAL

Service"). The Data Protection Service will be provided in accordance with the following terms: https://i.dell.com/sites/csdocuments/Legal_Docs/en/dtmscloudtscs.pdf ("Data Protection Terms"). In the event of a conflict between the Data Protection Terms and the terms of this Schedule, the Terms of this Schedule shall govern.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to receive the Data Protection Service and to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, Dell EMC will measure the usage of the Products on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric:

3.2 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee (inclusive of the monthly fee for the Data Protection Service), the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.3 Rates; Billing Period; Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period, and the Fee for the Monthly Committed Capacity. The Fee for the Monthly Committed Capacity shall be inclusive of the monthly fee for the Data Protection Service. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity plus the fee for the Reserve Capacity, if any, used during that Billing Period. The storage fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity and Data Protection	Xxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.4 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify the Customer. Upon agreement on the additional funds required for the remaining Flexible Consumption Period, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed

Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

	48 Months	54 Months	60 Months
80%	$ -	$ -	$ -
70%	$ -	$ -	$ -
60%	$ -	$ -	$ -

3.6 Renewal and/or Month-to-Month Extension. At least sixty (60) days prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC if Customer intends to continue to use the Products and Data Protection Service or to Return the Products and discontinue the service. If Customer intends to Return the Products, Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, within seven (7) days with the end of a Billing Period, when the Products will be returned to Dell EMC. Until Customer notifies Dell EMC that Customer has removed its data and the Products have been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, the parties shall execute and amendment to this Schedule Customer shall issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services may be made available under a separate agreement between the parties. .

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).

Licensed Software Ship-To Address (one address):	Installation Site(s), if any:

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to and shall be considered incorporated into this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Monthly Committed Capacity, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

DELL EMC PROPRIETARY AND CONFIDENTIAL

Attachment 1

Product list to be added

APEX FLEX ON DEMAND SCHEDULE (US - ONE YEAR FLEX)
TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL EMC

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) – US (One Year Flex)

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

DELL EMC PROPRIETARY AND CONFIDENTIAL

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, Dell EMC will measure the usage of the Products on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric:

3.6 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.7 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	Twelve (12) months, with renewal thereafter on a quarterly basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.8 Purchase Order Requirements. Customer's initial purchase order must be for an amount that is equal to (i) the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period, plus (ii) an additional twenty (20%) percent above the Committed Contract Value (the "Reserve Amount"). The amount of the purchase order is shown in Table 3.4 below. The Reserve Amount is to enable Dell EMC to continue to bill Customer during and through the Flexible Consumption Period for the use of Monthly Reserve Capacity above the Monthly Committed Capacity. Dell EMC shall not bill against the Reserve Amount of the purchase order unless and until Customer uses Monthly Reserve Capacity. Customer shall pay all invoices for Flexible Consumption Fees, including those that contain charges for use of Monthly Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify Customer. Upon agreement of both parties, Customer shall promptly issue a related purchase order for the remaining Flexible Consumption Period.

Table 3.4 – Purchase Order Amount	
12-month Committed Contract Value	$ X,XXX,XXX
Reserve Amount for use of any Monthly Reserve Capacity:	$ X, XXX,XXX
Total Customer Purchase Order amount is:	$ X, XXX,XXX

3.9 Schedule Amendments during the Flexible Consumption Period

3.9.1 Increasing Monthly Committed Capacity during the Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase its Monthly Committed Capacity; at the applicable Monthly Unit Rates stated in Table 3.5 below. The parties shall execute an amendment to this Schedule to document such change and if necessary, Customer shall provide a purchase order for the increased Monthly Committed Capacity. Thereafter Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment.

3.9.2 Extending the duration of the Flexible Consumption Period. Customer can elect to extend the duration of the Flexible Consumption period beyond the original term, at the applicable Monthly Unit Rates stated in Table 3.5 below. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original starting date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was twelve (12) months and the amendment adds twelve (12) months, then the new Flexible Consumption Period is a total of twenty-four (24) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect. The parties shall execute an amendment to this Schedule to document such change and if necessary, Customer shall provide a purchase order for the extended duration.

Table 3.5 – Pricing for Increasing Monthly Committed Capacity or Extension of Flexible Consumption Period

Rate table to be added

3.6 Expiration of Flexible Consumption Period At least thirty (30) days prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC if Customer intends to Return the Products per the Governing Agreement, including but not limited to migrating and erasing all Customer Data off of the Products. The parties will establish a mutually convenient date, coinciding with the end of a Billing Period, when the Products will be returned to Dell EMC. If Customer fails to Return the Products as provided for under the Governing Agreement within ten (10) days of expiration of the applicable term, this Schedule shall renew for an additional three (3) month term, until either party provides at least thirty (30) days advanced notice of its intent to terminate the Schedule at the end of the then-current term. Customer agrees to pay all charges incurred on a quarterly extension regardless of whether or not it has issued a purchase order to Dell EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC CORPORATION ("Dell EMC")	**ABC ("Customer")**
By (Sign): _____	By (Sign): _____
Name (Print): _____	Name (Print): _____
Title: _____	Title: _____

Dell EMC PROPRIETARY AND CONFIDENTIAL

Attachment 1

Product list to be added

APEX FLEX ON DEMAND SCHEDULE (IDPA)
TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

DELL EMC

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule (Flex on Demand) – U.S. (IDPA)

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

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3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible Consumption Period, Dell EMC will measure the usage of the Products on a daily basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of average usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the "**Monthly Committed Capacity**") plus any usage in excess thereof (use of the **"Monthly Reserve Capacity").** The Metered Total Capacity, Monthly Committed Capacity and Reserve Capacity are measured by means of the following metric: **"Consumed Useable Storage"** shall mean the amount of Storage written or reserved by the Asset(s) to provide Storage to Servers or used for maintaining replicas of Server Storage. This measure does not include storage used for disk formatting or dedicated spare disks and does not include storage used for Protection/RAID and (where appropriate) dynamic or virtual sparing overhead on the System. This measure is after the application of storage reduction techniques performed by the Asset(s) such as compression and de-duplication.

This definition means that storage consumed on the Asset(s) that cannot be reused by other means is billed directly.

3.10 Capacities and Asset Metering. Prior to Billing, Dell EMC will provide Customer a monthly usage report, which reflects both the Metered Total Capacity of the Products and the Monthly Committed Capacity as a Percentage of that Metered Total Capacity. **"Metered Total Capacity"** means the reported capacity of the Products based upon Customer's storage configuration in the applicable environment. Monthly reports will reflect the Metered Total Capacity of Products as reported by the asset and will scale the Monthly Committed Capacity in line with the Monthly Committed Capacity as a Percentage of Metered Total Capacity (see table 3.3). The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per GiB per Month) and the Monthly Committed Capacity as a Percentage of Metered Total Capacity remain fixed.

3.11 Rate, Billing Period and Flexible Consumption Fee; Reserve Capacity Cap. Table 3.3 sets forth the Billing Period, Monthly Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Capacity. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Capacity and plus the fee for the Reserve Capacity, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Capacity. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Capacity in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Capacity. If the monthly use is not greater than the Monthly Committed Capacity, no Reserve Capacity fee shall be due. If the monthly use exceeds the Monthly Committed Capacity, Dell EMC shall calculate the amount of the Reserve Capacity usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC.

Table 3.3 – Billing Information	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Capacity as a Percentage of Metered Total Capacity	Xxxx
Monthly Unit Rate (Charge per GiB per Month)	Xxxxx
Monthly Flexible Consumption Fee for Monthly Committed Capacity	Xxxxx

Dell EMC shall charge Customer the Monthly Unit Rate for use of Reserve Capacity above the Monthly Committed Capacity up to eighty-five (85%) percent of the Metered Total Capacity, and Customer's use of the Reserve Capacity between 85% and 100% of the Metered Total Capacity be at no charge to Customer ("Reserve Capacity Cap") except in cases of: (i) interruption of monitoring when customer is at fault (Section 2.F of the MFCA), or (ii) Customer is in default of this Schedule, where in either case Dell EMC will continue to invoice for use up to 100%. Dell EMC shall issue invoices referencing this Schedule.

3.12 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Capacity multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Capacity, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	$X,XXX,XXX

3.5 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Capacity; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Capacity at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer using the pricing in Table 3.3. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original Commencement Date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period

	48 Months	54 Months	60 Months
80%	$ -	$ -	$ -
70%	$ -	$ -	$ -
60%	$ -	$ -	$ -

3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC that Customer no longer wishes to use the Products. Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Products will be returned to Dell EMC. However, until Customer notifies Dell EMC that Customer has removed its data and the Products have been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC.

3.7 Option to Refresh; Capacity Upgrades. Customer shall have the option to (i) refresh the IDPA Products technology with the next generation of the IDPA Product per the schedule contained in Table 3.7 below (The "IDPA Refresh"), or (ii) upgrade the Product Capacity under this Schedule ("Capacity Upgrade"), subject to the following terms:

3.7.1 Definitions.
IDPA Refresh: Customer elects to replace the existing node and deploy a newer node revision.
Capacity Upgrade: Customer elects to increase the capacity in the existing node.

3.7.2 Technology Refresh: term extension, pricing and limitations. Customer may refresh its then-current IDPA Product configuration (the "Legacy Product") by executing an amendment to this Schedule. The amendment shall document, among other items, the inclusion of the IDPA Refresh product, the extension of the applicable Flexible Consumption Period, and any rate changes. If Customer elects to refresh its Product configuration to the same capacity, same contract term, same commitment level and same performance level of the Legacy Product, then pricing will remain the same as the pricing for the Legacy Product; pricing will be different for an IDPA Refresh with different capacity, different term, different commit or different performance levels than the Legacy Product. Customer may refresh to a higher capacity and performance Product configuration only if the Legacy Product utilization is >60% of the Legacy Product in the month preceding the refresh request. Any IDPA Refresh must be for an additional period of at least 36 months for a 36 month Legacy contract, 48 months for a 48 month Legacy contract and 60 months for a 60 month Legacy contract. Thereafter, the IDPA Refresh Product is not be eligible for an additional mid-term refresh. The customer can refresh to newer technology outside the period in table 3.7, but the price is not guaranteed.

3.7.3 Capacity Upgrades. At any time, Customers may upgrade their Legacy Product with additional drives (increased capacity) by executing an amendment to this Schedule. Customer may upgrade capacity only if the Legacy Product utilization is >60% of the Legacy Product capacity in the month preceding the upgrade request. If the Customer elects to upgrade capacity prior to applicable Refresh Date listed in Table 3.7, then option to refresh to newer technology will be delayed by at least 12 months from the time of upgrade and pricing will be re-negotiated at the time of upgrade.

3.7.4 Timing and new Flexible Consumption Period. Customer shall have up to ninety (90) days to migrate and erase data from the Legacy Product (the "Migration Period"). Migration and data erasure are out of scope of this Schedule. Such services may be made available under a separate contract signed by the parties. During the Migration Period, Dell EMC

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shall charge Customer for committed capacity and utilization applicable to the Legacy Product. Thereafter, the Customer shall be charged at the rate provided under the refresh amendment.

Table 3.7	
Initial Flexible Consumption Period	Refresh Date (allowed)
36 months	After Month 18 of initial Flexible Consumption Period, and up to 180 days following the end of the period.
48 months	After Month 24 of initial Flexible Consumption Period, and up to 180 days following the end of the period.
60 months	After Month 30 of initial Flexible Consumption Period, and up to 180 days following the end of the period.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")

By (Sign): _____

Name (Print): _____

Title: _____

ABC ("Customer")

By (Sign): _____

Name (Print): _____

Title: _____

Attachment 1

Product list to be added

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APEX FLEX ON DEMAND SCHEDULE (SERVERS)
TO THE MASTER FLEXIBLE CONSUMPTION AGREEMENT
SUPPLEMENTAL TERMS AND CONDITIONS – COMMERCIAL USE ONLY

For Dell EMC Use Only
Contract ID _____

Flexible Consumption Schedule for Servers (Flex on Demand) – U.S.

This Flexible Consumption Schedule (the **"Schedule")** sets forth the terms under which the customer identified below ("**Customer**") may access and use certain Products from the Dell EMC entity identified below ("**Dell EMC**"). Customer's use of Products is subject to the terms of this Schedule and the **Governing Agreement** identified below.

Effective Date: _____	**Governing Agreement:** **Customer's existing Master Flexible Consumption Agreement with Dell EMC dated on or** about: _____
Name of Dell EMC entity ("Dell EMC"): **EMC CORPORATION** **176 SOUTH STREET** **HOPKINTON MA 01748**	**Name of Customer:** **[xxxxx]** **Xxxx** **Xxxxxxx**

1. Effective Date, Commencement Date.

1.1 Schedule Effective Date and Transaction Start Date. This Schedule expresses the current understanding of Dell EMC and Customer with regard to the Products listed on the Attachment 1 hereto. This Schedule, when signed by Dell EMC and Customer takes effect as of the **Effective Date** shown above.

1.2. Commencement Date. Flexible Consumption Period shall commence on either (i) the first day of the first month following the date the Products have been installed at the Installation Site, or, if Customer delays the installation process or if Customer's facility is not prepared for the installation of Products, (ii) the first day of the second month following the Product's arrival at the Installation Site (as applicable, the **"Commencement Date"**).

2. Listing of Products; Unit of Measure ("UOM") for Software; Level of Support Services.

2.1 Products. The Products subject to this Schedule are listed on the Attachment 1 hereto.

2.2 Unit of Measure for Software. A complete description of the Unit of Measure applicable to each unit of Software listed on the Attachment 1 is contained in the Dell EMC Units of Measure at https://www.dellemc.com/content/dam/digitalassets/active/en/unauth/manual-warranty-informations/products/data-protection/h2483-sw-use-rights.pdf

2.3 Support Services. The following Table 2.3 specifies the level of Support Services to be provided for all Products during the Flexible Consumption Period.

Table 2.3 – Level of Support Services	
Support Services Level is:	**Xxxxxxxxxx**

2.4 Support Services Terms. Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16453-dellemc-prosupport-mc-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport Plus for Enterprise: https://www.delltechnologies.com/content/dam/digitalassets/active/en/unauth/offering-overview-documents/services/h16454-dellemc-prosupport-plus-option.pdf.

Support Services identified in a Schedule relating to Dell-branded and EMC Branded Products will be provided in accordance with and pursuant to the following terms for ProSupport One for Data Center: https://www.delltechnologies.com/content/dam/documents-and-videos/dv1/en/services/support/legal-pricing/dell-emc-prosupport-one-for-data-center.pdf.

3. BILLING/METRICS. PURCHASE ORDER, FLEXIBLE CONSUMPTION PERIOD AND RENEWALS.

3.1 Billing Metrics and Flexible Consumption Period. Customer is authorized to use all or a portion of the Products and receive Support Services thereon only during the **Flexible Consumption Period** as described in Table 3.3 below. During the Flexible

Consumption Period, Dell EMC will measure the usage of the Products on an hourly basis and issue a monthly invoice, in arrears, to Customer that reflects the amount of usage during the prior month. The monthly Flexible Consumption Fee for usage is based on a minimum committed amount of use (the **"Monthly Committed Hours**") plus any usage in excess thereof (use of the **"Reserve Hours").** The Total Available Hours, Total Committed Hours and Reserve Hours are measured by means of the following metric: **"Activated Node-Hour"** shall mean the unit of measure that represents a single hour of a physical node that is activated. The Activated Node-Hour is derived from the physical node's aggregated peak CPU utilization percentage (the amount of a physical node's CPU that is a utilized at a given point in time, expressed as a percentage of the asset's total available CPU), across all CPUs within the node.

This unit of measure uses a threshold of greater than or equal to 5%, meaning that should the server display a maximum (peak) CPU utilization of greater than or equal to 5% at any time during the hour and for any length of time, the whole hour is chargeable.

This measure includes CPU utilization as a result of the operating system, hypervisor or any other software running on the physical node.

3.13 Capacities and Asset Metering. Table 3.2 sets forth the Total Available Hours and Monthly Committed Hours on this Schedule. The Total Available Hours will be calculated based on the number of nodes X 24 hours/day X number of months in the Flexible Consumption Duration period X 365/12 (days per year/12 months per year). The Total Reserve Hours available in any one month may vary depending on the number of days in a month. The committed Monthly Flexible Consumption Fee, the Monthly Unit Rate (Charge per Hour per Month) and the Monthly Committed Hours as a Percentage of Total Available Hours remain fixed.

Table 3.2 – Capacity Information				
	28 Day Month	29 Day Month	30 Day Month	31 Day Month
Total Available Hours (Capacity per Node)	672 Available Hours	696 Available Hours	720 Available Hours	744 Available Hours
Monthly Committed Hours per Node	X% X Available Hours	X%, X Available Hours	X% X Available Hours	X% X Available Hours

3.14 Rate, Billing Period and Flexible Consumption Fee. Table 3.3 sets forth the Billing Period, Monthly Variable Unit Rate, the Flexible Consumption Period and Fee for the Monthly Committed Hours. The Flexible Consumption Fee per Billing Period is the sum of the fee for the Monthly Committed Hours and plus the fee for the Reserve Hours, if any, used during that Billing Period. These fees are calculated by multiplying the applicable amount of use by the Monthly Unit Rate. In no event shall the Flexible Consumption Fee for any Billing Period be less than that which would apply to the Monthly Committed Hours. Without limiting the foregoing, Customer is responsible to pay Dell EMC the fees for the Monthly Committed Hours in accordance with the terms and conditions of this Schedule even if Customer's actual usage is less than the Monthly Committed Hours. If the monthly use is not greater than the Monthly Committed Hours, no Reserve Hours fee shall be due. If the monthly use exceeds the Monthly Committed Hours, Dell EMC shall calculate the amount of the Reserve Hours usage, using the Monthly Unit Rate set forth in Table 3.3 and include the amount in the next monthly invoice issued by Dell EMC. Dell EMC shall issue an invoice referencing this Schedule.

Table 3.3 – Billing Information – Server Type	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Hours as a Percentage of Total Available Hours	xx%
Monthly Unit Rate (Charge per Activated Node Hour per Month)	xxxx
Monthly Flexible Consumption Fee for Monthly Committed Hours	xxxx

Table 3.3 – Billing Information – Server Type	
Flexible Consumption Period begins on	The Commencement Date
Flexible Consumption Period duration is:	xxxx (xx) months, but continues thereafter on a month-to-month basis until all Product is made available for pick-up by Dell EMC.
Billing Period	Monthly (in arrears)
Monthly Committed Hours as a Percentage of Total Available Hours	xx%
Monthly Unit Rate (Charge per Activated Node Hour per Month)	xxxx
Monthly Flexible Consumption Fee for Monthly Committed Hours	xxxx

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3.7 Purchase Order Requirements. Customer's initial purchase order must specify an amount that is at least equal to the monthly Flexible Consumption Fee for the Monthly Committed Hours multiplied by the number of months in the Flexible Consumption Period. That minimum amount of the purchase order is shown in Table 3.4 below. Customer shall pay all invoices for Flexible Consumption Fees, including, but not limited to, those that contain charges for use of Reserve Hours, regardless of whether or not such amounts exceed the amount of Customer's purchase order(s) issued to Dell EMC in connection with this Schedule. If Dell EMC reasonably determines that the amount of Customer's original purchase order will not cover the actual Flexible Consumption Fee, then Dell EMC will notify and discuss the situation with Customer. Upon agreement on the additional funds, Customer shall promptly issue a related purchase order for that additional amount.

Table 3.4 – Purchase Order Amount	
Customer Purchase Order amount is:	xxxxxx

3.8 Increasing Monthly Committed Capacity/Flexible Consumption Period. During the Flexible Consumption Period, Customer may increase (i) its Monthly Committed Hours; or (ii) both the duration of the Flexible Consumption Period and the Monthly Committed Hours at the applicable Monthly Unit Rates stated in Table 3.5 below. To do so, Customer must agree to the increase in an amendment to this Schedule. When Dell EMC and Customer have agreed on the increase, Dell EMC shall prepare and send an amendment to Customer using the Billing Information in Table 3.3. The parties shall indicate their acceptance by signing the amendment and Dell EMC shall invoice Customer based on the new pricing pursuant to the amendment. When extending the duration of the Flexible Consumption Period, the revised duration continues to be measured from the original starting date of the Flexible Consumption Period. If the duration of Flexible Consumption Period was thirty (36) months and the amendment adds six (6) months, then the new Flexible Consumption Period is a total of forty-two (42) months, beginning on the original starting date. The revised Monthly Unit Rate commences on the first day of the first month following the month in which the amendment becomes effective. In no event shall the amendment have any retroactive effect.

Table 3.5 – Pricing for Increases Monthly Committed Capacity/Flexible Consumption Period
Server Type
Server Type

3.6 Renewal and/or Month-to-Month Extension. Prior to the expiration of the applicable Flexible Consumption Period, Customer shall notify Dell EMC that Customer no longer wishes to use the Products. Customer shall completely migrate its information and data off of the Products and establish a mutually convenient date, coinciding with the end of a Billing Period, when the Products will be returned to Dell EMC. However, until Customer notifies Dell EMC that Customer has removed its data and the Products have been returned, Customer shall continue to pay the then currently applicable Flexible Consumption Fee on a month-to-month basis. In order to implement a new agreement, Customer must issue a new purchase order that complies with the requirements of the new agreement. Customer agrees to pay all charges incurred on a month-to-month extension regardless of whether or not it has issued a purchase order to Dell EMC.

4. DELIVERY, INSTALLATION AND IDENTIFICATION.

4.1 Delivery. Dell EMC shall deliver all Products to the "Ship-To" address stated in Table 4.3 below. Where Software is provided in a form that is embedded on the Equipment, Dell EMC will enable any required license keys (meaning information needed to enable activation and use of the Software) by electronic means.

4.2 Deployment Services. Deployed Services, subject to this Schedule, are listed on the Attachment 1 hereto. Other services, may be made available under a separate contract signed by the parties.

4.3. Shipment and Installation Site(s).

Table 4.3 – Shipment and Installation Site(s).	
Licensed Software Ship-To Address (one address):	**Installation Site(s), if any:**

5. Miscellaneous. Unless otherwise set forth above, the terms and conditions of the Governing Agreement shall apply to, and shall be considered incorporated into, this Schedule. The terms and conditions in this Schedule are deemed to be confidential information in accordance with the Governing Agreement. In the event of the assignment of this Schedule by Dell EMC, the assignee shall have all Dell EMC's rights hereunder, but none of its obligations, and upon receipt by Customer of written notice of any such assignment, Customer shall make all Flexible Consumption Fee payments thereafter becoming due under any assigned Schedule to such assignee, and in regards to the Committed Capacity portion of that Fee, without regard to any set-off, defense or counter claim that

Customer may have against Dell EMC or any third party. Customer and Dell EMC agree that a signed Schedule may be amended by written notice from Dell EMC to Customer provided such notice is to correct the serial (or service tag) number of Products.

The parties have caused their authorized representatives to sign and this Schedule becomes effective as of the Effective Date.

EMC Corporation ("Dell EMC")	**ABC ("Customer")**
By (Sign): _____	By (Sign): _____
Name (Print): _____	Name (Print): _____
Title: _____	Title: _____

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Attachment 1

Product list to be added

Dell EMC CONFIDENTIAL AND PROPRIETARY

Dell Financial Services Master Usage Agreement

Master Usage Agreement - Public

No. xxx-xxxxxx-xxxx

This Master Usage Agreement (the "MUA") is entered into by and between Dell Financial Services L.L.C. ("DFS") and [_____] ("Customer") to provide specific terms and conditions applicable to the use of Equipment, acquisition of Software licenses and procurement of services by Customer.

Master Usage Agreement Objectives:

A. DFS, and its assigns (if applicable) as the"Usage Provider"is in the business of providing Customers the ability to use equipment owned by the Usage Provider or its assignee ("Equipment"), and acquire software licenses and procure services provided by third-parties ("Soft Cost Items") for Customer's business purposes..

B. This MUA sets forth the basis on which Usage Provider will provide usage to the Customer and sets forth the terms that will apply in respect of such usage.

C. This MUA and any associated Usage Schedules are contracts separate and distinct from any services agreement and associated statement of work ("Services Agreement") Customer may have with any entity not a party to this MUA.

1. Usage Agreement. Upon execution of a Usage Schedule, Usage Provider grants Customer the exclusive right to use the Equipment and acquire the Soft Cost Items, described in such duly executed Usage Schedule. A form of the Usage Schedule is attached hereto (the "Usage Schedule") as may be modified to include jurisdictional specific terms, as applicable. The "Usage Agreement" is comprised of the Usage Schedule and the terms of of this MUA and becomes effective upon execution of a Usage Schedule by the Customer and Usage Provider. Each Usage Agreement is an agreement separate and distinct from any other Usage Agreement. The Usage Provider will make available to Customer the Equipment and Soft Cost Items set forth in such Usage Schedule only if: no Event of Default (as defined below), or event that with notice or the lapse of time or both would constitute an Event of Default, is continuing. With respect to each Usage Agreement, in the event terms of the Usage Schedule and terms of this MUA conflict, the terms of the Usage Schedule shall control.

2. Acceptance; Schedule.

(a) Customer shall arrange for the Equipment and Soft Cost Items to be delivered to the Equipment Location specified in the relevant Usage Schedule. Customer shall be solely responsible for unpacking, inspecting and installing the Equipment and Soft Cost Items. Where Customer rejects the Equipment and Soft Cost Items for good cause, Customer must notify Usage Provider in writing of such rejection within five (5) business days from the date of delivery of such Equipment and Soft Cost Items to the initial ship-to location specified by the Customer (the "Acceptance Period"). Where Usage Provider sends a certificate of acceptance to Customer, Customer must sign and return such certificate to Usage Provider within the relevant Acceptance Period unless Customer has provided Usage Provider with notice of rejection. At the end of the Acceptance Period, the Equipment and Soft Cost Items will automatically be deemed to have been accepted by Customer if Usage Provider has not received either a notice of rejection from Customer and/or (where applicable) a signed certificate of acceptance from Customer. On the date of acceptance ("Acceptance Date"), Customer represents and warrants that Customer has selected the Equipment and Soft Cost Items subject to such Usage Schedule, and Customer has irrevocably accepted the Equipment and authorized Usage Provider to pay for the Soft Cost Items subject to such Usage Schedule.

(b) Usage Provider shall deliver to Customer a Schedule for Equipment and Soft Cost Items. Provided that the Usage Schedule contains no material error, Customer agrees to sign or otherwise authenticate and return each Usage Schedule within 5 days after Customer receives such Usage Schedule from Usage Provider. If the Usage Schedule is not signed or otherwise authenticated by Customer and returned to Usage Provider within the time provided in the prior sentence, then upon written notice from Usage Provider and Customer's failure to cure within 5 days of such notice, Usage Provider may require the Customer to purchase the Equipment and Soft Cost Items by paying the associated cost charged by the Equipment seller, plus any shipping charges, Taxes and Duties (defined below) and interest at the Overdue Rate (defined below) accruing from the date the Equipment and Soft Cost Items are shipped through the date of payment. If Customer returns any Equipment and Soft Cost Items in accordance with the Equipment seller's return policy (if any), it will notify Usage Provider. When Usage Provider receives a credit from the Equipment seller for the returned Equipment and Soft Cost Items, the Usage Schedule will be deemed amended to reflect the return of the items and Usage Provider will adjust its billing records and Customer's invoice for the applicable Schedule. In addition,

Customer and Usage Provider agree that a signed Schedule may be amended by written notice from Usage Provider to Customer provided such notice is (i) to correct the serial (or service tag) number of Equipment and Soft Cost Items or (ii) to adjust the related Usage Payment on the Usage Schedule (any increase up to 15% or any decrease) caused by any change made by Customer in Customer's order with the Equipment seller.

3. Ownership; Software. Usage Provider will hold title to the Equipment for the Term. The Equipment will remain personal property whether or not affixed to real property and Customer will not make such Equipment a fixture or a part of any real property upon which it is placed. Usage Provider will be the sole owner of the Equipment and will have sole title therein. Customer will not make any representation to any third-party inconsistent with Usage Provider's ownership of the Equipment. Customer may not assign or sell, transfer or sublease the Equipment or the Usage Agreement without the prior written consent of Usage Provider. Customer also agrees not to pledge or encumber the Equipment in any way and will keep the Equipment free of all security interests and will not do anything or permit anything to be done that might jeopardize Usage Provider's title and interest in and to the Equipment. "Software" means any operating system software or other software included as a Soft Cost Item. "Licensed Materials" are any manuals and documents, end user license agreements, evidence of licenses, including, without limitation, any certificate of authenticity and other media provided in connection with such Software, all as delivered with or affixed as a label to the Equipment. Customer agrees that a Usage Agreement does not grant any title or interest in Software or Licensed Materials. Any use of the terms "sell," "purchase," "license," and the like in a Usage Agreement with respect to Software and Licensed Materials shall be interpreted in accordance with this section.

4. Term. The initial term of each Usage Agreement ("Initial Term") begins on the Acceptance Date and continues through the Base Term Commencement Date and then for the Base Term (as each of the foregoing capitalized terms are defined in its applicable Usage Schedule). Any renewal term ("Renewal Term") begins at the end of, as applicable, the Initial Term or any preceding Renewal Term (the Initial Term and all Renewal Terms currently in effect, previously in effect, or which are to come into effect as provided in the Usage Schedule or by other written agreement of the parties, collectively, "Term"). A Usage Agreement is only cancellable by Customer in accordance with its express terms and is not in any way affected by the termination, expiry or suspension of operation of any other contract, including any Services Agreement. This MUA shall commence upon the date this Agreement is fully executed and shall continue until terminated in accordance with this MUA or by either party upon written notice to the other party when there are no outstanding Usage Schedules.

5. Usage Payments; Nature of Obligations; Flexible Consumption Terms.

(a) Customer will pay the Usage Payments in the amount and currency set forth in the Usage Schedule, plus all applicable Taxes, throughout the Term, in such manner as Usage Provider may specify in writing (including in any invoice), on the Due Dates (as defined in the applicable Usage Schedule). Whenever a Usage Payment or other amounts payable under a Usage Agreement are not paid when due, Customer must pay interest on such amounts at a rate equal to the lesser of 1-1/2% per month or the highest rate permitted by applicable law.

Customer agrees it is responsible for and will pay or reimburse to Usage Provider upon invoice all government imposed taxes, duties, fines assessed or imposed on the Usage Agreement, the Equipment and the Usage Payment (but excluding taxes imposed on Usage Provider's income) or any other amount payable with respect to the Usage Agreement (collectively "Taxes"). Customer acknowledges and agrees that payments under a Usage Agreement may be billed and collected together with payments due under the Services Agreement.

Subject to the Flexible Consumption Terms, Customer agrees that the obligations under a Usage Agreement, including (without limitation) Customer's obligations to pay all Usage Payments and other amounts hereunder, are independent of the obligations of the Services Agreement, and that Customer's obligation to pay all Usage Payments and other amounts due under a Usage Agreement is absolute and unconditional, notwithstanding any breach or non-performance under the Services Agreement or for any other reason whatsoever. Customer agrees that all Usage Payments and other amounts due under a Usage Agreement will be made without abatement, reduction, set-off, defence, counterclaim, interruption, deferment or recoupment for any reason whatsoever including without limitation, whether arising out of any claims by Customer against Usage Provider, or any other servicer or supplier or manufacturer of the Equipment, services or software or any other person, total or partial loss of the Equipment or of its use or possession. The unconditional obligation to pay such Usage Payments is independent of any obligations under the Services Agreement and the termination of the Services Agreement shall not relieve Customer from making any payments under a Usage Agreement.

ONLY IN REGARDS TO A USAGE AGREEMENT AND ONLY TO THE EXTENT PERMITTED UNDER LAW, USAGE PROVIDER MAKES NO, AND DISCLAIMS ANY AND ALL, WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTIBILITY, CONCERNING THE EQUIPMENT AND ANY SOFT COST ITEMS. Any right the Customer has to offset or withhold payment under the Services Agreement does not extend to Usage Agreements and payments thereunder, provided that nothing herein affects a Customer's rights under the Services Agreement. The exclusions and limitations of the liability of the Customer set out in the Services Agreement will not apply in respect of the Customer's liability to Usage Provider under or in connection with this Usage Agreement.

(b) Flexible Consumption Terms, if any, shall be set forth in the applicable Usage Schedule.

6. Appropriation of Funds.

(a) Customer intends to continue each Usage Agreement for the Term and to make all Usage Payments and other amounts due thereunder. Customer reasonably believes that legally available funds in an amount sufficient to pay all Usage Payments during the Term can be obtained and agrees to do all things lawfully within its power to obtain and maintain funds from which the Usage Payments and other amounts due may be paid.

(b) Customer may terminate a Usage Agreement in whole, but not in part by giving at least sixty (60) days notice prior to the end of the then current Fiscal Period (as defined in the Customer's Secretary/Clerk's Certificate provided to Usage Provider) certifying that: (1) sufficient funds were not appropriated and budgeted by Customer's governing body or will not otherwise be available to continue the Usage Agreement for the current Fiscal Period; and (2) that the Customer has exhausted all funds legally available for payment of the Usage Payments beyond the current Fiscal Period. Upon termination of a Usage Agreement, Customer's obligations under such Usage Agreement (except those that expressly survive the end of the Usage Agreement Term) and any interest in the use of Equipment and Soft Cost Items shall cease and Customer shall surrender the Equipment and Soft Cost Items in accordance with Section 9. Notwithstanding the foregoing, Customer agrees that, without creating a pledge, lien or encumbrance upon funds available to Customer in other than its current Fiscal Period, it will use its best efforts to take all action necessary to avoid termination of a Usage Agreement, including making budget requests for each Fiscal Period during each applicable Usage Agreement Term for adequate funds to meet its Usage Agreement obligations and to continue the Schedule in force.

(c) Usage Provider and Customer intend that the obligation of Customer to pay all Usage Payments and other amounts due under a Usage Agreement constitutes a current expense of Customer and is not to be construed to be a debt in contravention of any applicable constitutional or statutory limitation on the creation of indebtedness or as a pledge of funds beyond Customer's current Fiscal Period.

7. Risk in Equipment. Customer agrees that it will not, without Usage Provider's consent, perform any modifications to the Equipment that would (i) violate any warranty applicable to the Equipment; or (ii) have an adverse impact on the Equipment's functionality, capabilities or value. From the Acceptance Date to the return of Equipment to Usage Provider in accordance with the applicable Usage Agreement, Customer assumes and will bear the entire risk of loss or damage to the Equipment. In the event of any Equipment being lost, stolen or damaged beyond economic repair prior to its return to Usage Provider in accordance with the applicable Usage Agreement, Customer will (i) promptly advise Usage Provider in writing of any such loss or damage, of the circumstances under which such loss or damage occurred, and of the extent of such loss or damage, and (ii) will pay to Usage Provider the sum set out in Section 12 (the "Early Termination Payment") and the Casualty Value for the Equipment plus all Usage Payments and other amounts then due as of that day.

The Customer must, at all times during the Term of any Usage Agreement, maintain property and liability insurance for the Equipment at its own cost, in addition to all other appropriate and adequate insurance effected through reputable insurers to provide cover against all usual risks of loss or damage and third party liability.

8. **Equipment at End of Term.** At the end of the Base Term or any Renewal Term of a Usage Agreement, Customer must return all Equipment subject to such Usage Agreement within 10 days of the last day of the applicable term.

9. **Return of Equipment.** Where the Customer is required, or has elected, to return the Equipment in accordance with a Usage Agreement, Customer will return the Equipment to Usage Provider in good working order and condition (reasonable wear and tear excepted) to the location advised by Usage Provider. Upon such return of Equipment, Customer's right to the operating system software in the returned Equipment will terminate. Where applicable, Customer agrees to return the Equipment with the original certificate of authenticity (attached and unaltered) for the original operating system software. Before returning any Equipment to Usage Provider hereunder, Customer must remove all password protection, and, Customer must remove all application programs and data, and, in the case of personal computers, completely clear all media unless otherwise agreed to by Usage Provider and Customer in the applicable Usage Schedule. Customer will promptly reimburse Usage Provider for any missing or damaged Equipment or operating system software by paying Usage Provider an amount which reflects the diminished value of the Equipment or operating system software as reasonably determined by Usage Provider.

10. **Covenants.** Customer will during the Term of the applicable Usage Schedule: (a) use the Equipment subject to the applicable Usage Schedule with reasonable care and only in connection with its business operations and for the purposes for which it was designed; (b) keep such Equipment at the Equipment Location set forth in the applicable Usage Schedule, except Customer may move the Equipment to another of its business locations if it notifies Usage Provider of the removal within 30 days thereafter (however items intended for travel such as laptop computers may be temporarily removed from the Equipment Location without complying with the foregoing if they remain domiciled at the Equipment Location set forth in the applicable Usage Schedule); (c) make no other alterations or additions to the Equipment except additions that: do not impair the value or performance of the Equipment, are readily removable without damage to the Equipment, and do not result in an encumbrance on the Equipment; (d) comply with all laws and regulations applicable to or affecting the Usage Agreement, the Equipment, or Customer.

11. **Customer Warranties.** Customer represents and warrants, each time it executes a Usage Schedule or Acceptance Certificate, that: (a) the warranties and undertakings in this MUA are true and correct and Customer is not in breach of any of its obligations under any Usage Agreement; (b) the Usage Agreement is enforceable against Customer in accordance with its terms, subject to laws of general application affecting creditors" rights generally, and does not breach or create a default under any instrument or agreement binding on Customer; (c) no proceedings exist before any court or administrative agency that would have a material adverse effect on Customer, the Usage Agreement, or the Equipment, nor has Customer been threatened with any such proceedings.

12. **Default.** Each of the following is an event of default ("Event of Default") under a Usage Agreement: (a) Customer fails to pay any Usage Payment (as defined in the Usage Schedule) under any Usage Schedule, Taxes or other amounts when due within 10 days of the date such amount became due and payable, (b) Customer fails to perform any material obligation under this MUA or the Usage Schedule and such failure is not cured within (30) thirty days of written notice, (c) any material representation or warranty by Customer in connection with the Usage Agreement was incorrect when made; (d) Customer becomes insolvent, unable to pay its debts as and when they become due or enters into (or have entered against it) bankruptcy, receivership, reorganization, dissolution, liquidation or other similar proceeding; or (e) Customer undergoes, without the prior written consent of Usage Provider, an acquisition, change in control, merger, reorganization, consolidation, amalgamation or other event whereby the holders of more than one-half of the equity and voting power of Customer immediately before the event are not the holders of one-half or more of the equity and voting power of Customer or its successor immediately after the event. If an Event of Default occurs, Usage Provider may (v) cancel or terminate the Usage Agreement; (w) declare the following amounts due and payable: (i) if the Event of Default occurs before the end of the Initial Term, the Early Termination Payment as of the date of Event of Default (or if the Event of Default occurs during a Renewal Term the Usage Payments which would have otherwise been payable had the Usage Agreement continued to the end of the Renewal Term; (ii) the Casualty Value for the Equipment; and (iii) all other costs and expenses (including fees and costs of enforcement, including, without limitation, attorney's fees and costs) incurred arising from the Event of Default; and upon receipt of such payment in full, title to the Equipment will be transferred "AS IS-WHERE IS AND WITHOUT RECOURSE"; (x) require Customer to return the Equipment in accordance with Clause 9 above; (y) enter upon any premises where Equipment is kept and repossess the Equipment; and/or (z) exercise any other right at law or in equity.

13. Early Termination Payment. The parties agree that the Early Termination Payment will be the sum of the present values on that day of all Usage Payments which are still to fall due or which would, but for termination, have become due under the Usage Agreement, plus any costs incurred by Usage Provider in terminating or replacing any funding arrangements entered into by Usage Provider in connection with the Usage Agreement. The present value of an amount is calculated by discounting that amount by LIBOR as of that date of calculation.

14. Casualty Value. "Casualty Value" is the price that would be obtained at arm's length between informed and willing parties, neither under compulsion to contract, for the sale of the Equipment assuming the Equipment is: in installed, continued, and uninterrupted use by the buyer or Customer; in the condition required by the Usage Agreement and, being sold with the embedded software necessary for its use. Casualty Value will be determined by Usage Provider, but if Customer objects in writing to Usage Provider's determination within 10 days after Usage Provider communicates its determination to Customer's representative in writing or by email, then Casualty Value will at Customer's expense be determined by an independent appraiser selected by Usage Provider and reasonably satisfactory to Customer.

15. Assignment by Usage Provider. The Equipment (and all proceeds and other payments associated therewith), the Usage Agreement, and the Usage Payments and all other amounts payable under or in connection with a Usage Agreement, and any rights, title and interest in and in connection therewith may, without further notice to or consent of Customer, be sold, assigned, transferred or encumbered by Usage Provider to any person ("Assignee") provided that such sale, assignment, transfer or encumbrance will be without prejudice to and will not result in an increase in the Usage Payments payable under the Usage Agreement nor reduce or limit the Customer's rights under the Usage Agreement, and Customer hereby waives any and all claims, defences or setoffs that Customer may have against any Assignee. Customer agrees that an Assignee has and may exercise all of the rights but does not have and is not responsible for the obligations of Usage Provider under or in connection with each Usage Agreement. If Usage Provider notifies Customer of an assignment, Customer will: (a) absolutely and unconditionally pay to Assignee all amounts due under the Usage Agreement notified by Usage Provider as assigned to Assignee without abatement, reduction, offset, recoupment, compensation, cross-claim, counterclaim, or any other defence whatsoever; (b) not permit the Usage Agreement to be amended or any of its terms waived without the written consent of Assignee; and (c) execute such acknowledgments of assignment or encumbrance as may be reasonably requested by Usage Provider. Assignee will be entitled to make further assignments or encumbrances. Usage Provider's ability to assign a Usage Agreement will not be affected by any non-assignment provision contained in the Services Agreement.

16. Miscellaneous. Customer will promptly execute such documents and take such further action as Usage Provider may from time to time reasonably request in order to carry out the intent of any Usage Agreement or protect or perfect the rights, interests, and remedies of Usage Provider (or its Assignee) reasonably intended to be created thereunder. Headings are for convenience only and will have no legal effect. Terms of inclusion mean inclusion without limitation. Time is of the essence. The express terms of a Usage Agreement set forth the entire agreement between the parties, and supersede and merge all prior written or oral communications, understandings, or documents between the parties relating to the subject matter contained herein. The provisions of a Usage Agreement will survive its termination and the termination of the Services Agreement, and any return or sale of Equipment, and remain in full force and effect with respect to events or conditions occurring or existing during (or fairly attributable to) the Term. Any waiver or failure of a party to require strict observance of a Usage Agreement will not constitute a waiver of any other breach of the same or any other provision of the same Usage Agreement or any other Usage Agreement. A Usage Agreement cannot be amended except in an instrument executed by both parties. A Usage Agreement binds and benefits the parties' successors and permitted assigns. The parties intend for each Usage Agreement to allow for the Customer to use the Equipment and obtain the Soft Cost Items under all applicable laws; however, if any Usage Agreement is determined to be a loan, Customer hereby grants to Usage Provider a first priority security interest in the Equipment and all proceeds thereof. Customer acknowledges that by signing this Agreement, Customer has authorized Usage Provider to file any financing statements or related filings as Usage Provider may reasonably deem necessary or appropriate. If Customer delivers this Agreement or any related document as an e-mail attachment, facsimile transmission or by U.S. mail, Customer acknowledges that Usage Provider is relying on Customer's representation that that document has not been altered. Customer further agrees that, notwithstanding any rule of evidence to the contrary, in any hearing, trial or proceeding of any kind with respect to this Agreement or any related document, Usage Provider may produce a tangible copy of the this Agreement or any related document transmitted by Customer to Usage Provider by facsimile or as an e-mail attachment and such signed copy shall be deemed to be the original of the Document. To the extent (if any) that this Agreement or any related document constitutes chattel paper under the applicable law, the authoritative copy of this Agreement or any related document shall be the copy designated by Usage Provider or its assignee, from time to time,

as the copy available for access and review by Customer, Usage Provider or its assignee and marked by Usage Provider as "Original". All other copies are deemed identified as copies of the authoritative copy. In the event of inadvertent destruction of the authoritative copy, or corruption of the authoritative copy for any reason or as the result of any cause, the authoritative copy may be restored from a backup or archive copy, and the restored copy shall become the authoritative copy. At Usage Provider's option, this electronic record may be converted into paper form. At such time, such paper copy will be designated or marked as the authoritative copy of the Document. No security interest may be created through the transfer or control or possession, as applicable, of a counterpart of a Schedule other than the original in Usage Provider's possession.

17. **Invalidity.** A provision of this MUA that is or becomes invalid will be ineffective only to the extent of the invalidity, without affecting the remainder of such provision or this MUA.

18. **Applicable Law.** This MUA is governed by and construed in all respects in accordance with the laws of the Customer's statewithout regard to conflicts of law principles. The parties consent and submit to the jurisdiction of the local, state, and federal courts located within or for the county within the State where Customer is located, or as may otherwise be required by applicable law. The parties waive any objection relating to improper venue or *forum non conveniens* to the conduct of any proceeding in any such courts. The parties irrevocably waive all right to trial by jury in any proceeding between them relating to this MUA or a Usage Schedule. If different from stated herein, the applicable law and jurisdiction for each Usage Agreement shall be set forth in the applicable Usage Schedule.

Signing Section

Signed for and on behalf of **Dell Financial Services L.L.C.** by its authorized representative:	Signed for and on behalf of **[Customer full legal name]** by its authorized representative:
×	×
Name:	**Name**:
Title:	**Title**:
Date:	**Date**:

Dell Financial Services

Secretary/Clerk Certificate Instructions

1. In the blocks under paragraph (ii) with the headings “NAME OF AUTHORIZED SIGNATORY”, “TITLE OF AUTHORIZED SIGNATORY” and “SIGNATURE OF AUTHORIZED SIGNATORY”, all persons who are authorized to execute and deliver the Agreement/MUA and any related Usage Schedule(s) from time to time thereunder between the Public Entity/Customer and Usage Provider should write or type his/her name under the “Name of Authorized Signatory” heading, write or type his/her title under the “Title of Authorized Signatory” heading, and sign his/her name under the “Signature of Authorized Signatory” heading in the block across from his/her name and title. **The person(s) listed and executing in the blocks under paragraph (ii) must not be the same person executing the Certificate on behalf of the Public Entity (Clerk, Secretary, etc.) listed at the top of the Certificate and executing in the signature block at the bottom of the Certificate under the “In Witness Whereof” language;**

2. The Clerk, Secretary, etc. should insert the Agreement/MUA No. in paragraph (iii), if known;

3. The Clerk, Secretary, etc. should strike paragraph (v) of the Certificate if this paragraph is not applicable to the Public Entity/Customer;

4. If paragraph (v) of the Certificate is applicable to the Public Entity/Customer, the Clerk, Secretary, etc. should insert “regular” or “special” in the first blank and then insert the date of the meeting of the governing body of the Public Entity/Customer in the second blank;

5. The Clerk, Secretary, etc. should write or type the Fiscal Period of the Public Entity/Customer in paragraph (ix);

6. The Clerk, Secretary, etc. should write or type his/her name, title, name and State of the Public Entity/Customer in the top portion of the Certificate and date, sign & print his/her name and title at the bottom of the Certificate under the “In Witness Whereof” language; and

7. If required by local law, the Certificate should be notarized by a notary public. The notary public should be a person other than the Clerk, Secretary, etc. executing under the “In Witness Whereof” language of the Certificate.

Dell Financial Services

SECRETARY/CLERK CERTIFICATE

I, _____, do hereby certify that:

(i) I am the duly elected, qualified, and acting _____ (Clerk, Secretary, etc.) of , a public entity (the "Public Entity" or "Customer").

(ii) Each of the persons whose name, title and signature appear below is a duly authorized representative of the Public Entity and holds on the date of this Certificate the formal title set forth opposite his/her name and the signature appearing opposite each such person's name is his/her genuine signature:

NAME OF AUTHORIZED SIGNATORY (cannot be Clerk/Secretary authenticating this certificate)	TITLE OF AUTHORIZED SIGNATORY	SIGNATURE OF AUTHORIZED SIGNATORY

(iii) Each such representative is duly authorized for and on behalf of the Public Entity to execute and deliver that certain Master Usage Agreement No. (the "Agreement" or "MUA") and any related Usage Schedules from time to time thereunder (the "Schedules") between the Public Entity and Usage Provider or its assignee (collectively, "Usage Provider), and all agreements, documents, and instruments in connection therewith, including without limitation, schedules, riders and certificates of acceptance.

(iv) The execution and delivery of any such Agreement and/or Usage Schedule and all agreements, documents, and instruments in connection therewith for and on behalf of the Public Entity are not prohibited by or in any manner restricted by the terms of the Charter or other document pursuant to which the Public Entity is organized or of any loan agreement, indenture or contract to which the Public Entity is a party or by which it or any of its property is bound.

(v) [STRIKE IF NOT APPLICABLE] The Public Entity did, at a duly called _____ (regular or special) meeting of the governing body of the Public Entity attended throughout by the requisite majority of the members thereof held on the _____ day of _____ by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the Agreement, the related Usage Schedule(s) and all agreements, documents, and instruments in connection therewith on behalf of the Public Entity by the authorized representative(s) of the Public Entity named in paragraph (ii) above. Such action approving the Agreement, the related Usage Schedule(s) and all agreements, documents, and instruments in connection therewith and authorizing the execution thereof has not been altered or rescinded by the Public Entity.

(vi) No event or condition that constitutes (or with notice or lapse of time or both, would constitute) an Event of Default, as defined in the Agreement, exists at the date hereof.

(vii) All insurance required in accordance with the Agreement is currently maintained by the Public Entity.

(viii) The Public Entity has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Usage Payments scheduled to come due during the first Fiscal Period and to meet the Public Entity's other obligations for the first Fiscal Period, as such terms are defined in the Agreement, and such funds have not been expended for other purposes.

(ix) The Fiscal Period of the Public Entity is from _____ to _____.

(x) The foregoing authority and information shall remain true and in full force and effect, and Usage Provider shall be entitled to rely upon same, until written notice of the modification, rescission, or revocation of same in whole or in part, has been delivered to Usage Provider, but in any event shall be effective with respect to any documents executed or actions taken in reliance upon the foregoing authority prior to the delivery to Usage Provider of said written notice of said modification, rescission or revocation.

IN WITNESS WHEREOF:

By: _____

Name: _____

Title: _____
(Clerk or Secretary)

Date: _____

Subscribed to and sworn before me:

Notary Public: _____.
(Name)

Date: _____.

My commission expires: _____.

SAMPLE OPINION LETTER FOR PAYMENT AGREEMENT TRANSACTIONS
TO BE EXECUTED ON COUNSEL'S LETTERHEAD

To: Dell Financial Services L.L.C.
Add correct address

Ladies and Gentlemen:

We are counsel to _____(the “Customer” or "Maker") and, in that capacity, we have examined the Payment Agreement No. _____, dated as of _____, 20__, and the Payment Schedule thereto (collectively the "PA") between the Maker and Dell Financial Services L.L.C. (the "Payee").

Based on our examination of the PA and such other examinations as we have deemed appropriate, we are of the opinion as follows:

(a) The Maker is an entity duly organized and existing under and by virtue of the authorizing statute or constitutional provisions of the State of _____ and is a state or political subdivision thereof as described in Section 103(a) of the Internal Revenue Code of 1986, as amended, with full power and authority to enter into the PA and the transactions contemplated thereby and to perform all of its obligations thereunder;

(b) The PA has been duly authorized, executed and delivered by _____*, _____ of the Maker by proper action of its governing board at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the PA against the Maker;

(c) The PA constitutes the valid, legal and binding obligation of the Maker, enforceable in accordance with its terms;

(d) No approval, consent or withholding of objection is required from any federal, state or local governmental authority or instrumentality with respect to the entering into or performance by the Maker of the PA and the transactions contemplated thereby;

(e) Maker has complied with any applicable public bidding requirements and other applicable state and federal laws in connection with the PA and the transactions contemplated thereby;

(f) The entering into and performance of the PA will not violate any judgment, order, law or regulation applicable to the Maker or result in any breach of, or constitute a default under, any instrument to which the Maker is a party or by which it or its assets may be bound, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Maker or on the Products, other than those created by the PA;

(g) The Products are tangible personal property and when subject to use by the Maker will not be or become fixtures or real property under the laws of the State of _____;

(h) There are no actions, suits, proceedings, inquiries or investigations, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting, nor to the best of our knowledge and belief is there any basis therefor, which, if determined adversely to Maker, will have a material adverse effect on the ability of the Maker to fulfill its obligations under the PA; and

(i) Maker has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for Maker’s current Fiscal Period to make the Payments scheduled to come due during Maker’s current Fiscal Period and to meet its other obligations under the PA for the current Fiscal Period, and such funds have not been expended for other purposes.

This opinion is delivered to the addressee for its benefit and the benefit of its assigns for the purpose contemplated by the PA.

Very truly yours,

*Authorized Signatory of Lessee under the Agreement.

Dell Financial Services

Billing and Schedule Information

Welcome to Dell Financial Services (DFS). We look forward to establishing a long-lasting relationship with you and your team. To ensure your account is setup properly in our systems please provide the information below, working with your Accounts Payable team as needed. Once ready, return it to your DFS Sales Representative or send it to DFS_Customer_Setup@Dell.com. If you have any questions about the form, contact your representative. Thank you.

I. Preparing Your A/P System to Remit DFS Payments:

Below is the most commonly requested information by our customers to assist them in setting up their systems to successfully remit DFS payments. If you require any other information, please contact your representative.

ACH Instructions (preferred)	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER CTX+ format should be first choice if it is an option Email remittance to **USDFSCASHPAYMENTS@dell.com**
Wire Transfer Instructions	JPMorgan Chase Bank, N.A. 1 Chase Manhattan Plaza New York, NY 10081	DFS Accounts Only ABA # **021000021** Account # **432217011** MUST INCLUDE CONTRACT & SCHEDULE NUMBER OR INVOICE NUMBER Email remittance to **USDFSCASHPAYMENTS@dell.com** JPM Swift Code for international wires only: **CHASUS33**
Payee Information	Dell Financial Services L.L.C. Payment Processing Center Federal Tax ID# 74-2825828	PO Box 6549 Carol Stream, IL 60197-6549

II. Your Company Information:

Company Name: _____

Physical Address (primary location): _____

City, State, ZIP: _____

Federal Tax ID: _____

III. Schedules:

Name of recipient(s) to receive monthly schedules **for reconciliation:**

Attention: _____ Email Address: _____

Name of individual(s) that **will sign** schedules (this individual should be named as an authorized signatory on the Incumbency or Secretary Clerk Certificate)

Attention: _____ Title: _____

Telephone Number: _____ Email Address: _____

Would you prefer to sign your documents electronically via Echosign? ☐ Yes ☐ No (not available to Public entities)

Do any of the following criteria need to appear on your schedule?*

☐ Cost Center ☐ Equipment Type ☐ Equipment Location ☐ PO Number

*Invoices will follow the format of the schedule and include a breakout of the items above if requested.

IV. Purchase Orders:

Your PO should be issued to Dell Financial Services L.L.C.

If you are unable to issue purchase orders to DFS please specify how the PO Number will be issued:

Do you utilize blanket PO Numbers? ☐ Yes ☐ No

Do you use a different PO Number for payment versus procurement? ☐ Yes ☐ No

Is PO fulfillment required for scheduling? ☐ Yes ☐ No

DFS will consolidate shipped orders and place on a schedule for your review. If you have any special consolidation requirements, please contact your DFS Sales representative.

Is board approval necessary? ☐ Yes ☐ No If yes, when are meetings held? _____

Fiscal Year is from _____ to _____

V. Invoicing/Billing Contact Information:

Accounts Payable (AP) Contact Name: _____

Does this billing address match the primary location above? ☐ Yes (If yes, please skip and proceed to Invoice Preference) ☐ No

AP Address: _____

City, State, ZIP: _____

County: _____

AP Email Address: _____ AP Direct Telephone Number: _____

Email Address for PDF or Electronic Invoices (if different than AP contact): _____

VI. Invoice Preferences (choose one from each category):

Invoice Options: ☐ **Contract Level** (one invoice per contract) ☐ **Consolidated** (one invoice for all contracts that have the same due date)

Invoice Format: ☐ **Detail** (asset level) ☐ **Summary**

Delivery Format: ☐ **Paper** (USPS) ☐ **PDF** (paper copy is not mailed) ☐ **Electronic CSV** (converted to Excel)

☐ **3rd Party Invoicing Tool, Ariba/SAP** (enter tool name): _____

Do you need separate invoices for miscellaneous billings? ☐ Yes ☐ No

Do you require a PO Number on the invoice to process payment? ☐ Yes ☐ No

Note: the typical invoice processing time is 30 days. If you require more time, please contact your DFS Sales Representative.

VII. Taxes and Fees:

Is your company/entity tax exempt? ☐ Yes ☐ No

If not exempt, do you intend to finance upfront tax (if applicable) on the schedules (contracts)? ☐ Yes ☐ No

Personal Property Tax (PPT): ☐ Rebill Annually ☐ Monthly Property Management Fee

California Environmental Fee: Do you intend to finance the California Environmental Fee, if applicable? ☐ Yes ☐ No

Do you intend to finance shipping by adding shipping costs for the products to your schedule? ☐ Yes ☐ No

VIII. Additional Tax Information:

Sales/Use Tax Exemption: Please provide your tax exemption or direct pay certificate to both DFS and the product vendor. Certificates intended for Leases should be issued to Dell Financial Services L.L.C., and those for Loans should be issued to the product vendor. Where required, sales/use taxes will be assessed and invoiced to DFS by the vendor.

Note: If tax exempt, a valid Tax Exemption or Direct Pay Certificate must be provided **for each state** in which the products are located.

Tax Exempt Certificate Requirements:

- Address to Dell Financial Services
- Should coincide with the date the schedule is signed
- List a description of the items; computer hardware/software is generally sufficient
- Signed by an authorized employee/owner

The following are not acceptable forms of Tax Exemption Certificates:

- IRS letter declaring the company as a non-profit (501-C) entity*
- CA letter exempting a company from Franchise and Income Tax
- W-9 form
- State registration certificates

*Mississippi is the only state that accepts the IRS letter as an acceptable exemption certificate

Business Personal Property Tax: Tangible business personal property is taxable in most states. In general, the definition of tangible property is personal property that can be seen, weighed, measured, felt, or otherwise perceived by the senses but does not include a document that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

Dell Financial Services Usage Schedules

PC as a Service

Infrastructure as a Service

Dell Financial Services

Public Usage Schedule
PCaaS

Usage Schedule No. xxx-xxxxxx-xxxx
dated [ ]

[Customer]:	**[Usage Provider]**:
Address:	**Address**:

This Usage Schedule incorporates the terms of the Master Usage Agreement between Dell Financial Services L.L.C. and [MUA Signing Customer]. The Usage Provider and Customer signing this Schedule each acknowledge the terms of the Master Usage Agreement and agree and accept to be bound by its terms

This Usage Schedule is intended to allow the Customer or Customer Affiliate above to pay a per-seat fee to use the Equipment and acquire the Soft Cost Items set forth the Services Agreement.

Base Term: [ ] Months

Due Dates: Usage Payments are due in [arrears/advance] on the [first/last] day of each Usage Period.

Usage Period: [Monthly/Quarterly]

Base Term Commencement Date: The first day of the first whole Usage Period occurring on or after the last Acceptance Date for any item of Equipment.

Equipment Location: See Exhibit A

Currency for Usage Payment: [US Dollar, Canadian Dollar, Euro, etc.]

Description	Number of Seats	Per Seat Fee	Usage Payment
[Example: Equipment and Soft Cost Items set forth in Dell Quote # 123456]	[Example: 1,000]	[Example: $50.00]	[Example: $50,000]
		Total of Usage Payments:	$

For the purposes of this Schedule: a “Seat” means a unit of Equipment and the Soft Cost Items linked with that unit.

Flexible Consumption Terms:
Provided that no Event of Default has occurred and is continuing, Customer may give irrevocable written notice to Usage Provider of its intention to exercise one of the following three options: Flex Up; Flex Down; or a combination of Flex Up and Flex Down.

Flex Up
At any time during the Base Term, Customer may add additional Seats at any time by executing a new Usage Schedule (subject to credit and pricing approval).

Flex Down

Once, at any time after the half-way point of the Base Term, and Provided that no Event of Default has occurred and is continuing, Customer may remove up to ___% of the Seats by providing at least 90 days' notice to Usage Provider with such notice listing the Equipment to be returned by serial number. Customer is responsible for returning the Seat in accordance with Section 8 of the Agreement. Upon Usage Provider's receipt of the Seat, Customer's Usage Payment over the remainder of the Base Term will be lowered to reflect the Seats received.

Combination

Once, at any time after the half-way point of the Base Term, and Provided that no Event of Default has occurred and is continuing, Customer may add additional Seats at any time by executing a new Usage Schedule (subject to credit and pricing approval) while at the same time removing up to ___% of the Seats by providing at least 90 days' notice to Usage Provider with such notice listing the Equipment to be returned by serial number. Customer is responsible for returning the Seat in accordance with Section 9 of the Agreement. Upon Usage Provider's receipt of the Seat, Customer's Usage Payment over the remainder of the Base Term will be lowered to reflect the Seats received.

Jurisdiction Specific Terms

Applicable Law

This Usage Agreement is governed by and construed in all respects in accordance with the laws of the Customer's state without regard to conflicts of law principles. The parties consent and submit to the jurisdiction of the local, state, and federal courts located within or for the county within the State where Customer is located, or as may otherwise be required by applicable law. . The parties waive any objection relating to improper venue or *forum non conveniens* to the conduct of any proceeding in any such courts. The parties irrevocably waive all right to trial by jury in any proceeding between them relating to this MUA or a Usage Schedule. The applicable law and jurisdiction for each Usage Agreement shall be as set forth in the applicable Usage Schedule.

Extension Option

Provided that no Event of Default has occurred and is continuing, Customer has two options upon giving notice at least 30 days prior to the expiration of the Base Term: (1) renew the Usage Schedule for a mutually agreeable term, or (2) renew the Usage Schedule on a month-to-month basis, terminable upon 30 days notice from either party to the other. For both Renewal Terms, the Usage Payment shall be the same as the Usage Payment during the Base Term.

Holdover Period

If Customer has not returned the Seat in accordance with Section 8 of the MUA, the Term will automatically extend for successive one-month terms at the same Usage Payment as during the Base Term. Such one-month terms will continue until Usage Provider's receipt of the Seat.

Each party acknowledges its receipt and review of this Usage Schedule and that none of its provisions are missing or illegible. The terms of this Usage Schedule may be different from other Usage Schedules incorporating the terms of the MUA. **If this Usage Schedule was transmitted to Customer for signature in electronic format, Customer represents and warrants that the text originally transmitted has not been altered in any way. Usage Provider's acceptance of this Usage Schedule is based on its reliance on, and specifically conditioned by, the truth of this representation and warranty. This Usage Schedule and the terms of the MUA constitute the entire Usage Agreement.**

Signing Section

Signed for and on behalf of **Usage Provider** by its authorized representative:	Signed for and on behalf of **[Customer Signer]** by its authorized representative:

x	x
Name:	**Name**:
Title:	**Title**:
Date:	**Date**:

Sample Acceptance Certificate

Acceptance Certificate
for Usage Schedule No. ___

This Acceptance Certificate is made by Customer pursuant to the above-referenced Usage Schedule between Customer and Usage Provider, which incorporates the terms of the Master Usage Agreement between Dell Financial Services L.L.C. and [CUSTOMER]. Usage Provider and Customer each acknowledge the terms of the Master Usage Agreement and agree and accept to be bound by the terms of the Master Usage Agreement. Capitalized terms used in this Acceptance Certificate without definition are defined in the Master Usage Agreement or Usage Schedule.

Customer certifies that: (a) the Equipment specified in the Usage Schedule ("Accepted Equipment") is located at the Equipment Location specified in the Usage Schedule, is fully installed and is in good working order and condition; (b) Customer has inspected the Accepted Equipment; (c) on the Acceptance Date specified below Customer accepted the Accepted Equipment; (d) Customer authorizes Usage Provider to pay for all Soft Cost items specified in the Usage Schedule and (d) no Event of Default or event that with notice or the lapse of time would constitute an Event of Default is continuing.

Acceptance Date: _____, 20___ *(Customer must fill in.)*

Signing Section

Signed for and on behalf of **[Customer full legal name]**
by its authorized representative:

x
Name:
Title:
Date:

Dell Financial Services

Usage Schedule

Usage Schedule No. xxx-xxxxxx-xxxx
dated [ ]

[Customer]:	**[Usage Provider]**:
Address:	**Address**:

This Usage Schedule incorporates the terms of the Master Usage Agreement between Dell Financial Services L.L.C. and [MUA Signing Customer]. The Usage Provider and Customer signing this Schedule each acknowledge the terms of the Master Usage Agreement and agree and accept to be bound by its terms

This Usage Schedule is intended to allow the Customer or Customer Affiliate above to pay a fee to use the Equipment and acquire the Soft Cost Items set forth the Services Agreement.

Base Term: [ ] Months

Due Dates: Usage Payments are due in [arrears/advance] on the [first/last] day of each Usage Period.

Usage Period: [Monthly/Quarterly]

Base Term Commencement Date: The first day of the first whole Usage Period occurring on or after the last Acceptance Date for any item of Equipment.

Equipment Location: See Exhibit A

Currency for Usage Payment: US Dollar

Description	Number of Units	Per Unit Fee	Usage Payment
[Example: Equipment and Soft Cost Items set forth in Dell Quote # 123456]	[Example: 1,000]	[Example: $50.00]	[Example: $50,000]
		Total of Usage Payments:	$

Jurisdiction Specific Terms

Applicable Law

This Usage Agreement is governed by and construed in all respects in accordance with the laws of the Customer's state without regard to conflicts of law principles. The parties consent and submit to the jurisdiction of the local, state, and federal courts located within or for the county within the State where Customer is located, or as may otherwise be required by applicable law. . The parties waive any objection relating to improper venue or *forum non conveniens* to the conduct of any proceeding in any such courts. The parties irrevocably waive all right to trial by jury in any proceeding between them relating to this MUA or a Usage Schedule. The applicable law and jurisdiction for each Usage Agreement shall be as set forth in the applicable Usage Schedule.

Extension Option

Provided that no Event of Default has occurred and is continuing, Customer has two options upon giving notice at least 30 days prior to the expiration of the Base Term: (1) renew the Usage Schedule for a mutually agreeable term, or (2) renew the Usage Schedule on a month-to-month basis, terminable upon 30 days notice from either party to the other. For both Renewal Terms, the Usage Payment shall be the same as the Usage Payment during the Base Term.

Holdover Period

If Customer has not returned the Unit in accordance with Section 8 of the MUA, the Term will automatically extend for successive one-month terms at the same Usage Payment as during the Base Term. Such one-month terms will continue until Usage Provider's receipt of the Unit.

Each party acknowledges its receipt and review of this Usage Schedule and that none of its provisions are missing or illegible. The terms of this Usage Schedule may be different from other Usage Schedules incorporating the terms of the MUA. **If this Usage Schedule was transmitted to Customer for signature in electronic format, Customer represents and warrants that the text originally transmitted has not been altered in any way. Usage Provider's acceptance of this Usage Schedule is based on its reliance on, and specifically conditioned by, the truth of this representation and warranty. This Usage Schedule and the terms of the MUA constitute the entire Usage Agreement.**

Signing Section

Signed for and on behalf of **Usage Provider** by its authorized representative:	Signed for and on behalf of **[Customer Signer]** by its authorized representative:
x	x
Name:	**Name**:
Title:	**Title**:
Date:	**Date**:

Sample Acceptance Certificate

Acceptance Certificate
for Usage Schedule No. ___

This Acceptance Certificate is made by Customer pursuant to the above-referenced Usage Schedule between Customer and Usage Provider, which incorporates the terms of the Master Usage Agreement between Dell Financial Services L.L.C. and [CUSTOMER]. Usage Provider and Customer each acknowledge the terms of the Master Usage Agreement and agree and accept to be bound by the terms of the Master Usage Agreement. Capitalized terms used in this Acceptance Certificate without definition are defined in the Master Usage Agreement or Usage Schedule.

Customer certifies that: (a) the Equipment specified in the Usage Schedule ("Accepted Equipment") is located at the Equipment Location specified in the Usage Schedule, is fully installed and is in good working

order and condition; (b) Customer has inspected the Accepted Equipment; (c) on the Acceptance Date specified below Customer accepted the Accepted Equipment; (d) Customer authorizes Usage Provider to pay for all Soft Cost items specified in the Usage Schedule and (d) no Event of Default or event that with notice or the lapse of time would constitute an Event of Default is continuing.

Acceptance Date: _____, 20___ *(Customer must fill in.)*

Signing Section

Signed for and on behalf of **[Customer full legal name]**
by its authorized representative:

x _____

Exhibit A

Dell Financial Services

Dell Financial Services
PO Box 81577
Austin, TX 78708-1577

LEASE SCHEDULE
Contract #:
Customer Name:
Commencement Date:
Termination Date:

Order #	PO #	Tie Number	Qty	Item #	Service Tag	Item Description	Equipment Location	LRF Asset	Asset Type	Invoice	Periodic Rent	Expensed Items	Shipping Cost	Soft Costs	Total Equipment Cost	Upfront Tax	Ship Date