

SPECIAL PURPOSE ADDENDUM
TO THE RESELLER TERMS

Dell Marketing L.P. (Dell)

And **(Reseller)**

One Dell Way

Round Rock, TX 78682

Reseller Tax ID No.:

Reseller Contract
Manager:

Telephone:

Email:

Reseller Sales Contact:

Telephone:

Email:

Reseller Reporting
Contact:

Telephone:

Email:

Purchase Path: ☐ Direct purchase from Dell
☐ Purchase from Dell distributor
☐ Both

1. INTRODUCTION; DEFINITIONS

1.1. This Special Purpose Addendum (**Addendum**) to the Reseller Terms is made by and between Dell and Reseller (each a **Party**, and collectively, the **Parties**). “**Reseller Terms**” means the (a) APEX Reseller Agreement located at www.dell.com/Partner-APEX-Reseller-Agreement and the applicable APEX service offering description, which apply to Reseller’s purchases of APEX outcome-based services from Dell for resale to End-Users, or (b) Dell’s Reseller Terms of Sale located at www.dell.com/resellerterms, together with all updates made to (a) or (b) respectively. Reseller’s purchases and resale of APEX custom services are outside the scope of this Addendum and require a separate agreement mutually signed between Reseller and Dell.

1.2. Customer means the contracting entity with whom Dell has executed a Dell-Held Contract.

1.3. Dell-Held Contract means the following agreement(s) made by and between Dell and



Customer, together with all representations and certifications required by Customer in connection with those agreement(s):

The contract name is: **Iowa NASPO Participating Addendum No. 2023-BUS-0122 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program.** A hyperlink or copy of the Dell-Held Contract(s) will be provided to the Reseller.

1.4. End-Users means entities that are eligible to purchase products and services under the Dell-Held Contract.

1.5. Unless otherwise defined herein, capitalized terms used herein have the meanings ascribed thereto in the Reseller Terms. For purposes of this Addendum, the term “**Agreement**” as used in the Reseller Terms means the Reseller Terms as modified and supplemented by this Addendum (while such Addendum is in effect).

2. APPOINTMENT

2.1. Appointment. Subject to the terms and conditions of this Addendum and Reseller's compliance therewith, Dell appoints Reseller to resell products and services to End-Users under the Dell-Held Contract. Reseller acknowledges that this appointment to resell under the Dell-Held Contract may not be exclusive. Reseller shall not claim to represent Dell as the exclusive seller of products and services in any state or region, or for any specific customer, under the Dell-Held Contract. Reseller shall not make any claim which might be interpreted as an offer of favorable pricing resulting from a preferred or exclusive position with regard to its authorization under the Dell-Held Contract. Reseller may only sell products and/or services listed on the Dell-Held Contract.

2.2. Reseller shall not sell, and acknowledges it is not permitted to sell, its own products or services to Customer or End-Users under the Dell-Held Contract, including (but not limited to) Reseller's installation and/or deployment of products that were purchased under the Dell-Held Contract.

2.3. Approval by Customer. Reseller acknowledges that its ability to sell to End-Users under a Dell-Held Contract is dependent upon the Customer's acceptance and authorization. Reseller will follow the Customer's reseller application and authorization process. Reseller shall not quote or sell any products or services under any Dell-Held Contract before the Customer grants authorization and, if applicable, publicly posts Reseller's name as an authorized reseller on that Dell-Held Contract.

3. TERMS AND CONDITIONS OF SALE

3.1 Direct purchase path. Subject to section 3.2 below, Reseller's purchases of products and services from Dell hereunder are subject to and governed by the Reseller Terms, this Addendum, and the Dell quote.

3.2 Distribution purchase path. Reseller may purchase products and services only from a Dell distributor that Dell has authorized for distribution under the Dell-Held Contract. If Reseller purchases products or services from a Dell distributor, all references and terms related to the purchase price, payments, cancellation or termination rights or similar financial terms in the Reseller Terms (a) will not apply and (b) will be separately agreed between Reseller and the Dell distributor.



3.3 Reseller's purchase and resale to End-Users shall be subject to and governed by the **Dell Technologies Partner Program Agreement** which may be found at <https://partner.dell.com/en-us/partner/terms-and-conditions.htm>, the Reseller Terms, the applicable Dell service terms (e.g., Dell Service Description, Dell Offer Specifications, APEX Service Offering Description), the applicable Dell-Held Contracts, and, if Reseller purchases directly from Dell, the Dell quote. The Reseller Terms, the applicable Dell service terms, and the Dell Technologies Partner Program Agreement are incorporated herein by reference in their entirety. In the event of conflicting terms, the following order of precedence shall apply, but only to the extent of such conflict: first, the terms and conditions of the applicable Dell-Held Contract; second, the applicable Dell service terms; third, this Addendum; fourth, the Reseller Terms; fifth, the Dell quote (if applicable); and sixth, the Dell Technologies Partner Program Agreement.

4. SPECIAL PURPOSE PROVISIONS.

4.1. Compliance. Reseller shall familiarize itself (and ensure its personnel familiarize themselves) with all terms and conditions of the Dell-Held Contract. Reseller shall perform in accordance with and conform to all terms and conditions in the Dell-Held Contracts.

4.2. Reporting. Reseller shall provide all reports and information that (a) are necessary for Reseller to comply or (b) Dell deems necessary for Dell to comply with the reporting requirements of the Dell-Held Contracts. Reseller shall submit all required reports in a timely manner, but in no event later than Dell's requested deadline, so as to allow Dell adequate time to prepare its own reports and meet its obligations under the Dell-Held Contracts. Should the reporting requirements of the Dell-Held Contracts change during the term of this Addendum, Dell will inform Reseller in writing, and Reseller shall respond acknowledging such change. Reseller agrees and understands that accurate and timely reporting is a primary criterion of Dell's compliance with the Dell-Held Contracts, and Reseller's failure to comply with any reporting requirement (including timeliness and accuracy requirements) established by Dell shall be a material breach of the Addendum. Reseller shall comply with the following requirements as well as any other that Dell may establish:

4.2.1. For each Dell-Held Contract, Reseller will be provided with a Dell contract code ("Contract Code") for each applicable purchase path (Reseller's direct purchases from Dell or Reseller's purchases from a Dell distributor) for each Dell-Held Contract. On every request for Dell quotes and every purchase order to Dell, Reseller must use the correct Contract Code linked to Reseller's direct purchases under the applicable Dell-Held Contract. On every request for quotes from a distributor and every purchase order to a distributor, Reseller must use the correct Contract Code linked to Reseller's distribution path purchases under the applicable Dell-Held Contract. The Contract Code enforces pricing and other terms and conditions of the Dell-Held Contract. It also helps Dell to pay the appropriate administrative fees and rebates owed in the Dell-Held Contract. Failure to use the correct Contract Code on all quotes and orders shall constitute a material breach of the Addendum and, notwithstanding anything to the contrary herein, Dell shall have the right to terminate this Addendum immediately upon written notice to Reseller.



4.2.2. Reseller shall provide, on a monthly basis, detailed sales reports on all products and services that Reseller purchased from Dell and distributors and resold to End-Users during the previous month under the Dell-Held Contract whether or not the Reseller had any sales during the previous month under the Dell-Held Contract. Reseller shall provide its report no later than Dell's requested deadline. Failure to provide detailed sales reports by Dell's requested deadline shall constitute a material breach of the Addendum and, notwithstanding anything to the contrary herein, Dell shall have the right to terminate this Addendum immediately upon written notice to Reseller.

4.2.3. Each report shall include the following: (a) name and location of the End-User, (b) price, including unit price and/or rate per unit of measure, and the total price charged to End-User; (c) quantity, (d) total price charged to the End-User, (e) Dell-Held Contract required pricing to End User (if none stated, then the Dell-Held Contract ceiling rate), (f) any difference between the price in (d) and (e), and (g) any other data required by Dell or the Dell-Held Contract.

4.2.4. Reseller shall provide its reports in a format specified by Dell (such as but not limited to .xls).

4.2.5. Unless otherwise instructed by Dell, Reseller shall electronically transmit its reports to Dell. The specific method of electronic transmission will be specified by Dell.

4.2.6. Changes in contact information is the responsibility of reseller to notify Dell in a timely manner to the PEI_Compliance@dell.com mailbox. Missed reporting activities as a result of wrong contact information is the responsibility of the Reseller and not an acceptable reason to not report. Failure to provide changes in contact information which results in breach of paragraph 4.2.1 shall constitute a material breach of the Addendum and, notwithstanding anything to the contrary herein, Dell shall have the right to terminate this Addendum immediately upon written notice to Reseller.

4.3. Fees. Unless otherwise required by the Customer or the Dell-Held Contract, the fees payable under the Dell-Held Contract are Dell's responsibility and Reseller will not be responsible for payment of such fees either to Dell or to the Customer.

4.4. Records Retention. Reseller agrees to provide requested data, retain purchase and sales records, and make such records available to Dell as requested and to Customer or End-Users as required by the Dell-Held Contracts or as by the state law governing the transaction in question.

4.5. Pricing. Reseller is free to set its resale pricing of products and services to End-Users, provided that such prices conform to the Dell-Held Contract (including any minimum discount or maximum price limitations set forth in the Dell-Held Contract by Customer). Dell may require Reseller to issue payments to Dell or to End-Users for any overcharges that do not conform to the Dell-Held Contract. Overcharges to the Customer that do not conform to the Dell-Held Contract shall constitute a material breach of the Addendum and, notwithstanding anything to the contrary herein, Dell shall have the right to terminate this Addendum immediately upon written notice to Reseller.

4.6. Certification. Reseller shall sign or provide all representations and certifications required by Dell in a timely manner.



4.7. Training & Security and Background Checks. Reseller shall ensure that all personnel who will interact with third parties (including but not limited to End-Users and Customer) in connection with a Dell-Held Contract complete all training required by Dell, including but not limited to, sales training, compliance training, and refresher courses. In addition, Reseller shall perform security and background checks of its personnel in the same manner and to the same extent that Dell is obligated to perform security and background checks of Dell personnel as required by the Dell-held Contract, Customer and End-Users.

4.8. Minimum Revenue. Reseller shall generate a minimum of **\$500K** Dell revenue annually, as determined by Dell in its sole discretion (the "Dell Revenue Obligation"). If Reseller fails to meet the Dell Revenue Obligation, then Dell shall have the right to terminate this Addendum immediately upon written notice to Reseller.

4.9. Shipping and Handling (if applicable).

4.9.1. Reseller to End-Users: If and to the extent required by the Dell-Held Contract, and as reflected in Dell's quotation, Reseller will provide End-Users free standard ground shipping and shall also provide any associated logistics services such as (but not limited to) inside delivery to one location without charge. Reseller is not permitted to purchase products for the purpose of stocking inventory for resale to End-Users.

4.9.2. Dell to Reseller (for direct purchases from Dell): If and to the extent required by the Dell-Held Contract, and as reflected in Dell's quotation to Reseller, and regardless of the End-User's specified ship-to location, Dell will provide, at no charge to Reseller, standard 3-5 day ground shipping. Dell will also provide any associated logistics services such as (but not limited to) inside delivery to one location without charge using Dell's selected carrier. If Dell's carrier is used, Dell will bear the risk of loss of, or any damage to, the Products during shipping from Dell. Nothing under this Section shall alter when title to the Products transfers. Any additional required logistics are available at an additional logistics fee and must be specified by Reseller at the time of order.

4.9.3. Value Added Logistics (VALS): Any additional VALS, *i.e.* date/time specific delivery, de-palletization, inside delivery to multiple locations, set up, *etc.* must be added at the time the order is placed and must be paid to Dell by Reseller.

4.10. Return Policy. Subject to subsections (a) through (c) below, and provided that the reason for return or service cancellation or termination is not due to Reseller's error, Reseller may return products and may cancel or terminate services purchased hereunder, but only to the extent that the intended End-User is entitled to return such products or cancel or terminate such services under the Dell-Held Contracts, and, in those cases, subject to the same terms, conditions and restrictions, including, without limitation, the product return period or service cancellation or termination period and any notice requirements, set forth in the applicable Dell-Held Contract. Reseller is solely responsible for ensuring that (a) it accurately translates the End-User's requirements into an accurate request for quote/proposal to Dell; (b) Dell's quotation in response thereto accurately and completely reflects the End-User's requirements; and (c) any resultant purchase order to Dell is compliant with the End-User's requirements. Reseller shall have no recourse to Dell (nor product return or service cancellation or termination rights) for any errors on the part of Reseller. Reseller will inform each End-User in writing of the Dell product return policy and service cancellation or termination policy at or prior to the time Reseller issues a quote for such products and/or services to the End-User.

4.11. Indemnity. Reseller shall defend and indemnify Dell against any claim or action from



Customer, any End-User, or any other third party resulting from or relating to any breach, alleged breach, or compliance failure by Reseller of this Addendum, the Reseller Terms, or the Dell-Held Contracts.

5. TERM AND TERMINATION

5.1. Term. Unless earlier terminated as provided herein, the Term of this Addendum begins on the date of Dell's signature below (**Effective Date**) and ends on the earlier of the dates checked below:

☒ Coterminal with the Dell-Held Contract

☐ Addendum End Date: _____

5.2. Termination.

5.2.1. Should applicable Dell-Held Contracts be suspended or terminated during the term of this Addendum, Dell's authorization for Reseller to resell to End-Users will automatically be terminated on the same date as the termination of the Dell-Held Contract.

5.2.2. This Addendum will terminate automatically if Reseller voluntarily withdraws, or is suspended or terminated, from the Dell Technologies Partner Program for any reason.

5.2.3. Thirty Day No Cause Termination. Either Party may terminate this Addendum in such Party's sole discretion, with or without cause, upon at least thirty (30) days prior written notice to the other Party.

5.2.4. Termination for Cause. Either Party may at its option, and upon written notice to the other Party, immediately terminate this Addendum if:

5.2.4.1. a material violation or breach of this Addendum or the Reseller Terms by the other Party is not remedied within ten (10) days after the breaching Party's receipt of written notice of the violation or breach

5.2.4.2. the other Party admits in writing its inability to pay its debts generally as they become due, files a petition for bankruptcy or executes an assignment for the benefit of creditors or similar document; (iii) a receiver, trustee in bankruptcy or similar officer is appointed for the other Party's property; or (iv) a majority interest of the equity or assets of the other Party is transferred to an unrelated third party or this Addendum is assigned by Reseller without Dell's prior written consent. In addition, Dell may immediately terminate this Addendum if Dell determines, in Dell's sole discretion, that Reseller engaged in unethical conduct or that continuing the Addendum will cause Dell to be in breach of any Dell-Held Contract or otherwise jeopardize that or any other contract Dell has with the Customer or an End-User.

5.3. Effect of Termination. Upon any termination of this Addendum, the provisions of this Addendum shall continue to apply to all orders accepted by Dell prior to the Effective Date of such termination. Termination of this Addendum shall not relieve Reseller of any obligation to make payments that are owed to Dell. Termination shall not exclude other remedies for failure of a Party to perform its obligations. Upon termination of this Addendum, the rights and obligations of the Parties that are executory shall survive any termination or expiration of this Addendum. Dell may notify relevant distributors, Customers, and End-Users of the Addendum termination.

6. NOTICE

Any notice given under this Addendum must be in writing (for which email shall suffice) and will



be effective when delivered to the other Party at the address set forth below for that Party. Notice addresses may only be changed in writing by the Parties by following the notice provisions of this Section. The Parties hereby appoint liaisons for notice and communication purposes under this Addendum as identified below:

DELL MARKETING L.P.

Attn. Contracts Manager
Dell Legal Department
One Dell Way
Round Rock, Texas 78682
Public_legal@dell.com

RESELLER

Provide notices under this Addendum to the
Contract Manager listed on page 1.

7. MISCELLANEOUS

7.1. Entire Addendum. This Addendum (including the attachments hereto and the Reseller Terms) constitutes the entire integrated agreement between the Parties with respect to the subject matter hereof and supersedes all prior written or oral understandings or agreements between the Parties relating to the same. The terms of this Addendum will control and supersede the pre-printed terms on Reseller's order or order acknowledgment.

7.2. Modification by Writing Only. No modification of this Addendum, including any attachments hereto, will be binding on either Party unless and until the modification is set forth in a writing specifically referencing this Addendum and signed by an authorized representative for each Party. Notwithstanding the foregoing, the Parties agree the Reseller Terms of Sale located at www.dell.com/resellerterms, APEX Reseller Agreement located at www.dell.com/Partner-APEX-Reseller-Agreement, and the Dell Technologies Partner Program Agreement terms and conditions may be modified by Dell unilaterally from time to time, and the attachments hereto may be modified by Dell unilaterally to comply with Dell's obligations or covenants to the Customer or End-Users.

7.3. Counterparts: This Addendum may be executed in counterparts (including by means of facsimile or pdf signature pages), any one of which need not contain the signature of more than one Party, but all such counterparts taken together shall constitute one and the same agreement.

7.4. Debarment Certification: Reseller certifies, and shall certify on an annual basis hereafter, that Reseller has not been subject to a federal, state or local government suspension or debarment from the contracting process within the past five (5) years. Reseller agrees to notify Dell within ten (10) business days of any such debarment action that occurs during the term of this Addendum.

[Remainder of page intentionally left blank; signature page to follow]



This Addendum has been executed on behalf of the Parties by their duly authorized representatives, to be effective as of the Effective Date.

AGREED:

DELL MARKETING L.P.

RESELLER:

By _____
Name _____
Title _____
Date _____


By _____
Name _____
Title _____
Date _____



ATTACHMENT 1

1. DELL-HELD CONTRACT(S): Iowa NASPO Participating Addendum No. 2023-BUS-0122 under the Master Agreement No. 23026 NASPO ValuePoint Cooperative Purchasing Program
2. AUTHORIZED END-USERS & EXCLUSIONS:

SCOPE. Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to the Contractor and Participating Entity and Purchasing Entities.

- a. **Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
- b. **Leasing.** Leasing via this Participating Addendum is not permitted without (1) an accompanying amendment to this Participating Addendum allowing leasing, and (2) an accompanying amendment incorporating agreed upon leasing terms.
- c. **Contractor Partners.** All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum. Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto. **Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.**

PARTICIPATION AND USAGE. This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit organizations within the state if authorized herein and by law. Participating Entity has sole authority to determine which entities are eligible to use this Participating Addendum. If Contractor becomes aware that an entity's use of this Participating Addendum is not authorized, Contractor will notify NASPO ValuePoint to initiate outreach to the appropriate parties.

Link to the Iowa NASPO ValuePoint contract 2023-2025:

https://s3-us-west-2.amazonaws.com/naspovaluepoint/1706891206_2024-BUS-0122%20Dell%20NASPO%20PA.pdf

Link to the Dell NASPO 23026 contract website:

<https://www.dell.com/en-us/lp/dt/naspo-computer?hve=learn+more>

