

CUSTOMER PURCHASE AGREEMENT FOR PRODUCTS AND SERVICES

between

Dell Marketing L.P.
One Dell Way
Round Rock, TX 78682

and

Contra Costa County, for it's
Health Services Department
595 Center Ave., Suite 200
Martinez, CA 94553
("Customer")

THIS CUSTOMER PURCHASE AGREEMENT ("CPA"), made between Customer and Dell as of February 14, 2017 (the "Effective Date"), together with any Schedules, governs Customer's purchase of Products and Services from Dell for internal use and Dell's and Dell Affiliate's obligations with respect thereto. 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 www.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 and indicate that they are governed by the terms of 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 www.Dell.com/servicecontracts/US.
- 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 1 year from the Effective Date, unless terminated in accordance with Section 10. Otherwise, this CPA will renew automatically on the anniversary of the Effective Date for consecutive 1 year terms (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), 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 may charge interest at the rate of 1.5% per month on undisputed overdue amounts, or the maximum rate permitted by law, whichever is less. Interest will be recalculated every 30 days based on Customer's current outstanding balance. 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.** As used in this CPA, the term "**Services Software**" means 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 otherwise 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 system-specific data (collectively, the "**Data**"). Customer grants Dell (i) a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license to use, compile, 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, the End User License Agreement-A Version, found at dell.com/aeula; or (iii) for Software listed at software.dell.com (the "**DSG Software**"), the applicable local Software Transaction Agreement located at software.dell.com/legal/sta.
- 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.

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, including without limitation the California Public Records Act (Cal. Government Code section 6250 *et seq.*) 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 without a reduction in functionality; (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. Customer shall defend and indemnify 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 (as defined in Section 12(c)) to Dell.
- C. Each party shall defend and indemnify 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 negligence or willful misconduct in connection with this CPA.

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. Customer's purchase may not be used, sold, leased, exported, re-exported, or transferred except 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. Dell will observe and adhere to its privacy policies regarding personal information and customers' privacy as those policies are set forth at dell.com/privacy.

10. TERMINATION

- A. Either party may terminate this CPA for convenience by providing at least thirty (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, if capable of being cured, is not cured within thirty days of the breaching party's receipt of written notice of the breach, or (b) if a party declares bankruptcy or is adjudicated bankrupt or a receiver or trustee is appointed for substantially all of its assets.

- B. Notwithstanding the foregoing, Dell may terminate this CPA, a SOW, or a Software Agreement with 10 days' written notice if (a) 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) and (b) Customer fails to make the payment within 10 days after receiving written notice of the past due amount. Additionally, Dell may terminate an SOW immediately if Customer is acquired by or merged with a competitor of Dell.
- C. 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 A VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR AS OTHERWISE SET FORTH IN THE APPLICABLE SCHEDULES, NEITHER PARTY WILL BE LIABLE TO THE OTHER 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 CUSTOMER'S BREACH OF ITS PAYMENT OBLIGATIONS, A VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS, A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8, 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 (i) THE AMOUNTS PAID DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE THAT THE DISPUTE FIRST AROSE, FOR (ii) THE PRODUCT THAT IS THE SUBJECT OF THE DISPUTE OR (iii) 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 Agreement, 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 Agreement. Customer may not assign or transfer this Agreement 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, which could not have been contemplated on the Effective Date, 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 directly and solely 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 Agreement (including payment), but rather will only excuse a delay in performance.
- C. **Excluded Data.** Customer acknowledges that Products and Services provided under this Agreement 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) except for certain DSG Software, 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.
- D. **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/manufacture of Dell-branded Products is Dell, One Dell Way, Round Rock, Texas 78682.
- E. **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 California, 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.
- F. **Venue.** The parties agree that any Dispute shall be brought exclusively in the state or federal courts located in Contra Costa County, California. 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.
- G. **Bench Trial.** The parties agree to waive, to the maximum extent permitted by law, any right to a jury trial with respect to any Dispute.
- H. **Limitation Period.** NEITHER PARTY SHALL BE LIABLE FOR ANY CLAIM OR DISPUTE FILED MORE THAN TWO YEARS AFTER THE FILING PARTY LEARNED OF FACTS GIVING RISE TO THE CAUSE OF ACTION.
- I. **Dispute Resolution.** Customer and Dell will attempt to resolve any Dispute through negotiation or by utilizing a mediator agreed to by the parties, if a mediator can be agreed upon. 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 and 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 Agreement 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, and will be effective upon receipt.

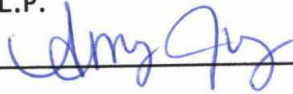
Dell Marketing L.P., Attn: Contracts Manager
One Dell Way, Round Rock, Texas 78682
Dell_Legal_Notices@dell.com

- L. **Entire Agreement; Order of Precedence; Severability.** This CPA, including its Schedules, attachments and Orders, each of which is incorporated in this Agreement 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 Agreement that are not fully expressed in this Agreement. In entering into this Agreement, neither Party is relying upon any representations or statements of the other that are not fully expressed in this Agreement; 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 Agreement. 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 indicate their agreement to the terms and conditions set forth in this CPA.

Dell Marketing L.P.

Signature:



Printed Name:

Amy Ivy

Position:

Contracts Manager

4/11/17

Contra Costa County

Signature:



Printed Name:

DJ Runt

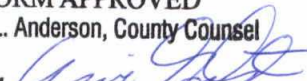
Position:

CIO

4-3-17

FORM APPROVED
Sharon L. Anderson, County Counsel

By Deputy


Eric Gelsman

Product Schedule
to
Customer Purchase Agreement

1. **General.** This Product Schedule ("Schedule"), in addition to the Customer Purchase Agreement dated February 14, 2017 ("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 Agreement 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 five (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. 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. 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.

9. **Entire Agreement.** This Schedule, including related Orders and attachments and the CPA and its attachments, constitutes the entire agreement between the Parties concerning the subject matter of this Schedule. There are no representations, understandings or agreements, written or oral, relative to this Schedule that are not fully expressed herein. In entering into this Schedule, neither Party is relying upon any representations or statements of the other that are not fully expressed in this Schedule; 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 Schedule.

By their signatures below, Dell and Customer indicate their agreement to the terms and conditions set forth in this Product Schedule and the CPA.

Dell Marketing L.P.

Signature: _____

Printed Name: _____

Position: _____

Date: _____

Amy Ing

Amy Ing

Contracts Manager

4/11/17

Contra Costa County

Signature: _____

Printed Name: _____

Position: _____

Date: _____

[Signature]

DJRunt

CIO

4-3-17

FORM APPROVED

Sharon L. Anderson, County Counsel

By Deputy _____

[Signature]

Eric Gelston

EXHIBIT A - PRODUCT AND SERVICE SCHEDULE FOR COMPELLENT

Dell Compellent Configuration for
Contra Costa Health Services

Dell Marketing, L.P.
P.O. Box 148257
Austin, TX 78714

ROM Configuration #: DLA173858
Prepared By: Chuck Greene
SFDC Deal Id: 13221044
Type: Upgrade
For System: 7750 / 7757 - Martinez, CA

Bill To:
Contra Costa Health Services
2530 Arnold Drive
Suite 300
Martinez, CA 94553
Phone 925-957-5400

Description	Model Number	Dell SKU	Quantity	List Price	Discount Price	Subtotal	Discounted Subtotal
Hardware & Drives							
480GB, SAS 12GB, SSD, RL, 2.5	DS-SAS-25-480SSDR14M-D		60	\$2,750.00	\$1,500.05	\$165,000.00	\$60,002.77
2TB, SAS 6GB, 74, HDD	DS-SAS6-35-2000XTK2-D		36	\$1,100.00	\$600.02	\$39,600.00	\$21,600.67
Enclosure Blank, SAS, 6 GB, Drive Bay Blank, 2.5"	EN-BLANK-SAS6-25-D		12	\$10.00	\$5.45	\$120.00	\$65.46
Compliant SC200 Enclosure, 1.5" 12-Bay	EN-SC200-125		3	\$4,360.00	\$2,378.26	\$13,080.00	\$7,134.77
Compliant SC220 Enclosure, 2.5" 24-Bay	EN-SC220-245		3	\$5,810.00	\$3,160.10	\$17,480.00	\$9,540.28
6GB Mini-SAS to Mini-SAS Cable, 0.6M, QN1 2	PA-CBL-SAS-6M-D		6	\$193.00	\$83.46	\$918.00	\$500.74
C13-C14, PDU, 12AMP, 6.5 FT (2m), Power Cord, QN2	PA-PC-2M-D		6	\$20.00	\$10.91	\$120.00	\$65.46
Ready, Rails II Static Rails for 4-post Racks	PA-RK-RP2-D		6	\$100.00	\$54.55	\$600.00	\$327.28
Professional Services							
Production Dell Storage SC Disk Series 200/220 2U Exp Enclosure	PS-SC2XX2U-PLD		6	\$1,089.00		\$6,594.00	
Cold Spares							
6GB Mini-SAS to Mini-SAS Cable, 2M, QN2, CUS	PA-CBL-SAS-2M-DSP		4	\$187.00	\$102.00	\$748.00	\$408.01
6GB Mini-SAS to Mini-SAS Cable, 4M, QN2, CUS	PA-CBL-SAS-4M-DSP		2	\$259.00	\$141.28	\$518.00	\$282.56
Totals							
Power (Watts): 2,700.00							
Heat (BTUs): 9,216.00							
Rack Units: 12							
Weight (Lbs): 438							
SSD (Raw TB): 28.8							
SAS (Raw TB): 72							
Total (Raw TB): 100.8							
Hardware Total						\$238,194.00	\$129,928.00
Support Total						\$13,090.00	\$13,090.00
Professional Services Total						\$6,594.00	\$6,594.00
Discount						(\$108,266.00)	\$148,912.00
Freight						\$1,332.00	\$1,332.00
Sales Tax						\$150,904.00	\$150,904.00
Grand Total with Sales Tax						\$101,041.07	\$101,041.07

24x7 Support Center w/ Priority On-Site (4 hour)

*Plus applicable taxes

**Support Term: Co-terminal 03/31/2018 (14 months)

***The pricing is displayed in the US Dollar currency

*Plus applicable taxes

Abstract

Hardware instruments

- I. Hardware Warranty (<http://www.dell.com/support/home/us/en/04?c=bsd>)
- II. Keep Your Hard Drive Service Description
(http://www.dell.com/learn/us/en/uscorp1/legal?service-descriptions/en/documents?dell_keep_your_hard_drive_us.pdf)

Support instruments

- i. Premium Support Service Description (<http://www.dell.com/learn/us/en/uscorp/legal/service-descriptions/en/documents/dell-prosupport-us.pdf>)
- ii. ProSupport Service Description (<http://www.dell.com/learn/us/en/uscorp/legal/service-descriptions/en/documents/dell-prosupport-us.pdf>) or (<http://www.dell.com/learn/us/en/uscorp/legal/service-descriptions/en/documents/prosupport-plus-us-en.pdf>)
- iii. Dell Optimize (<http://www.dell.com/learn/us/en/uscorp/legal/service-descriptions/en/documents/dell-optimiz-final.pdf>) or (<http://www.dell.com/learn/us/en/uscorp/legal/service-descriptions/en/documents/dell-complient-copilot-optimiz.pdf>)

Professional Services Instruments

1. ProDeploy for Enterprise Service Description (http://www.dell.com/en-us/work/learn/assets/shared-content_services_en/documents/prodeploy-feature-compare-side.pdf)
2. Enterprise Configuration and Deployment Installation and Development Service Description (<http://www.dell.com/learn/us/en/iso/pdf/Enterprise-deployment-and-configuration>)

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors, or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors.

Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CONTRA COSTA COUNTY HEALTH for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy/usa. Please read those terms carefully and in their entirety, and note in particular that Dell Equallogic and Equallogic-branded products,

Dell|EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contract(s), which can be found at www.dell.com/servicecontracts.

All information supplied to CONTRA COSTA COUNTY HEALTH for the purpose of this proposal is to be considered confidential information belonging to Dell.

About Dell

Dell Inc. (NASDAQ: DELL) listens to customers and delivers innovative technology and services they trust and value. Uniquely enabled by its direct business model, Dell is a leading global systems and services company and No. 34 on the Fortune 500. For more information, visit www.dell.com.

Privacy Policy

personal information, for a complete statement of our Global Privacy Policy, please visit dell.com/privacy.

Services Schedule
to
Customer Purchase Agreement

1. **General.** This Services Schedule ("**Schedule**"), in addition to the Customer Purchase Agreement dated February 14, 2017 ("**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 www.Dell.com/servicecontracts/US 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 one 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 thirty (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 are 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.
7. **Proprietary Technical Information.** The limitations of liability stated in Section 11 of the CPA shall not apply to unpermitted disclosures of proprietary technical information disclosed by one party to the other during the course of Professional Services delivered by DSG.
8. **Entire Agreement.** This Schedule, including related Orders and attachments and the CPA and its attachments, constitutes the entire agreement between the Parties concerning the subject matter of this Schedule. There are no representations, understandings or agreements, written or oral, relative to this Schedule that are not fully expressed herein. In entering into this Schedule, neither Party is relying upon any representations or statements of the other that are not fully expressed in this Schedule; 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 Schedule.

By their signatures below, Dell and Customer indicate their agreement to the terms and conditions set forth in this Services Schedule and the CPA.

Dell Marketing L.P.

Signature:

Amy Joy

Printed Name:

Amy Joy

Position:

Contracts manager

Date:

4/11/17

Contra Costa County

Signature:

DJR

Printed Name:

DJR

Position:

CIO

Date:

4-3-17

EXHIBIT A - PRODUCT AND SERVICE SCHEDULE FOR COMPELLENT

Dell Compellent Configuration for Contra Costa Health Services

Dell Marketing, L.P.
P.O. Box 149257
Austin, TX 78714

ROM Configuration #: DLA1273868
Prepared By: Chuck Greene
SFDIC Deal Id: 13221062
Type: Upgrade
For System: 7758 / 7759 - Pilsburg, CA

Bill To:
Contra Costa Health Services
2550 Arnold Drive
Suite 300
Martinez, CA 94553
Phone 925-957-5400

Description	Model Number	Dell SKU	Quantity	Unit Price	Discount Price	Subtotal	Discount Subtotal
Hardware & Drives							
480GB SAS 12Gb SSD, RL, 2.5	DS-SAS-25-480SSDR14-MD		18	\$2,750.00	\$1,457.93	\$48,500.00	\$26,242.69
2TB SAS 6Gb, 7K HOD	DS-SAS-35-2000X7K2-D		36	\$1,100.00	\$563.17	\$39,600.00	\$20,594.15
Enclosure Blank, SAS, 6 Gb, Drive Bay Blank, 2.5"	EN-BLANK-SAS-25-D		6	\$10.00	\$5.30	\$60.00	\$31.81
Compelent SC220 Enclosure, 3.5" 12-Bay	EN-SC220-1235		3	\$4,360.00	\$2,311.48	\$13,080.00	\$6,934.43
Compelent SC220 Enclosure, 2.5" 24-Bay	EN-SC220-2425		1	\$5,830.00	\$3,090.81	\$5,830.00	\$3,090.81
6Gb Mini SAS to Mini SAS Cable, 0.8M, QY2	PA-CBL-SAS-6M-D		4	\$153.00	\$81.11	\$612.00	\$324.46
6Gb Mini SAS to Mini SAS Cable, 2M, QY2	PA-CBL-SAS-2M-D		1	\$187.00	\$99.14	\$187.00	\$99.14
C13-C14, PDU, 12AMP, 8.5 FT (2m), Power Cord, QY2	PA-PC-2M-D		4	\$20.00	\$10.60	\$80.00	\$42.41
Ready Rail II Static Rail for 4-post Racks	PA-RK-RR2-D		4	\$100.00	\$53.02	\$400.00	\$212.06
Professional Services							
ProdDeploy Dell Storage SC Disk Series 200/220 2U Exp Enclosure	PS-SC2X2U-PD		4	\$1,099.00		\$4,396.00	
Cold Starts							
6Gb Mini SAS to Mini SAS Cable, 2M, QY2, CUS	PA-CBL-SAS-2M-DSP		3	\$187.00	\$99.14	\$561.00	\$297.42
6Gb Mini SAS to Mini SAS Cable, 4M, QY2, CUS	PA-CBL-SAS-4M-DSP		2	\$259.00	\$137.31	\$518.00	\$274.62
Totals							
				Power (Watts): 1,800.00			
				Heat (BTU/hr): 8,144.00			
				Rack Units: 8			
				Weight (Lbs): 294			
				SSD (Raw TB): 8.64			
				SAS (Raw TB): 72			
				Total (Raw TB): 80.64			

Hardware Total	\$110,429.00
Support Total	\$6,700.00
Professional Services Total	\$4,396.00
Discount	(\$51,884.00)
Freight	\$808.00
Sales Tax	\$5,138.83
Grand Total with Sales Tax	\$77,596.83

24x7 Support Center w/ Priority On-Site (4 hour)
*Plus applicable taxes
***Support Term: Co-terminus 03/31/2018 (14 months)
***The pricing is displayed in the US Dollar currency

.....
Dell's global customer privacy policy (CCP policy) and Dell's trade secrets and confidential and proprietary information. This information is made available to customers on a confidential basis and may not be disclosed to any other party other than the party to which it is disclosed. Further, this information may not be disclosed to any person who does not require such information to carry out the specific purpose of the disclosure.
.....

CCP may only be used by Dell to control U.S. federal process to limit currency prices but do not necessarily represent an offer to make an exchange. Due to the dynamic nature of foreign exchange markets, Dell may at any time change the terms, amounts, currencies or processes for future sales. In particular, emerging market currencies, such as the Mexican Peso and South African Rand, are more likely to be exposed due to their inherent volatility.
.....

Hardware Instruments

- I. Hardware Warranty (<http://www.dell.com/support/home/us/en/04?is=bsd>)
- II. Keep Your Hard Drive Service Description
(http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/dell_keep_your_hard_drive_us.pdf)

Support Instruments

- I. Premium Support Service Description
(<http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/dell-prosupport-us.pdf>)
- II. ProSupport Service Description (<http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/dell-prosupport-us.pdf>)
or (<http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/prosupport-plus-sd-en.pdf>)
- III. Dell Optimize (<http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/dell-copilot-support-final.pdf>)
or (<http://www.dell.com/learn/us/en/uscorp1/legal/service-descriptions/en/documents/dell-compellent-copilot-optimize.pdf>)

Professional Services Instruments

- I. ProDeploy for Enterprise Service Description (<http://www.dell.com/en-us/work/learn/assets/shared-content/services/en/documents/prodeploy-feature-compare-slide.pdf>)
- II. Enterprise Configuration and Deployment Installation and Development Service Description (<http://www.dell.com/learn/us/en/uscorp1/enterprise-deployment-and-configuration>)

Statement of Conditions

The information in this document is believed to be accurate. However, Dell assumes no responsibility for inaccuracies, errors, or omissions, and shall not be liable for direct, indirect, special, incidental, or consequential damages resulting from any such error or omission. Dell is not responsible for pricing or other errors, and reserves the right to cancel orders arising from such errors. Dell may make changes to this proposal including changes or updates to the products and services described, including pricing, without notice or obligation.

This proposal is not intended to create a contractual relationship. Unless expressly agreed otherwise in a writing signed by the parties, all orders by CONTRA COSTA COUNTY HEALTH for Dell products and services shall be subject to Dell's Terms and Conditions of Sale-Direct, which can be found at www.dell.com/terms, and which incorporate Dell's U.S. Return Policy, at www.dell.com/returnpolicy#total. Please read those terms carefully and in their entirety, and note in particular that Dell EqualLogic and EqualLogic-branded products, Dell EMC and EMC-branded products, PowerVault ML6000 tape libraries, non-Dell-branded enterprise products, enterprise software, and customized hardware or software products may not be returned at any time. Orders also shall be subject to the terms of any applicable service contracts, which can be found at www.dell.com/servicecontracts.

All information supplied to CONTRA COSTA COUNTY HEALTH for the purpose of this proposal is to be considered confidential information belonging to Dell.

About Dell

Dell Inc. (NASDAQ: DELL) listens to customers and delivers innovative technology and services they trust and value. Uniquely enabled by its direct business model, Dell is a leading global systems and services company and No. 34 on the Fortune 500. For more information, visit www.dell.com.

Privacy Policy

Dell respects your privacy. Across our business, around the world, Dell will collect, store, and use customer information only to support and enhance our relationship with your organization, for example, to process your purchase, provide service and support, and share product, service, and company news and offerings with you. Dell does not sell your personal information. For a complete statement of our Global Privacy Policy, please visit dell.com/privacy.

Services Schedule
to
Customer Purchase Agreement

1. **General.** This Services Schedule ("**Schedule**"), in addition to the Customer Purchase Agreement dated February 14, 2017 ("**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 www.Dell.com/servicecontracts/US 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 one 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 thirty (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 are 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.
7. **Proprietary Technical Information.** The limitations of liability stated in Section 11 of the CPA shall not apply to unpermitted disclosures of proprietary technical information disclosed by one party to the other during the course of Professional Services delivered by DSG.
8. **Entire Agreement.** This Schedule, including related Orders and attachments and the CPA and its attachments, constitutes the entire agreement between the Parties concerning the subject matter of this Schedule. There are no representations, understandings or agreements, written or oral, relative to this Schedule that are not fully expressed herein. In entering into this Schedule, neither Party is relying upon any representations or statements of the other that are not fully expressed in this Schedule; 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 Schedule.

By their signatures below, Dell and Customer indicate their agreement to the terms and conditions set forth in this Services Schedule and the CPA.

Dell Marketing L.P.

Signature:

Printed Name:

Position:

Date:

Contra Costa County

Signature:

Printed Name:

Position:

Date: