

# LEGISLATIVE TRACKING FORM

Filing for Council Meeting Date: 03/17/26

Resolution  Ordinance

Contact/Prepared By: \_\_\_\_\_

Date Prepared: \_\_\_\_\_

Title (Caption): An ordinance authorizing the Metropolitan Government of Nashville and Davidson County to participate in the master agreement between the Wilson County Board of Education, a state of Tennessee municipal agency, and Dell Marketing, L.P., to purchase computer hardware and software.

Submitted to Planning Commission?  N/A  Yes-Date: \_\_\_\_\_ Proposal No: \_\_\_\_\_

Proposing Department: \_\_\_\_\_ Requested By: \_\_\_\_\_

Affected Department(s): \_\_\_\_\_ Affected Council District(s): \_\_\_\_\_

**Legislative Category (check one):**

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Bonds                | <input type="checkbox"/> Contract Approval           | <input type="checkbox"/> Intergovernmental Agreement   |
| <input type="checkbox"/> Budget - Pay Plan    | <input type="checkbox"/> Donation                    | <input type="checkbox"/> Lease                         |
| <input type="checkbox"/> Budget - 4%          | <input type="checkbox"/> Easement Abandonment        | <input type="checkbox"/> Maps                          |
| <input type="checkbox"/> Capital Improvements | <input type="checkbox"/> Easement Accept/Acquisition | <input type="checkbox"/> Master List A&E               |
| <input type="checkbox"/> Capital Outlay Notes | <input type="checkbox"/> Grant                       | <input type="checkbox"/> Settlement of Claims/Lawsuits |
| <input type="checkbox"/> Code Amendment       | <input type="checkbox"/> Grant Application           | <input type="checkbox"/> Street/Highway Improvements   |
| <input type="checkbox"/> Condemnation         | <input type="checkbox"/> Improvement Acc.            | <input type="checkbox"/> Other: _____                  |

<b>FINANCE</b> Amount +/-: \$ _____ <b>Funding Source:</b> Capital Improvement Budget Capital Outlay Notes Departmental/Agency Budget Funds to Metro General Obligation Bonds Grant Increased Revenue Sources	<b>Match: \$</b> _____ Judgments and Losses Local Government Investment Project Revenue Bonds Self-Insured Liability Solid Waste Reserve Unappropriated Fund Balance 4% Fund Other: _____
Approved by OMB: <u>Kenneth Hartlage</u> Approved by Finance/Accounts: _____ Approved by Div Grants Coordination: _____	Date to Finance Director's Office: <u>2/25/2026   11:49 AM CST</u> <b>APPROVED BY</b> <b>FINANCE DIRECTOR'S OFFICE:</b> <u>Jennifer Reed/mjw</u>

<b>ADMINISTRATION</b>	
Council District Member Sponsors: _____	
Council Committee Chair Sponsors: _____	
<b>Approved by Administration:</b> _____	<b>Date:</b> _____

<b>DEPARTMENT OF LAW</b>	
Date to Dept. of Law: _____	Approved by Department of Law: _____
<b>Settlement Resolution/Memorandum Approved by:</b> _____	
Date to Council: _____	For Council Meeting: _____ <input type="checkbox"/> E-mailed Clerk
<input type="checkbox"/> All Dept. Signatures <input type="checkbox"/> Copies <input type="checkbox"/> Backing <input type="checkbox"/> Legislative Summary <input type="checkbox"/> Settlement Memo <input type="checkbox"/> Clerk Letter <input type="checkbox"/> Ready to File	

Department of Law – White Copy

Administration –Yellow Copy

Finance Department - Pink Copy

ORDINANCE NO. \_\_\_\_\_

An ordinance authorizing the Metropolitan Government of Nashville and Davidson County to participate in the master agreement between the Wilson County Board of Education, a state of Tennessee municipal agency, and Dell Marketing, L.P., to purchase computer hardware and software.

WHEREAS, Tennessee Code Annotated § 12-3-1203 allows the Wilson County Board of Education to, upon request, purchase supplies, equipment, and services for the Metropolitan Government of Nashville and Davidson County ("Metro") so long as the purchases are made under the same terms and the cost of the purchase is borne by the local government for which the purchase was made; and,

WHEREAS, Section 4.12.160(A) of the Metropolitan Code limits the term of contracts for services to sixty (60) months, unless otherwise authorized by the Metropolitan Council; and,

WHEREAS, the Purchasing Agent desires to continue to participate in the master agreement between Wilson County Board of Education, a state of Tennessee municipal agency, and Dell Marketing, L.P., a copy of which is attached hereto and incorporated herein; and,

WHEREAS, this master agreement was requested by the Metropolitan Nashville Department of Information Technology Services but is available to all Metro departments to utilize; and,

WHEREAS, approval of the agreement will benefit the citizens of Nashville and Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the master agreement between Wilson County Board of Education, a state of Tennessee municipal agency, and Dell Marketing, L.P., a copy of which is attached hereto and incorporated herein, is hereby approved.

Section 2. This ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

INTRODUCED BY:

Dennis Rowland  
Dennis Rowland  
Purchasing Agent

\_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO AVAILABILITY OF FUNDS:

\_\_\_\_\_  
Member(s) of Council

Jenneen Reed  
Jenneen Reed, Director  
Department of Finance

APPROVED AS TO FORM AND  
LEGALITY:

Macy Amos  
Assistant Metropolitan Attorney



# Cooperative Request Form

Request Utilization of a Federal, Statewide, Municipal, or Cooperative Contract

A cooperative is when Metro utilizes a contract from another public entity to make a purchase. With the exception of statewide contracts, use of a cooperative requires Metro Council approval.

Cooperatives are not negotiable. Departments must accept the terms of the master contract without exception.

Questions? Email [zak.kelley@nashville.gov](mailto:zak.kelley@nashville.gov).

## Departmental Information

**What is your name?** Elizabeth Sims

**What is your department?** Information Technology Services

**What is your email address?** liz.sims@nashville.gov

**What is your phone number?** (615) 473-6770

**In addition to your department, will other Metro departments be utilizing this cooperative?** Yes.

**If other Metro departments will be utilizing this cooperative, list them here:** Metro Wide

**How much do you estimate spending on this cooperative contract?** \$75,000,000

## Cooperative Information

**What is the cooperative entity?** Other municipality in Tennessee.

**What is the lead agency?** Wilson County Board Of Education

**Who is the supplier?** Dell Marketing, L.P.

**Is the supplier registered in iSupplier?** Yes.

**If yes, what is the supplier's ISN?** 286

**What is the contract number?** 6475384

**When did the contract start?** Wednesday, July 1, 2020

**When does the contract end?** Tuesday, March 27, 2029

**What was the solicitation method for this contract?** Other.

**What is the good/service that this cooperative will be utilized to purchase?**  
51AHO for Computer Hardware and Software

**Why is utilizing this cooperative contract more advantageous to Metro than issuing our own RFP/ITB?**

Metro has maintained a long-standing contractual relationship with Dell as its standardized technology vendor. All departments and employees procure computers, peripherals, and associated software exclusively through this contract to ensure consistency, compatibility, and compliance with organizational IT standards. Additionally, all equipment is covered under Dell manufacturer warranties for a minimum of three years, which includes maintenance and hardware support. This arrangement reduces operational risk, minimizes downtime, and provides cost-effective lifecycle management of IT assets.

**Upload the original contract from the lead agency.**

 Executed Contract 6475384\_5066.pdf

 Dell Amendment 2024\_2611.pdf

**Does the contract contain any good/service relative to surveillance as described in MCL 13.08.080?** No.

**This contract contains a cooperative purchase provision that allows use by other governmental agencies and/or use of this contract is authorized by state and local law.** Yes.

**I accept the terms of this contract without exception.** Yes.

**Upload the formal solicitation (RFP/ITB) from the lead agency.**

 Executed Contract 6475384.pdf

 Dell Amendment 2024.pdf

**This solicitation was advertised, open, and unrestricted.** Yes.

**I have confirmed with both my department finance manager and/or OMB budget analyst sufficient fund availability for this request.**

Yes

**I affirm that I am authorized by the appropriate individuals in my department, including my director or their designee, to submit this cooperative request.**

Yes



## Cooperative Request Review – Local Government Contract

This cooperative request for **computer hardware and software from Dell Marketing LP via Wilson County Board of Education contract 51AHO** is recommended for approval.

The anticipated project value is **\$75,000,000.00**. The cooperative was requested by ITS; use will be available to all general government departments. The anticipated savings via this cooperative is **\$4,515,071.00**

Council approval **IS** required.

### **Legal Justification**

**T.C.A. § 12-3-1203 & MCL 4.12.090** authorize Metro to purchase goods, supplies, services, and equipment under the provision of contracts entered by cities, counties, utility districts, and other local government units in the state of Tennessee.

51AHO meets this standard.

### **Regulatory Justification**

**R4.12.090.04** of the regulations to the procurement authorize Metro to purchase goods or services from local government units in the state of Tennessee, provided that the contracts are reviewed for price and opportunity cost.

Based on information provided by the department, 51AHO meets this standard.

### **Value Justification**

It is unlikely that Metro will obtain better value through a competitive solicitation given the size and scale of Wilson County Board of Education.

Further, a competitive solicitation for this good/service would require an estimated 139 hours of staff time valued at approximately \$17,457.00. Utilization of this cooperative will require 19 hours of staff time valued at approximately \$2,386.00. **A total savings (discount + staff time) of \$4,515,071.00.**

### **Impact on Minority & Women Owned Businesses**

This contract is exclusively for goods, so the equal business opportunity program would not apply if Metro issued a competitive solicitation. There is, therefore, minimal impact on minority or women owned businesses programing resulting from utilization of this cooperative.

### **NOTES**

Under state law, use of contracts from other governmental entities does not require approval from the local legislative body. It is required here, however, because Metro has been utilizing this contract for 60 months. To use it beyond 60 months, to the 2029 end date, requires approval from the Metropolitan Council.

Prepared by Zak Kelley  
02/12/2026



### Cooperative Request Signature Form

<b>Co-Op Request Number</b>	C2026064
<b>Date Received</b>	February 5, 2026

To Whom It May Concern,

I have read the attached Cooperative Review and concur with the recommendation contained therein.

Should you have questions, please contact the reviewer or reach out to me directly.

Regards,

*Dennis Rowland*

\_\_\_\_\_  
**Dennis Rowland**  
**Purchasing Agent & Chief Procurement Officer**

2/13/2026 | 7:17 AM CST

\_\_\_\_\_  
Date Signed





DELL CONTRACT CODE# 51AHO

**CUSTOMER PURCHASE AGREEMENT FOR PRODUCTS AND SERVICES**

between

**Dell Marketing L.P.**  
One Dell Way  
Round Rock, TX 78682  
("Dell")

and

**Wilson County Board of Education**  
415 Harding Drive  
Lebanon, Tennessee 37087  
("Customer")

This Customer Purchase Agreement ("CPA"), made between Customer and Dell as of the date of last signature below (the "Effective Date"), together with any Schedules, governs Customer's purchase of Products and Services from Dell for internal use. Customer and Customer's Affiliates may order from Dell and Dell's Affiliates under this CPA, in which case such Affiliates shall be "Customer" and "Dell" for the purposes of such orders. Dell and Customer are each referred to individually as a "party," and collectively as the "parties."

**1. DEFINITIONS**

- A. "Dell" means Dell Marketing L.P. or the Dell Affiliate identified on the Order.
- B. "Dell Affiliate" means a direct or indirect subsidiary of Dell Inc. located in the United States.
- C. "Hardware" means computer hardware, related devices and other accessories including all embedded components (excluding Software).
- D. "Hardware Services" means (a) services to be performed by or on behalf of Dell necessary to repair a defect in materials or workmanship of Hardware and as otherwise defined in the Hardware Schedule or SOW, (b) standard deployment services, such as Basic Deployment Services, ProDeploy or ProDeploy Plus services, or c) standard configuration services, including Static and Dynamic Imaging, Asset Tagging, Asset Reporting, standard System Configuration services (BIOS Settings, Hard Drive Partitioning, Application Installation and Operating System Settings).
- E. "Order" means an order placed for Products and/or Services by (a) a written ordering document or agreement under this CPA that is executed by the parties, such as a signed Dell quotation or SOW, (b) Dell's online ordering process at Dell.com or other Dell electronic ordering process agreed to by Dell and Customer, or (c) a Customer purchase order accepted by Dell.
- F. "Products" means Hardware, Software or both.
- G. "Professional Services" means services, other than Hardware Services, to be performed by or on behalf of Dell pursuant to an SOW.
- H. "Schedule(s)" means the Product Schedule or Services Schedule to this CPA, and any other schedules later executed by the parties under this CPA, as well as any attachments to such Schedule(s). Unless otherwise defined in a Schedule, capitalized terms in Schedules shall have the meaning defined in the CPA.
- I. "Services" means either Hardware Services, Professional Services, or both.
- J. "SOW" means any mutually agreed document or agreement describing Services to be provided by or on behalf of Dell to Customer, including without limitation, "Statements of Work," "Service Descriptions," "Specification Sheets," "Task Orders," "Order Forms" and any other such documents executed under the terms of a Professional Services Schedule hereto or otherwise available at Dell.com/servicecontracts/global.
- K. "Third-Party Products" means any Products or Services that are not manufactured, created, licensed, branded or performed by or on behalf of Dell.

## 2. TERM; AUTO-RENEWAL

This CPA continues for a period of five (5) years from the Effective Date. Unless terminated under Section 10 (“Termination”), this CPA may be renewed on the anniversary of the Effective Date for one (1) additional five (5) year period (each period, a “Term”), unless either party provides written notice of non-renewal at least 30 days prior to the expiration of the then-current Term. Each Service and Software license will continue for the term stated in the applicable SOW or Software Agreement (as defined in Section 5.B), unless terminated earlier in accordance with its terms or this CPA. Hardware Service may be renewed if Customer pays a renewal invoice from Dell or continues to use the Hardware Service past its initial term.

## 3. ORDERING AND PAYMENT

- A. **Quotes and Orders.** Customer must identify Dell's quotation (if any), the Dell Contract Code assigned to this CPA (if any), the Products and Services ordered, the requested shipment dates, and shipping and invoice addresses on all Orders. Each Order is subject to acceptance by Dell. Quoted prices are effective until the expiration date of the quote, but may change due to shortages in materials or resources. Orders for Third-Party Products are subject to availability and are cancellable only by Dell. Dell may, prior to shipment, cancel and refund Orders affected by typographical errors. Customer shall place all Orders in the country where the Products and Software are to be shipped and for Services, where the Services benefit is received.
- B. **Payment.** Invoices are due and payable within 30 days of the invoice date unless the invoice states payment terms greater than 30 days. Payment must be made in the method and currency identified by Dell. Dell must approve in writing any assignment by Customer of its payment obligations to a third-party financing company (other than Dell Financial Services, LLC). Dell, without waiving any other rights or remedies and without liability to Customer, may suspend any or all Services until all overdue amounts are paid in full. Customer will pay all reasonable legal fees (including reasonable attorney's fees) and costs associated with collection of overdue amounts.
- C. **Taxes.** Customer is responsible for payment of any sales, use, VAT, GST and any other similar taxes or governmental fees associated with Customer's Order, except for taxes based on Dell's net income, gross revenue or employment obligations. If Dell is obligated by applicable law to collect and remit any taxes or fees, then Dell will add the appropriate amount to Customer's invoices as a separate line item. If Customer qualifies for a tax exemption, Customer must provide Dell with a valid certificate of exemption or other appropriate proof of exemption. The charges stated on each line item of the invoice shall include all duties, levies or any similar charges and exclude VAT or equivalent sales or use tax. Customer shall also pay all freight, insurance, and taxes (including but not limited to import or export duties, sales, use, value add, goods and services, and excise taxes). Dell's invoice shall be in accordance with applicable law. If Customer is required by law to make a withholding or deduction from payment, Customer will make payments to Dell net of the required withholding or deduction, and will supply to Dell satisfactory evidence (e.g. official withholding tax receipts) that Customer has accounted to the relevant authority for the sum withheld or deducted. If such evidence is not provided to Dell within 60 days of remittance to the applicable tax authority, Dell will impose a penalty payment on Customer, and Customer will be liable for such penalty, in the amount of the withholding imposed on that particular transaction.

## 4. SERVICES

The following shall apply to all purchases of Services under this CPA:

- A. **SOW.** Services shall be subject to the additional terms contained in any SOW executed or otherwise provided by Dell in connection with the Service.
- B. **Third-Party Products.** If Customer provides or makes available Third-Party Products for Dell to use in connection with the Services, Customer (a) authorizes Dell to use such Third-Party Products as needed to provide the Services, (b) warrants that it has all consents, licenses, and sublicense rights as may be necessary to make the Third-Party Products available to Dell, and (c) agrees that Dell shall not be liable to Customer if Dell's authorized use causes warranties or other services contracts for the Third-Party Products to become void.
- C. **Services Software.** “Services Software” is Software that Dell may make available to Customer as necessary to enable Customer to receive and use the Services. Services Software may be hosted by Dell or installed on Customer's computers. Customer agrees that it shall (i) only use the Services Software as necessary to receive

and/or use the Services during the term thereof, (ii) use any Services Software hosted by Dell in a lawful manner, without interfering with other Dell customers' use of the Services Software, and without attempting to disrupt the security or operation of the network or systems used to provide the Services Software; and (iii) not misappropriate, disclose, or otherwise violate Dell's or its suppliers' intellectual property rights in the Services Software.

- D. **Customer Obligations.** Except as may be expressly agreed by the parties in writing, Customer shall be solely responsible to back up all data on its systems and to install all equipment or technology upgrades, refreshes, and replacements. Customer shall provide timely access to Customer personnel, systems and information as may be needed for Dell to perform the Services. If the Services are provided on Customer's premises, Customer shall provide, without charge to Dell, a reasonable work environment for Dell personnel that is in compliance with all applicable laws and regulations and that includes work space, reproduction, computer, and other equipment, supplies, and services all as may be needed to perform the Services.
- E. **Data.** In connection with Dell's performance of or Customer's use of the Services or Services Software, Dell may obtain, receive, and/or collect data or information, including system-specific data (collectively, the "Data"). Customer grants Dell (i) a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely to provide the Services or the Services Software; (ii) a license to aggregate and use the Data in an anonymous manner in support of Dell's internal, marketing and sales activities; and (iii) the right to copy and maintain the Data on Dell's or its suppliers' servers as necessary to provide the Services. Customer represents and warrants that it has obtained all rights, permissions, and consents necessary to use and transfer the Data within and outside of the country in which Customer is located in order for Dell to provide Services hereunder.
- F. **Updates.** It may be necessary for Dell to perform scheduled or unscheduled repairs or maintenance, or remotely patch or upgrade the Services Software, which may temporarily degrade the quality of the Services or result in a temporary outage of the Services Software.

## 5. SOFTWARE

Customer may purchase Software licenses under this CPA for Software licensed to Customer by Dell or a Dell Affiliate ("**Dell Licensed Software**") and for Software licensed to Customer by a third party ("**Third-Party Software**").

- A. "**Software**" means any software, library, utility, tool, or other computer or program code, each in object (binary) code form, and the printed materials, online and electronic documentation provided by Dell with the Software and any copies thereof.
- B. "**Software Agreement**" means either (i) the software license agreements included with the software media packaging or presented to Customer during the installation or use of the Software, or (ii) if no license terms accompany Dell Licensed Software or are not otherwise made available to Customer by Dell, then the applicable licensing terms found at [www.dell.com/licenseagreements](http://www.dell.com/licenseagreements) will apply.
- C. "**Software Terms**" means the terms in a Software Agreement for Dell Licensed Software that state (a) the Dell Affiliate that is the licensor of the Software (the "Licensor") (b) Software title, license definitions, rights, and restrictions; (c) Software warranties and remedies; (d) maintenance and support services for the Software; (e) the Licensor's rights in connection with a change of control of Licensor or a sale of its assets; (f) Customer's compliance obligations with respect to the Software; (g) the parties' rights and obligations with respect to a termination of the Software Agreement or a license granted thereunder, and (h) the parties' liability in the event of a misappropriation, misuse, or disclosure of the other party's intellectual property, including, but not limited to the Software.
- D. **Governing Terms.** Dell Licensed Software shall be governed by this CPA, the Software Terms, and the applicable Order provided to Customer by Dell (if any). Third-Party Software shall be governed by the Software Agreement that is provided with such Software and, as between Dell and Customer, the sections of this CPA regarding payment, taxes, warranty, and liability.

## 6. LIMITED WARRANTY

DELL'S WARRANTY TERMS FOR PRODUCTS SHALL BE PROVIDED AS INDICATED IN THE PRODUCT SCHEDULE OR THE SOFTWARE TERMS. DELL'S WARRANTIES FOR SERVICES SHALL BE PROVIDED IN THE SERVICES SCHEDULE. EXCEPT AS

EXPRESSLY STATED BY DELL ELSEWHERE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, DELL (INCLUDING DELL AFFILIATES, CONTRACTORS, AND AGENTS, AND EACH OF THEIR RESPECTIVE EMPLOYEES, DIRECTORS, AND OFFICERS), ON BEHALF OF ITSELF AND ITS SUPPLIERS AND LICENSORS MAKES NO EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO ANY OF THE PRODUCTS OR SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY (a) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (b) FOR ANY THIRD-PARTY PRODUCTS OR SERVICES; (c) FOR THE PERFORMANCE OF OR RESULTS TO BE OBTAINED FROM ANY PRODUCTS OR SERVICES; OR (d) THAT THE PRODUCTS OR SERVICES WILL OPERATE OR BE PROVIDED WITHOUT INTERRUPTION OR ERROR. PRODUCTS AND SERVICES ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS, REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS ANY APPLICATION IN WHICH THE FAILURE OF THE PRODUCTS OR SERVICES COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, “HIGH-RISK ACTIVITIES”).

WARRANTIES DO NOT COVER DAMAGE DUE TO EXTERNAL CAUSES, SUCH AS ACCIDENT, ABUSE, MISUSE, PROBLEMS WITH ELECTRICAL POWER, SERVICES NOT PERFORMED OR AUTHORIZED BY DELL (INCLUDING INSTALLATION OR DE-INSTALLATION), USAGE NOT IN ACCORDANCE WITH THE DOCUMENTATION, NORMAL WEAR AND TEAR, OR USE OF PARTS AND COMPONENTS NOT SUPPLIED OR INTENDED FOR USE WITH THE PRODUCTS OR HARDWARE SERVICES. ANY WARRANTY ON A THIRD-PARTY PRODUCT IS PROVIDED BY THE PUBLISHER, PROVIDER, OR ORIGINAL MANUFACTURER. ALL THIRD-PARTY PRODUCTS ARE PROVIDED BY DELL “AS IS.”

## 7. CONFIDENTIALITY

“**Confidential Information**” means information that is designated as confidential or should reasonably be understood to be confidential. Confidential Information may only be disclosed to the receiving party’s personnel, professional advisors, agents, and subcontractors (“**Representatives**”), or governmental taxing authorities, on a “need-to-know” basis in connection with this CPA. Representatives shall be bound to treat the Confidential Information under terms at least as restrictive as those herein, and the receiving party shall be liable for unauthorized disclosures by its Representatives. Each party will use at least the same degree of care as it employs with respect to its own Confidential Information, but not less than a commercially reasonable standard of care. The foregoing shall not apply to information that (i) is independently developed without use of the other party’s Confidential Information; (ii) has been obtained from a source which is not under a confidentiality obligation; or (iii) is or becomes publicly available without fault of the receiving party. If receiving party must disclose Confidential Information as required by law, it shall give reasonable prior notice to the disclosing party. These obligations shall continue for 3 years from the initial date of disclosure, except that obligations related to information about a party’s trade secrets and intellectual property shall never expire.

## 8. INDEMNIFICATION

- A. Dell shall defend and indemnify Customer against any third-party claim that Dell-branded Products, Services or any tangible items provided as part of the Services (excluding Third-Party Products and open source software) infringe or misappropriate that third party’s U.S. patent, copyright, trade secret, or other intellectual property rights (“**Claims**”). In addition, if Dell receives prompt notice of a Claim that Dell believes is likely to result in an adverse ruling, then Dell shall at its option, (1) obtain a right for Customer to continue using such Products or Service-related deliverables, if any, or for Dell to continue performing the Services; (2) modify such Products or Services to make them non-infringing; (3) replace such Products or Services with a non-infringing substitute; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product or Service-related deliverables, if any. Dell shall have no obligation for any claim arising from (a) modifications of the Products or Services that were not performed by or on behalf of Dell; (b) misuse, or the combination or use with Third-Party Products; (c) Dell’s compliance with Customer’s written specifications or directions, including the incorporation of any software or other materials or processes Customer provides or requests or (d) Customer’s failure to incorporate free Software updates or upgrades that would have avoided the alleged infringement. Dell’s duty to indemnify and defend under this Indemnification Section is contingent upon: (i) Customer’s prompt written notice of the Claim (ii) Dell’s right to solely control the defense and resolution of the Claim, and (iii) Customer’s cooperation in defending and resolving the Claim. These are the exclusive remedies for any third-party intellectual property claim, and nothing in this CPA or elsewhere will obligate Dell to provide any greater indemnity.

- B. Subject to the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act, Customer shall indemnify, to the extent allowed by law, Dell against any third-party claim resulting or arising from (1) Customer's failure to obtain any appropriate license, intellectual property rights, or other permissions, regulatory certifications, or approvals associated with technology or data provided by Customer, or associated with non-Dell software or other components directed or requested by Customer to be used with, installed or integrated as part of the Products or Services; (2) Customer's violation of Dell's proprietary rights; (3) any inaccurate representation regarding the existence of an export license or any allegation made against Dell due to Customer's violation or alleged violation of applicable export laws; or (4) Customer transferring or providing access to Excluded Data to Dell.
- C. Subject to the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act, each party shall indemnify, to the extent allowed by law, the other against any third-party claim for personal bodily injury, including death, where the injury has been exclusively caused by the indemnifying party's gross negligence or willful misconduct in the performance of its obligations under this CPA.
- D. The indemnified party will (a) promptly notify the indemnifying party in writing of any such claim and grant the indemnifying party sole control of the defense and resolution of such claim and (b) cooperate with the indemnifying party, at the indemnifying party's expense, in defending and resolving such claim. The indemnification provisions of this section shall be limited by the availability of lawful appropriation and consistent with the Tennessee Governmental Tort Liability Act as applied to Customer.

## 9. COMPLIANCE WITH LAWS

- A. Customer's purchase of Dell's Products or Services is for its own use, not for resale, export, re-export, or transfer. Customer is subject to and solely responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions, as well as comply with Dell's trade compliance policies. Customer's purchase may not be used, sold, leased, exported, re-exported, or transferred except with prior written authorization by Dell's trade compliance and/or legal teams and 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 that is the subject or target of, economic sanctions of the United States and other applicable jurisdictions.
- B. Customer certifies that all items (including hardware, software, technology and other materials) it provides to Dell for any reason that contain or enable encryption functions either (i) satisfy the criteria in the Cryptography Note (Note 3) of Category 5, Part 2 of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies or (ii) employ key length of 56-bit or less symmetric, 512-bit asymmetric or less, and 112-bit or less elliptic curve. Dell is not responsible for determining whether any Third-Party Product to be used in the Products and Services satisfies regulatory requirements of the country to which such Products or Services are to be delivered or performed, and Dell shall not be obligated to provide any Product or Service where the resulting Product or Service is prohibited by law or does not satisfy the local regulatory requirements.
- C. Dell's privacy policies explain how Dell treats personal information and protects its customers' privacy and can be found at [Dell.com/privacy](http://Dell.com/privacy).

## 10. TERMINATION

Either party may terminate this CPA for convenience by providing at least 30 days prior written notice to the other or by providing timely written notice of non-renewal under Section 2. Either party may terminate this CPA, a SOW, or a Software Agreement (a) for a material breach of the CPA, SOW, or Software Agreement by the other party which is not cured within 30 days of the breaching party's receipt of written notice of the breach

Dell may terminate this CPA, a SOW, or a Software Agreement with 10 days' written notice if Customer does not make payment as required by this CPA or the applicable SOW or Software Agreement (where such payment is not subject to a good faith dispute). If this CPA is terminated for convenience (or not renewed), all then-existing SOWs and Software Agreements shall remain in force for their stated term and shall continue to be governed by this CPA. If this CPA or an SOW or Software Agreement is otherwise terminated, all rights and obligations of the parties under this CPA or the

terminated SOW or Software Agreement shall automatically terminate, except for rights of action accruing prior to termination, payment obligations, and any obligations that expressly or by implication are intended to survive termination.

## 11. LIMITATION OF LIABILITY

- A. EXCEPT FOR CLAIMS RESULTING FROM A PARTY'S GROSS NEGLIGENCE, FRAUD, CRIMINAL CONDUCT OR WILLFUL MISCONDUCT, A VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR AS OTHERWISE SET FORTH IN THE APPLICABLE SCHEDULES, NEITHER PARTY WILL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS CPA OR THE PRODUCTS OR SERVICES, OR FOR ANY OF THE FOLLOWING: (a) LOSS OF REVENUE, INCOME, PROFIT (IN EACH CASE, EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS), SAVINGS OR SHARE VALUE; (b) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF A SYSTEM OR NETWORK, OR THE RECOVERY OF SUCH; (c) LOSS OF BUSINESS OPPORTUNITY; (d) BUSINESS INTERRUPTION OR DOWNTIME; (e) LOSS OF GOODWILL OR REPUTATION; OR (f) THE PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES.
- B. EXCEPT FOR CLAIMS RESULTING FROM THE A PARTY'S GROSS NEGLIGENCE, FRAUD, CRIMINAL CONDUCT OR WILLFUL MISCONDUCT, CUSTOMER'S BREACH OF ITS PAYMENT OBLIGATIONS, VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR OTHER RESTRICTIONS ON USE IN AN ORDER OR SOFTWARE AGREEMENT, OR AS OTHERWISE SET FORTH IN THE APPLICABLE SCHEDULES, EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS, ACTIONS AND CAUSES OF ACTION RELATED TO ANY DISPUTE (AS DEFINED BELOW) SHALL BE LIMITED TO THE AMOUNTS PAID DURING THE 12 MONTH PERIOD PRECEDING THE DATE THAT THE DISPUTE FIRST AROSE, FOR (i) THE PRODUCT THAT IS THE SUBJECT OF THE DISPUTE OR (ii) THE SERVICES THAT ARE THE SUBJECT OF THE DISPUTE, IN EACH CASE EXCLUDING AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES OR PAYMENT OF TAXES.
- C. THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS APPLY TO ALL DISPUTES AND CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, STATUTE, EQUITY OR OTHERWISE. THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL'S SALE OF PRODUCTS OR SERVICES TO CUSTOMER, AND 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.

## 12. ADDITIONAL TERMS

- A. **Independent Contractor Relationship; Assignment; Subcontracting.** The parties are independent contractors. Neither party will have any rights, power or authority to act or create an express or implied obligation on behalf of the other party except as specified in this CPA. Neither party's employees, agents, nor consultants shall be considered under any circumstances to be employees of the other party. Dell has the right to assign, transfer, subcontract, or delegate in whole or in part this CPA, or any of its rights, duties, obligations or liabilities provided that if it delegates or subcontracts its duties in providing Services, Dell shall remain responsible for the performance of such Services under this CPA. Customer may not assign or transfer this CPA without Dell's permission, which shall not be unreasonably withheld.
- B. **Excused Performance.** Neither party shall be liable to the other for any failure or delay in performing its obligations due to circumstances beyond its reasonable control, provided that the other party is promptly notified in writing, and such party uses reasonable commercial efforts to resume performance. The failure of Dell, its affiliates or their subcontractors to perform their obligations under this CPA will be excused to the extent such non-performance is caused by the acts or omissions of Customer, its Affiliates, agents, contractors or other third parties. This Section shall not relieve either party of its obligations under this CPA (including payment), but rather will only excuse a delay in performance.
- C. **Personnel.** If Customer submits a written notice (with details of Customer's concerns) request to Dell to discontinue immediately or as of a certain date from using a particular individual or subcontractor (whether an individual or entity) to provide services under this CPA, Dell will work to quickly comply with the request and notify Customer of the steps to be taken to address the request; and, Customer understands and acknowledges that any change that may occur as a result of the request may have an impact on the timing and availability of the services and products that are impacted by any such change.

- D. **Excluded Data.** Customer acknowledges that Products and Services provided under this CPA are not designed to process, store or be used in connection with any of the following categories of data: (i) data that is classified and/or used on the U.S. Munitions list, including software and technical data; (ii) articles, services and related technical data designated as defense articles and defense services; (iii) ITAR (International Traffic in Arms Regulations) related data; and (iv) other personally identifiable information that is subject to heightened security requirements as a result of Customer's internal policies or practices or by law (collectively referred to as "**Excluded Data**"). Customer is solely responsible for reviewing data that will be provided to or accessed by Dell to ensure that it does not contain Excluded Data.
- E. **U.S. Government Restricted Rights.** The software and documentation provided with the Products and Services are "commercial items" as that term is defined at 48 C.F.R. 12.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein. Contractor/manufacturer of Dell-branded Products is Dell, One Dell Way, Round Rock, Texas 78682.
- F. **Governing Law.** This CPA and any related SOW(s) and Software Agreements, and ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND DELL, including their affiliates, contractors, and agents, and each of their respective employees, directors, and officers (a "**Dispute**") will be governed by the laws of the State of Tennessee, without regard to conflicts of law. The UN Convention for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply.
- G. **Venue.** The parties agree that any Dispute shall be brought exclusively in the state or federal courts located in the State of Tennessee. The parties agree to submit to the personal jurisdiction of such courts and waive any right to have any Dispute resolved in any other venue. If any party breaches this provision by filing in any other court, the breaching party will owe the non-breaching party all their attorneys' fees and costs incurred in response to that breach.
- H. **Limitation Period.** NEITHER PARTY SHALL BE LIABLE FOR ANY CLAIM OR DISPUTE FILED MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION FOR SUCH CLAIM FIRST AROSE.
- I. **Dispute Resolution.** Customer and Dell will attempt to resolve any Dispute through negotiation. If the parties are unable to reach a resolution within 30 days of notice of the Dispute to the other party, the parties may pursue all other courses of action available at law or in equity.
- J. **Attorneys' Fees.** In any Dispute, each party will bear its own attorneys' fees and costs.
- K. **Notices.** Notice to Dell under this CPA or any related Order must be in writing and sent by registered or certified mail (postage prepaid first-class mail and return receipt requested) by overnight delivery service or by electronic mail to the address below, to be effective upon receipt.

Dell Marketing L.P., Attn: Contracts Manager  
One Dell Way, Round Rock, Texas 78682  
Dell\_Legal\_Notices@dell.com

Wilson County Schools  
Deputy Director of Schools  
415 Harding Drive  
Lebanon, TN 37087

- L. **Entire Agreement; Order of Precedence; Severability.** This CPA, including its Schedules, attachments and Orders, each of which is incorporated in this CPA for all purposes, constitutes the entire agreement between the parties concerning the subject matter of this CPA. There are no representations, understandings or agreements, written or oral, relative to this CPA that are not fully expressed in this CPA. In entering into this CPA, neither party is relying upon any representations or statements of the other that are not fully expressed in this CPA; rather each party is relying on its own judgment and due diligence and expressly disclaims reliance upon any representations or statements not expressly set forth in this CPA. In the event of a conflict or ambiguity between the terms of this CPA, a Schedule, or an Order, the terms will take precedence in the following order: the Order, the Schedule, and

this CPA. In the event of a conflict or ambiguity between the terms of this CPA, a Software Agreement, or an Order, the terms will take precedence in the following order: the Order, the Software Terms, and this CPA. Notwithstanding the foregoing, any preprinted terms on Customer's purchase order shall be of no force or effect. Modifications to this CPA will be made only through a written amendment signed by both parties. If any provision of this CPA, or any Schedule or SOW is found to be void or unenforceable, such provision will be stricken or modified, but only to the extent necessary to comply with the law, and the remainder of this CPA or the affected Schedule or SOW will remain in full force. No rights may arise by implication or estoppel, other than those expressly granted herein.

By their signatures below, Dell and Customer agree to the terms and conditions in this CPA:

**Dell Marketing L.P. ("Dell")**

By:

Amanda Eliz. Hudson  
Signature

Amanda E. Hudson

Printed Name

Contracts Manager

Position

March 28, 2019

Date

**Wilson County Board of Education ("Customer")**

By:

Donna L. Wright  
Signature

Donna L. Wright

Printed Name

Director of Schools

Position

3-22-19  
Date

By:

Larry Tomlinson  
Signature

Larry Tomlin

Printed Name LARRY TOMLINSON

Chairman of the Board

Position

3/22/19  
Date

## Product Schedule to Customer Purchase Agreement

1. **General.** This Product Schedule ("Schedule"), in addition to the Customer Purchase Agreement ("CPA"), into which this is hereby incorporated, states the terms for Orders for Products and Hardware Services by Customer from Dell. Unless otherwise defined in this Schedule, capitalized terms herein shall have the meaning defined in the CPA.
2. **Prices.** The prices charged for Products purchased under this Schedule shall be the fixed price for Standard Configurations as specified in Exhibit A to this Schedule or as otherwise quoted by Dell. Additional charges will apply if Customer requests Hardware Services that are performed outside of contracted hours or are beyond the normal coverage for the particular Hardware Service.
3. **Shipping Charges; Title; Risk of Loss.** Shipping and handling charges are not included in Product prices unless expressly indicated at the time of sale. Title to Hardware passes from Dell to Customer upon shipment. Delivery of Software is FOB Origin. Loss or damage that occurs during shipping (including returns) is the responsibility of the party that selected the carrier. Shipping and delivery dates are estimates only. Customer must notify Dell within 5 days of the invoice date if Customer believes any part of its order is missing, wrong, or damaged.
4. **Hardware Returns, Exchanges and Repairs.** Customer agrees to Dell's return policy at [Dell.com/returnspolicy](http://Dell.com/returnspolicy). Before returning or exchanging Hardware, Customer must contact Dell to obtain an authorization number for the return. Customer must return Hardware in its original or equivalent packaging, and Customer is responsible for risk of loss and shipping and handling fees. Additional fees may apply. If Customer fails to follow the return or exchange instructions, Dell will not be responsible for any loss, damage, or modification of Hardware, or processing of Hardware for disposal or resale. Credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing associated with Customer's purchase. Parts used in repairing or servicing Products may be new, equivalent-to-new, or reconditioned. Title to returned or exchanged Hardware shall pass to Dell upon receipt at the specified Dell facility.
5. **Cancellation of Order.** Customer may change or cancel an order for Dell-branded Products only up until the time Dell begins manufacturing the Products. Otherwise, Customer may change or cancel an order as set forth in the applicable Dell quote or as expressly agreed by both parties.
6. **Exclusions.** Hardware Services do not include preventive maintenance or repairs required due to (a) software problems; (b) alteration, adjustment, or repair of the Hardware by anyone other than Dell or Dell's representatives; (c) accident, misuse, or abuse of the system or component (such as fire, water leakage, use of incorrect line voltages or fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions) that have not been caused by Dell; (d) moving of the system from one geographic location or entity to another; or (e) an act of nature.
7. **Suspension of Hardware Services.** Dell may suspend Hardware Services if Customer purchased the Hardware Services through a reseller and the agreement between Customer and such reseller expires or is terminated, or Customer's reseller is delinquent on its payment obligations to Dell due to nonpayment by Customer.
8. **Limited Warranty.** The limited warranties for Dell-branded hardware shall be as stated in the documentation provided with the hardware. If there is no such documentation, then the warranties shall be as stated at [Dell.com/warrantyterms](http://Dell.com/warrantyterms). Dell warrants that Hardware Services shall be performed in a good and workmanlike manner. Customer's exclusive remedy and Dell's sole obligation for any breach of any Hardware Services warranty shall be for Dell to re-perform the non-conforming Hardware Services.

## Exhibit A to Product Schedule Special Pricing Structure for Fixed Configurations

**Special Pricing.** During the Special Pricing Period, the referenced/attached Dell Configurations will be available to Customer for Customer's direct purchases from Dell and only for Customer's own internal use at the stated prices (for purchases from and delivered within the United States). Customer may only use such purchased items for its' own internal business uses and the purchases may not be sold, transferred, leased, or otherwise provided to any other entity or individual. The stated prices are fixed prices for the specific Dell Configurations and may not be aggregated or combined with any other discounts for which Customer may be eligible. In addition, the pricing terms set out above only apply to the specific Dell Configurations and any modifications or other items will be quoted by Dell for acceptance by Customer or otherwise as agreed in writing by Customer and Dell.

The Dell Configurations may be revised as mutually agreed without amending the contract, via mutually agreed quotations through the online electronic ordering portal made available for use by Customer.

**Quarterly Reviews and Product Transition.** Dell's account team will meet with Customer on a quarterly basis to review pricing, as well as Customer's purchased volumes and purchase forecasts. If an above Dell Configuration reaches the end of its life cycle during the Special Pricing Term, Dell will continue to work with Customer to develop a plan for a smooth transition to a comparably configured (specifications and functionality at or above the overall system levels of the discontinued Dell Configuration). The prices for any future configurations offered to Customer are subject to change for: (i) any factor external to Dell that may have a material impact on Dell's business operations or supply chain (ii) in the event of structural or significant changes in the way Dell develops its list pricing; (iii) if key vendors to Dell significantly change their pricing structure to Dell; or (iv) if Customer breaches or otherwise materially fails to comply with its commitments under this Agreement. In the event of a pricing change (whether a reduction or an increase), the new pricing will apply only to future orders placed by the Customer, and the new pricing will be subject to acceptance and approval by Customer through orders through Customer's electronic ordering portal or by a formal amendment to this agreement.

**Technology Changes.** As technology changes rapidly in our industry, with new products and revisions coming in to the marketplace on a regular basis, Dell's policy is necessarily one of product update and revision. Dell may revise and discontinue products (including components thereto) at any time without notice. In the event a product is discontinued, Dell will provide a product of the same or greater functionality, providing the product is available as part of Dell's standard product listing. Should the original product be discontinued before the replacement product has reached price parity with the original product, Dell reserves the right to re-negotiate prices for the products.

**Exhibit A to the Product Schedule**  
**Special Pricing Structure for Catalog Offers**  
**Discount Structure**

For general purchases, Dell will provide the minimum discounts identified below for select offerings generally described in the below table. The discounts are based on Dell’s then current retail pricing and Dell reserves the right to change the retail pricing (which would also change the discounted selling price) at any time to apply to future orders.

**Discounts:** Product classifications and Categories may be changed by Dell without notice.

<b>Discount Category</b>	<b>Product Classification</b>	<b>Minimum Discount off Dell Retail Price</b>
A	PowerEdge Departmental Servers, PowerApp Appliance Servers, PowerVault Storage Products, Precision Workstations, Selected Dell/EMC; Selected OptiPlex Desktops and Selected Latitude Notebooks, VxRail	11.5%
F	Toner; Third-Party Printers through Dell S&P	No discount
H	Value Latitude, OptiPlex , Workstation, Future Products to be Determined	5%
M	3rd Party Software & Peripherals – Mainstream Products	5%
O	Selected Service on PowerEdge Departmental Servers; Directline Service; 4-Hr On-Site Critical Care Plus, Business Care Plus-On-Site Service (all years)	13%
R	On-Site Service – NBD On-Site Service (Extended years), Critical Care On-Site Service (all years)	14.5%
S	Selected Promotional Offers; Inspiron; Selected Latitude, SC PowerEdge; Selected Dell/EMC Branded Peripherals/Imaging; Power Connect, Axim, Projector, Printer	2%
X	Software and Peripheral (S&P) Specific, Non-discountable Products	No discount
ZS	Non-Discountable Service	No discount

Dell’s current published retail price list is available at <http://ftpbox.us.dell.com/slg/weekly/dellpricereport.pdf>

In the event customers purchasing products and services receive more advantageous pricing based on the customer’s requested solutions or participate in special promotional offers (included those that provide additional discounted or specially priced and bundled options), the above discounts will not be applicable. The final customer-accepted Dell Quote or Dell procurement response will contain the applicable pricing and other details for the ordered individual offerings or for bundled offering configurations or special offers. Customer understands that the bundled offering or special promotional offerings may include other discounted or reduced cost or no additional cost products and services and the Customer may compare the bundled offering and any additional services to the line item pricing and minimum discounts to the Dell retail price list.

## Services Schedule to Customer Purchase Agreement

1. **General.** This Services Schedule (“**Schedule**”), in addition to the Customer Purchase Agreement (“**CPA**”), into which this Schedule is hereby incorporated, states the terms for Orders for Professional Services under the CPA.
2. **Orders.** An Order for Professional Services may be (a) in the form of an SOW or other order form executed by the parties; (b) as agreed to by Customer via a Dell online ordering process; or (c) a Customer purchase order for those Professional Services described in Service Descriptions at [Dell.com/servicecontracts/global](http://Dell.com/servicecontracts/global) as of the date Dell receives the purchase order. For orders described in the preceding subsection (c), the Service Descriptions shall be deemed incorporated into the Order and preprinted terms on the purchase order shall not apply.
3. **Charges.**
  - A. **Billing.** Professional Services shall be billed at the rates stated in the SOW, which shall either be (a) per-hour or per-eight hour day (“**Time and Materials**”) or (b) a fixed price for the tasks to be performed and deliverables to be provided (“**Fixed Price**”). The hours or days stated in a Time and Materials Services SOW are a good faith estimate of the time required to perform the Professional Services described in the SOW, but not a commitment to complete them in that amount of time. However, Dell will only perform Professional Services beyond the contracted hours on the written authorization of Customer. Additional charges will apply if Customer requests Services that are performed outside of contracted hours or are beyond the normal coverage for the particular Service.
  - B. **Travel Expenses; Taxes.** Unless otherwise stated in an SOW, Customer shall (i) reimburse Dell for actual, reasonable travel-related and other out-of-pocket expenses incurred in connection with any Services and (ii) pay any applicable sales, use, or other taxes Dell is required to collect in connection with the Services, except that Dell shall be responsible for its franchise, property, and employment taxes and taxes based on its net income.
  - C. **Cost of Living Adjustment.** This Section 3.C shall apply to SOWs with a term longer than 1 year. Dell may adjust prices on any anniversary of the effective date of such an SOW if on such date the ECI (as defined below) is higher than it was on the immediately preceding anniversary date. The permitted price adjustment shall be calculated by multiplying the then-existing price(s) by a factor equal to the new ECI divided by the immediately preceding ECI, minus one. Each price adjustment shall remain in effect until the next permitted adjustment.  
  

For purposes of this Schedule, “**ECI**” means the Employment Cost Index, Total Compensation, Not Seasonally Adjusted, Private Industry for Professional, Specialty and Technical Occupations published by the Bureau of Labor Statistics of the United States Department of Labor or, if such index ceases to be published, then another comparable measure agreed to by Dell and Customer.
4. **Warranty.** Dell warrants that the Professional Services shall be performed by qualified personnel in a workmanlike manner consistent with or superior to good practice in the US information technology services industry. Customer’s exclusive remedy and Dell’s sole obligation for any breach of foregoing warranty shall be for Dell to re-perform the non-conforming Professional Services at no charge or cancel the fees applicable to the non-conforming Services. All breaches of the warranty stated in this Section must be reported within 30 days of the performance of the Services.
5. **Suspension of Professional Services.** Dell may suspend Professional Services if Customer purchased the Professional Services through a reseller and the reseller is delinquent on its payment obligations to Dell due to nonpayment by Customer. If Professional Services is purchased through a reseller and the agreement between Customer and such reseller expires or is terminated prior to the end of a SOW, the terms between Customer and the reseller to which Dell is a third party beneficiary shall remain in force as between Dell and Customer.
6. **Intellectual Property.** During the course of providing Professional Services, Dell may create and provide to Customer items including, but not limited to documents, designs, computer code, know-how, and methodologies which are protected by the intellectual property law of the United States, Canada, or the location in which the Professional Services are being provided (“**IP**”). Subject to payment in full, Customer is hereby granted a perpetual, irrevocable (except for non-payment), non-transferable, non-sublicenseable license to use the IP and any pre-existing Dell intellectual property that may be provided to Customer as part of the Professional Services (“**Pre-existing Dell IP**”) for non-commercial purposes to manage its and its Affiliates’ internal business operations. Except as may otherwise be expressly stated in an SOW, Dell shall have sole and exclusive ownership of all IP, except (a) Customer shall retain all its rights in any Customer information or pre-existing intellectual property that may be contained in the IP and (b) Dell may not disclose or distribute the IP to any third party unless it first removes any such Customer information or intellectual property. Other than the license granted to Customer in this Section, Dell shall retain all rights and ownership in all Pre-existing Dell IP.





# ADDITIONAL REMARKS SCHEDULE

AGENCY MARSH RISK & INSURANCE SERVICES		NAMED INSURED Dell Technologies Inc. and all Subsidiaries One Dell Way - RR1-50 Round Rock, TX 78682	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

## ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER: 25      FORM TITLE: Certificate of Liability Insurance**

DELL INC. - WORKERS COMPENSATION/EMPLOYERS LIABILITY; EFFECTIVE 3/1/2020 - EXPIRATION 3/1/2021

Insurer: New Hampshire Insurance Co. NAIC# 23841

WC023096066 - All Other States

WC023096067 - MA,WI, WY and Stop Gap EL: ND,OH,WA

WC023096065 - AK, AZ, IL, KY NC, NH, NJ, PA, UT, VA, VT

Insurer: Illinois National Insurance Company NAIC #23817

WC023096063 - FL

Insurer: American Home Assurance Company NAIC# 19380

WC023096064 - CA

**ENDORSEMENT**

This endorsement, effective 12:01 A.M. 03/01/2020 forms a part of

Policy No. CA 663-12-19 issued to DELL TECHNOLOGIES INC.

by NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT**

*This endorsement modifies insurance provided under the following:*

BUSINESS AUTO COVERAGE FORM

**SCHEDULE**

**ADDITIONAL INSURED:**

Any person or organization for whom you are contractually bound to provide Additional Insured status but only to the extent of such person's or organization's liability arising out of the use of a covered "auto".

**I. SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:**

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.



\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

**ENDORSEMENT**

This endorsement, effective 12:01 A.M. **03/01/2020** forms a part of

policy No. **GL 172-88-20** issued to **DELL TECHNOLOGIES INC.**

by **NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

**ADDITIONAL INSURED - PRIMARY INSURANCE**

*This endorsement modifies insurance provided under the following:*

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**Section IV, Commercial General Liability Conditions, paragraph 4., Other Insurance, subparagraph a. Primary Insurance,** is amended by the addition of the following:

However, coverage under this policy afforded to an additional insured will apply as primary insurance where required by contract, and any other insurance issued to such additional insured shall apply as excess and noncontributory insurance.

  
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AUTHORIZED REPRESENTATIVE



**AMENDMENT TO CUSTOMER PURCHASE AGREEMENT FOR PRODUCTS AND SERVICES  
BETWEEN DELL MARKETING L.P. ("Dell")  
AND  
WILSON COUNTY BOARD OF EDUCATION ("Customer")  
(Contract Effective Date: March 28, 2019)  
Dell Contract Code: C000000381302/51AHO**

This Amendment No. 1 is by and between the Wilson County Board of Education ("**Customer**") and Dell Marketing, L.P. ("**Dell**"), (together the "**Parties**").

**RECITALS**

**WHEREAS**, Dell entered into a Customer Purchase Agreement ("**CPA**") with the Customer to sell Dell hardware, third party hardware, software, peripherals and services to the Customer through March 27, 2024;

**WHEREAS**, the CPA provides for an additional five-year renewal term to be begin on the anniversary of the Effective Date;

**WHEREAS**, Customer has requested that Dell renew the CPA for an additional five-year term and Dell has agreed to renew it subject to an updated Discount Structure;

**NOW THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the Parties agree as follows:

1. The Parties agree to renew the CPA for an additional five-year term, beginning on March 28, 2024 and ending on March 27, 2029.
2. The updated Discount Structure is attached hereto as "Attachment A."
3. Except as explicitly amended by this Amendment, all other terms and conditions contained in the Contract, including the terms within the CPA's Product Schedule and Exhibit A to the Product Schedule, shall remain in full force and effect.
4. In the case of a conflict between the terms of the Contract and this Amendment, this Amendment shall take precedence.

By their signatures below, the Parties indicate their agreement to the terms and conditions of this Amendment:

<b>Dell Marketing L.P.:</b>  Signature: <u>Katherine Castillo</u> Printed Name: <u>Katherine Castillo</u> Title: <u>Paralegal Advisor</u> Date: <u>02/06/2024</u>	<b>Wilson County Board of Education:</b>  Signature: <u></u> Printed Name: <u>Brandon Cook</u> Title: <u>Technology Supervisor</u> Date: <u>2/16/24</u>
--	--

**Attachment A**

<b>Discount Category</b>	<b>Description</b>	<b>DOL %</b>
<b>A</b>	<b>Commercial Chrome, Wyse, Cloud Products, Dell Storage OEM, Dell-Branded Memory (Non-Tied), Precision Desktops, Internet of Things (IOT), Latitude, Precision Notebooks, Optiplex, PowerEdge Servers, Software - Server &amp; Other, Software – Storage, Customer Kits(Dell Branded Non-tied Peripherals including some monitors), Consumer Chrome</b>	<b>11.5 %</b>
<b>F</b>	<b>Toner</b>	<b>0%</b>
<b>H</b>	<b>BTX, Prebuilt – Ready to Ship Systems</b>	<b>5%</b>
<b>M</b>	<b>Third Party – Mainstream</b>	<b>5%</b>
<b>R</b>	<b>CFI / Configuration Services SKUs</b>	<b>14.5%</b>
<b>S</b>	<b>Alienware Notebooks, Converged Infrastructure, Data Protection Appliance, Data Protection Software, Data Security Solutions, Dell Networking, Dell Storage PS, Dell Storage SC, Displays (Dell Branded Non-Tied),, OEM Networking, Inspiron Notebooks, Projectors/Monitors/Other Electronics (Dell Branded Non-Tied), Storage Entry, Storage High End, Storage Integrated Offer, Storage Mid Range, Storage Unstructured, Tablets, Vostro Notebooks, XPS Notebooks</b>	<b>2%</b>
<b>S</b>	<b>Hyper Converged Infrastructure, Dell   EMC</b>	<b>11.5%</b>
<b>U</b>	<b>Spare Parts</b>	<b>0%</b>
<b>X</b>	<b>Third Party - Non-Discountable</b>	<b>0%</b>
<b>Z</b>	<b>Alienware Desktops, Vostro Desktops, XPS Desktops</b>	<b>0%</b>
<b>Z</b>	<b>Inspiron Desktops</b>	<b>2%</b>
<b>Z, Z1, Z5</b>	<b>Services - i.e Deployment, VSOE, Custom, and System-Tied and Non-Tied (POS and APOS)</b>	<b>0%</b>

*Where a Dell-branded product is comprised of both hardware and services, the contract discount percentage for the hardware as per the Discount Category Matrix above will also apply to the tied services. When a service is purchased on its own and is not tied to a system/hardware, then the*

*service will be discounted according to its Discount Category assignment – i.e., R at 14.5%; Z, Z1, and ZS at 0%.*

## Certificate Of Completion

Envelope Id: 95CC3E70-B08D-425D-9A6D-EB1689D1C5D9

Status: Sent

Subject: Council Legislation - Dell Marketing

Source Envelope:

Document Pages: 28

Signatures: 5

Envelope Originator:

Certificate Pages: 16

Initials: 0

Procurement Resource Group

AutoNav: Enabled

730 2nd Ave. South 1st Floor

Envelopeld Stamping: Enabled

Nashville, TN 37219

Time Zone: (UTC-06:00) Central Time (US & Canada)

prg@nashville.gov

IP Address: 170.190.198.185

## Record Tracking

Status: Original

Holder: Procurement Resource Group

Location: DocuSign

2/24/2026 10:33:23 AM

prg@nashville.gov

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Metropolitan Government of Nashville and Davidson County

Location: Docusign

## Signer Events

### Signature

### Timestamp

Kenneth Hartlage

kenneth.hartlage@nashville.gov

Security Level: Email, Account Authentication (None)

Sent: 2/24/2026 10:37:10 AM

Viewed: 2/25/2026 8:57:08 AM

Signed: 2/25/2026 8:58:10 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

### Electronic Record and Signature Disclosure:

Accepted: 2/25/2026 8:57:08 AM

ID: 6268118a-b270-45a6-9cd1-d7e337156e64

Dennis Rowland

dennis.rowland@nashville.gov

Purchasing Agent & Chief Procurement Officer

Security Level: Email, Account Authentication (None)

Sent: 2/25/2026 8:58:12 AM

Viewed: 2/25/2026 10:13:35 AM

Signed: 2/25/2026 10:13:44 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.190

### Electronic Record and Signature Disclosure:

Not Offered via Docusign

Jenneen Reed/mjw

MaryJo.Wiggins@nashville.gov

Security Level: Email, Account Authentication (None)

Sent: 2/25/2026 10:13:46 AM

Viewed: 2/25/2026 11:48:54 AM

Signed: 2/25/2026 11:49:29 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.100

### Electronic Record and Signature Disclosure:

Accepted: 2/25/2026 11:48:54 AM

ID: cdb2a8fd-d144-47d1-861a-800c5a205ad9

Macy Amos

macy.amos@nashville.gov

Security Level: Email, Account Authentication (None)

Sent: 2/25/2026 11:49:32 AM

Viewed: 2/26/2026 9:44:15 AM

Signed: 2/26/2026 9:44:35 AM

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.144

### Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
Accepted: 2/26/2026 9:44:15 AM ID: dc0223d8-fba7-4946-b0af-7ec3c5a08e14		
Procurement Resource Group prg@nashville.gov Metropolitan Government of Nashville and Davidson County Security Level: Email, Account Authentication (None)		Sent: 2/26/2026 9:44:37 AM
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Sally Palmer  
sally.palmer@nashville.gov  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Accepted: 2/26/2026 8:06:47 AM  
ID: 0f1b848b-d7d6-4c76-8318-5514b76fb7fc

Macy Amos  
macy.amos@nashville.gov  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Accepted: 2/26/2026 9:44:15 AM  
ID: dc0223d8-fba7-4946-b0af-7ec3c5a08e14

Amber Gardner  
Amber.Gardner@nashville.gov  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Austin Kyle  
publicrecords@nashville.gov  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Accepted: 2/24/2026 12:40:55 PM  
ID: fc8a79e2-bc21-41d1-9e4a-70f3d20cd3fa

Gary Clay  
gary.clay@nashville.gov  
Security Level: Email, Account Authentication  
(None)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
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John Stewart

john.stewart@nashville.gov

Security Level: Email, Account Authentication  
(None)

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Envelope Sent

Hashed/Encrypted

2/24/2026 10:37:10 AM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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1. ACCEPTANCE OF TERMS AND CONDITIONS These Terms and Conditions govern your ("Subscriber" or "you") use of DocuSign's on-demand electronic signature service (the "Subscription Service"), as accessed either directly through DocuSign.com, DocuSign.net, or through a DocuSign affiliate's web page offering a Service Plan (collectively, the "Site"). By depositing any document into the System (as defined below), you accept these Terms and Conditions (including your corresponding Service Plan, the DocuSign.com Terms of Use, and all policies and guidelines referenced and hereby incorporated into these Terms and Conditions) and any modifications that may be made to the Terms and Conditions from time to time. If you do not agree to these Terms and Conditions, you should not use the Subscription Service or visit or browse the Site. These Terms and Conditions constitute a binding legal agreement between you and DocuSign, Inc. ("DocuSign," "we," "us," and "our"). Please read them carefully and print a copy for your future reference.

2. MODIFICATION OF TERMS AND CONDITIONS We reserve the right to modify these Terms and Conditions at any time and in any manner at our sole discretion by: (a) posting a revision on the Site; or (b) sending information regarding the amendment to the email address you provide to us. **YOU ARE RESPONSIBLE FOR REGULARLY REVIEWING THE SITE TO OBTAIN TIMELY NOTICE OF ANY AMENDMENTS. YOU SHALL BE DEEMED TO HAVE ACCEPTED SUCH AMENDMENTS BY CONTINUING TO USE THE SUBSCRIPTION SERVICE FOR MORE THAN 20 DAYS AFTER SUCH AMENDMENTS HAVE BEEN POSTED OR INFORMATION REGARDING SUCH AMENDMENTS HAS BEEN SENT TO YOU.** You agree that we shall not be liable to you or to any third party for any modification of the Terms and Conditions.

3. DEFINITIONS "Account" means a unique account established by Subscriber to enable its Authorized Users to access and use the Subscription Service. "Authorized User" means any employee or agent of Subscriber, identified by a unique email address and user name, who is registered under the Account, provided that no two persons may register, access or use the Subscription Service as the same Authorized User. "Contract" refers to a contract, notice, disclosure, or other record or document deposited into the System by Subscriber for processing using the Subscription Service. "Envelope" means an electronic record containing one or more eContracts consisting of a single page or a group of pages of data uploaded to the System. "Seat" means an active Authorized User listed in the membership of an Account at any one time. No two individuals may log onto or use the Subscription Service as the same Authorized User, but Subscriber may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time is equal to or less than the number of Seats purchased. "Service Plan" means the right to access and use the Subscription Service for a specified period in exchange for a periodic fee, subject to the Service Plan restrictions and requirements that are used to describe the selected Service Plan on the Site. Restrictions and requirements may include any or all of the following: (a) number of Seats and/or Envelopes that a Subscriber may use in a month or year for a fee; (b) fee for sent Envelopes in excess of the number of Envelopes allocated to Subscriber under the Service Plan; (c) per-seat or per-user restrictions; (d) the license to use DocuSign software products such as DocuSign Connect Express in connection with the Subscription Service; and (e) per use fees. "Specifications" means the technical specifications set forth in the "Subscription Service Specifications" available at <http://docusign.com/company/specifications>. "Subscription Service" means DocuSign's on-demand electronic signature service, as updated from time

to time, which provides on-line display, certified delivery, acknowledgement, electronic signature, and storage services for eContracts via the Internet. "System" refers to the software systems and programs, communication and network facilities, and hardware and equipment used by DocuSign or its agents to provide the Subscription Service. "Term" means the period of effectiveness of these Terms and Conditions, as specified in Section 12 below. "Transaction Data" means the metadata associated with an Envelope (such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs) and maintained by DocuSign in order to establish the digital audit trail required by the Subscription Service.

#### 4. SUBSCRIPTION SERVICE

During the term of the Service Plan and subject to these Terms and Conditions, Subscriber will have the right to obtain an Account and register its Authorized Users, who may access and use the Subscription Service, and DocuSign will provide the Subscription Service in material conformance with the Specifications. You must be 18 years of age or older to register for an Account and use the Subscription Service. Subscriber's right to use the Subscription Service is limited to its Authorized Users, and Subscriber agrees not to resell or otherwise provide or assist with the provision of the Subscription Service to any third party. In addition, DocuSign's provision of the Subscription Service is conditioned on Subscriber's acknowledgement and agreement to the following: (a) The Subscription Service facilitates the execution of eContracts between the parties to those eContracts. Nothing in these Terms and Conditions may be construed to make DocuSign a party to any eContract processed through the Subscription Service, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eContract; (b) Between DocuSign and Subscriber, Subscriber has exclusive control over and responsibility for the content, quality, and format of any eContract. All eContracts stored by DocuSign are maintained in an encrypted form, and DocuSign has no control of or access to their contents; (c) If Subscriber elects to use one or more of the optional features designed to verify the identity of the intended recipient of an eContract that DocuSign makes available to its subscribers ("Authentication Measures"), DocuSign will apply only those Authentication Measures selected by the Subscriber, but makes no representations or warranties about the appropriateness of any Authentication Measure. Further, DocuSign assumes no liability for: (A) the inability or failure by the intended recipient or other party to satisfy the Authentication Measure; or (B) the circumvention by any person (other than DocuSign) of any Authentication Measure; (d) Certain types of agreements and documents may be exempted from electronic signature laws (e.g. wills and agreements pertaining to family law), or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. DocuSign is not responsible or liable to determine whether any particular eContract is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures; (e) DocuSign is not responsible for determining how long any d to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Subscriber's eContracts or other documents to any third parties; (f) Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign does not and is not responsible to: (A) determine whether any

particular transaction involves a “consumer”; (B) furnish or obtain any such consents or determine if any such consents have been withdrawn; (C) provide any information or disclosures in connection with any attempt to obtain any such consents; (D) provide legal review of, or update or correct any information or disclosures currently or previously given; (E) provide any such copies or access, except as expressly provided in the Specifications for all transactions, consumer or otherwise; or (F) otherwise to comply with any such special requirements; and (g) Subscriber undertakes to determine whether any “consumer” is involved in any eContract presented by Subscriber or its Authorized Users for processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation. (h) If the domain of the primary email address associated with the Account is owned by an organization and was assigned to Subscriber as an employee, contractor or member of such organization, and that organization wishes to establish a commercial relationship with DocuSign and add the Account to such relationship, then, if Subscriber does not change the email address associated with the Account, the Account may become subject to the commercial relationship between DocuSign and such organization and controlled by such organization.

**5. RESPONSIBILITY FOR CONTENT OF COMMUNICATIONS** As between Subscriber and DocuSign, Subscriber is solely responsible for the nature and content of all materials, works, data, statements, and other visual, graphical, video, and written or audible communications submitted by any Authorized User or otherwise processed through its Account, the Subscription Service, or under any Service Plan. Accordingly: (a) Subscriber will not use or permit the use of the Subscription Service to send unsolicited mass mailings outside its organization. The term “unsolicited mass mailings” includes all statutory or common definitions or understanding of those terms in the applicable jurisdiction, such as those set forth for “Commercial Electronic Mail Messages” under the U.S. CAN-SPAM Act, as an example only; and (b) Subscriber will not use or permit the use of the Subscription Service: (i) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene; (ii) in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability (other than contractual liability of the parties under eContracts processed through the Subscription Service); (iii) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Service or interfere with the use or enjoyment of the Subscription Service by others; or (iv) in any way that constitutes or encourages conduct that could constitute a criminal offense. DocuSign does not monitor the content processed through the Subscription Service, but in accordance with DMCA (Digital Millennium Copyright Act) safe harbors, it may suspend any use of the Subscription Service, or remove or disable any content that DocuSign reasonably and in good faith believes violates this Agreement or applicable laws or regulations. DocuSign will use commercially reasonable efforts to notify Subscriber prior to any such suspension or disablement, unless DocuSign reasonably believes that: (A) it is prohibited from doing so under applicable law or under legal process, such as court or government administrative agency processes, orders, mandates, and the like; or (B) it is necessary to delay notice in order to prevent imminent harm to the System, Subscription Service, or a third party. Under circumstances where notice is delayed, DocuSign will provide the notice if and when the related restrictions in the previous sentence no longer apply.

**6. PRICING AND PER USE PURCHASES** The prices, features, and options of the Subscription Service available for an Account depend on the Service Plan selected by Subscriber. Subscriber may also purchase optional services on a periodic or per-use basis. DocuSign may add or change the prices, features or options available with a

Service Plan without notice. Subscriber's usage under a Service Plan is measured based on the actual number of Seats as described in the Service Plan on the Site. Once a per-Seat Service Plan is established, the right of the named Authorized User to access and use the Subscription Service is not transferable; any additional or differently named Authorized Users must purchase per-Seat Service Plans to send Envelopes. Extra seats, users and/or per use fees will be charged as set forth in Subscriber's Service Plan if allowed by such Service Plan. If a Services Plan defines a monthly Envelope Allowance (i.e. # Envelopes per month allowed to be sent), all Envelopes sent in excess of the Envelope Allowance will incur a per-Envelope charge. Any unused Envelope Allowances will expire and not carry over from one billing period to another under a Service Plan. Subscriber's Account will be deemed to have consumed an Envelope at the time the Envelope is sent by Subscriber, regardless of whether Envelopes were received by recipients, or whether recipients have performed any actions upon any eContract in the Envelope. Powerforms are considered Envelopes within an Envelope Allowance Service Plan, and will be deemed consumed at the time they are "clicked" by any end user regardless of whether or not any actions are subsequently performed upon such Envelope. For Service Plans that specify the Envelope Allowance is "Unlimited," Subscriber is allowed to send a reasonable number of Envelopes from the number of Seats purchased. If DocuSign suspects that the number of Envelopes sent from a particular Seat or a group of Seats is abusive and/or unduly burdensome, DocuSign will promptly notify Subscriber, discuss the use-case scenario with Subscriber and any continued monitoring, additional discussions and/or information required to make a final determination on the course of action based on such information. In the event Subscriber exceeds, in DocuSign's sole discretion, reasonable use restrictions under a Service Plan, DocuSign reserves the right to transfer Subscriber into a higher-tier Service Plan without notice. If you misrepresent your eligibility for any Service Plan, you agree to pay us the additional amount you would have been charged under the most favorable pricing structure for which you are eligible. DocuSign may discontinue a Service Plan at any time, and with prior notice to you, may migrate your Account to a similar Service Plan that may carry a different fee. You agree to allow us to charge your credit card for the fees associated with a substitute Service Plan, even if those fees are higher than those you agreed to when you registered your Account. Optional asures, are measured at the time of use, and such charges are specific to the number of units of the service(s) used during the billing period. Optional services subject to periodic charges, such as additional secure storage, are charged on the same periodic basis as the Service Plan fees for the Subscription Service.

**7. SUBSCRIBER SUPPORT** DocuSign will provide Subscriber support to Subscriber as specified in the Service Plan selected by Subscriber, and that is further detailed on DocuSign's website.

**8. STORAGE** DocuSign will store eContracts per the terms of the Service Plan selected by Subscriber. For Service Plans that specify the Envelope storage amount is "Unlimited," DocuSign will store an amount of Envelopes that is not abusive and/or unduly burdensome, in DocuSign's sole discretion. Subscriber may retrieve and store copies of eContracts for storage outside of the System at any time during the Term of the Service Plan when Subscriber is in good financial standing under these Terms and Conditions, and may delete or purge eContracts from the System at its own discretion. DocuSign may, at its sole discretion, delete an uncompleted eContract from the System immediately and without notice upon earlier of: (i) expiration of the Envelope (where Subscriber has established an expiration for such Envelope, not to exceed 365 days); or (ii) expiration of the Term. DocuSign assumes no liability or responsibility for a party's failure or inability to electronically sign any eContract within such a period of time. DocuSign may retain Transaction Data for as long as it has a

business purpose to do so. 9. BUSINESS AGREEMENT BENEFITS You may receive or be eligible for certain pricing structures, discounts, features, promotions, and other benefits (collectively, "Benefits") through a business or government Subscriber's agreement with us (a "Business Agreement"). Any and all such Benefits are provided to you solely as a result of the corresponding Business Agreement and such Benefits may be modified or terminated without notice. If you use the Subscription Service where a business or government entity pays your charges or is otherwise liable for the charges, you authorize us to share your account information with that entity and/or its authorized agents. If you are enrolled in a Service Plan or receive certain Benefits tied to a Business Agreement with us, but you are liable for your own charges, then you authorize us to share enough account information with that entity and its authorized agents to verify your continuing eligibility for those Benefits and the Service Plan. 10. FEES AND PAYMENT TERMS The Service Plan rates, charges, and other conditions for use are set forth in the Site. Subscriber will pay DocuSign the applicable charges for the Services Plan as set forth on the Site. If you add more Authorized Users than the number of Seats you purchased, we will add those Authorized Users to your Account and impose additional charges for such additional Seats on an ongoing basis. Charges for pre-paid Service Plans will be billed to Subscriber in advance. Charges for per use purchases and standard Service Plan charges will be billed in arrears. When you register for an Account, you will be required to provide DocuSign with accurate, complete, and current credit card information for a valid credit card that you are authorized to use. You must promptly notify us of any change in your invoicing address or changes related to the credit card used for payment. By completing your registration for the Services Plan, you authorize DocuSign or its agent to bill your credit card the applicable Service Plan charges, any and all applicable taxes, and any other charges you may incur in connection with your use of the Subscription Service, all of which will be charged to your credit card. Each time you use the Subscription Service, or allow or cause the Subscription Service to be used, you reaffirm that we are authorized to charge your credit card. You may terminate your Account and revoke your credit card authorization as set forth in the Term and Termination section of these Terms and Conditions. We will provide you with one invoice in a format we choose, which may change from time to time, for all Subscription Service associated with each Account and any charges of a third party on whose behalf we bill. Payment of all charges is due and will be charged to your credit card upon your receipt of an invoice. Billing cycle end dates may change from time to time. When a billing cycle covers less than or more than a full month, we may make reasonable adjustments and/or prorations. If your Account is a qualified business account and is approved by us in writing for corporate billing, charges will be accumulated, identified by Account identification number, and invoiced on a monthly basis. You agree that we may (at our option) accumulate charges incurred during your monthly billing cycle and submit them as one or more aggregate charges during or at the end of each cycle, and that we may delay obtaining authorization from your credit card issuer until submission of the accumulated charge(s). This means that accumulated charges may appear on the statement you receive from your credit card issuer. If DocuSign does not receive payment from your credit card provider, you agree to pay all amounts due upon demand. DocuSign reserves the right to correct any errors or mistakes that it makes even if it has already requested or received payment. Your credit card issuer's agreement governs your use of your credit card in connection with the Subscription Service, and you must refer to such agreement (not these Terms and Conditions) with respect to your rights and liabilities as a cardholder. You are solely responsible for any and all fees charged to your credit card by the issuer, bank, or financial institution including, but not limited to, membership,

overdraft, insufficient funds, and over the credit limit fees. You agree to notify us about any billing problems or discrepancies within 20 days after they first appear on your invoice. If you do not bring them to our attention within 20 days, you agree that you waive your right to dispute such problems or discrepancies. We may modify the price, content, or nature of the Subscription Service and/or your Service Plan at any time. If we modify any of the foregoing terms, you may cancel your use of the Subscription Service. We may provide notice of any such changes by e-mail, notice to you upon log-in, or by publishing them on the Site. Your payment obligations survive any termination of your use of the Subscription Service before the end of the billing cycle. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by DocuSign to collect any amount that is not paid when due. DocuSign may accept any check or payment in any amount without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign under these Terms and Conditions may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. Unless otherwise noted and Conditions are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars. Other than federal and state net income taxes imposed on DocuSign by the United States, Subscriber will bear all taxes, duties, VAT and other governmental charges (collectively, "taxes") resulting from these Terms and Conditions or transactions conducted in relation to these Terms and Conditions. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received and retained by DocuSign after all such taxes are paid are equal to the amounts that DocuSign would have been entitled to in accordance with these Terms and Conditions as if the taxes did not exist. 11. DEPOSITS, SERVICE LIMITS, CREDIT REPORTS, AND RETURN OF BALANCES You authorize us to ask consumer reporting agencies or trade references to furnish us with employment and credit information, and you consent to our rechecking and reporting personal and/or business payment and credit history if, in our sole discretion, we so choose. If you believe that we have reported inaccurate information about your account to a consumer reporting agency, you may send a written notice describing the specific inaccuracy to the address provided in the Notices section below. For you to use the Subscription Service, we may require a deposit or set a service limit. The deposit will be held as a partial guarantee of payment. It cannot be used by you to pay your invoice or delayed payment. Unless otherwise required by law, deposits may be mixed with other funds and will not earn interest. We reserve the right to increase your deposit if we deem appropriate. You may request that we reevaluate your deposit on an annual basis, which may result in a partial or total refund of the deposit to you or credit to your account. If you default or these Terms and Conditions are terminated, we may, without notice to you, apply any deposit towards payment of any amounts you owe to us. After approximately 90 days following termination of these Terms and Conditions, any remaining deposit or other credit balance in excess of amounts owed will be returned without interest, unless otherwise required by law, to you at your last known address. You agree that any amounts under \$15 will not be refunded to cover our costs of closing your account. If the deposit balance is undeliverable and returned to us, we will hold it for you for one year from the date of return and, during that period, we may charge a service fee against the deposit balance. You hereby grant us a security interest in any deposit we require to secure the performance of your obligations under these Terms and

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