

Part A: DELL PARTNERDIRECT PROGRAM PORTAL TERMS AND CONDITIONS (India version)

By accessing the Dell PartnerDirect Portal (“Portal”), the Channel Partner (“Channel Partner”) agrees to be bound by all of the Terms and Conditions below (“Agreement”). Please print a copy of this Agreement for your records.

1. **ELIGIBILITY & USE.** For and throughout Channel Partner’s use of this Portal, Channel Partner

(a) must be a current Dell Channel Partner and in compliance with the Channel Partner Agreement (“Channel Partner Agreement”) entered into with Dell

(b) meet other criteria required by Dell including but not limited to being a participant of the Partner Direct Program (“Program”).

The Channel Partner may use this Portal only to submit any opportunity it has identified (“Deal”) to Dell under the Partner Direct Program. Dell reserves the right at its sole discretion to reject any Deal without assigning any reason whatsoever for such rejection.

2. **PARTNER PORTAL ACCESS.** Channel Partner’s use of the Portal is subject to the Channel Partner Agreement it has entered into with Dell, this Agreement, Dell’s Site Terms available at www.dell.com, and any additional terms within the Portal. Channel Partner will create an online password that will allow the Channel Partner to access the Portal and its account. Channel Partner is responsible for keeping the password confidential. Dell recommends the Channel Partner to change the password regularly. Channel Partner will be responsible for all transactions registered to Channel Partner account on this Portal. If

Channel Partner believes an unauthorized transaction has occurred in Channel Partner account, the Channel Partner must notify to a Dell immediately. Channel Partner will not grant any third-party access to the Partner Portal without prior written approval by Dell.

3. **PARTNER LISTING.** Dell may have a partner-locator tool to help the public search for a Dell partner. Unless Channel Partner advise Dell in writing that it may not do so, Dell may include Channel Partner details that have been already provided to Dell in the partner-locator tool, which may include basic information such as Channel Partner company name, address, telephone number, web address, partnership level, certified practice areas, and individual contact names.

4. **ERRORS & AVAILABILITY.** Channel Partner shall be solely responsible for accuracy and veracity of Deal information submitted to Dell and Dell may at its option refuse to proceed on a Deal if such is not the case. Dell is not responsible for any errors in transmission that may occur prior to Dell’s receipt of the transmission. Channel Partner acknowledges that the security procedures used in the Portal is for the purposes of authentication of a transmission, and not to detect errors. In addition, there may be a delay

between the time Channel Partner sends a transmission to Dell and the time Dell receives it. All transmissions are considered received by Dell only when actually received by Dell. Dell is not responsible for any delays between the time Channel Partner sends a transmission and the time Dell receives it. Access to the Portal may be unavailable without notice at certain times, including when systems require maintenance or upgrades, or in the case of unforeseen circumstances such as earthquakes, fires, floods,

terrorism, war, riot, computer virus or bugs, computer failures, interruptions in network connectivity or constraints in bandwidth availability due to reasons beyond Dell's control, or electrical outages. Dell will not be liable for the unavailability of service or for any damages or losses that may result from such unavailability.

5 CONFIDENTIALITY. The term "Dell Confidential Information" means any information related to the Program, including non-public data contained in the Portal, deal registration, and Channel Partner training.

Channel Partner will keep Dell Confidential Information strictly confidential for a period of three years after the termination of this Agreement or any related agreement with Dell. Channel Partner may not disclose Dell Confidential Information to any third party without Dell's prior written consent. Channel Partner may share

Dell Confidential Information with only Channel Partner employees who have a need to know and who are subject to legally binding obligations to keep such information confidential. These confidentiality obligations do not apply to any Dell Confidential Information that (a) Channel Partner can demonstrate was in Channel

Partner possession before receipt from Dell; (b) is or becomes publicly available through no fault by Channel Partner; or (c) Channel Partner rightfully received from a third party without a duty of confidentiality. If Channel Partner is required by a government body or court of law to disclose any Dell Confidential Information, Channel Partner agrees to give Dell reasonable advance notice so that Dell may contest the disclosure or seek a protective order.

6. ADMINISTRATION. At any time Dell may audit Channel Partner's compliance with the Program or verify any reports, claims or Deals the Channel Partner submitted. Dell may deny any claim that it believes, in its sole discretion, does not conform to Program rules, which include this Agreement. Dell may, without prior notice, immediately suspend or terminate Channel Partner's participation in the Program if Channel Partner submits inaccurate, incomplete, or fraudulent claims or information or if Channel Partner engages in activities that may cause damage, embarrassment or adverse publicity to Dell. Dell's records and systems shall be authoritative and conclusive for purposes of determining Channel Partner's eligibility and Program benefits and for performing any computation under the Program. Dell reserves the right to interpret the rules of the Program in its sole discretion. All decisions made by Dell in this regard shall be final.

7. COMPLIANCE. Channel Partner agrees to comply with all applicable national, provincial and local laws, rules and regulations governing Channel Partner participation in the Program. In addition, Channel Partner agree to comply with all terms posted to the Partner Portal, including:

- Deal registration terms
- Dell logo license terms
- Dell Partner Direct community forum terms

8. **PRECEDENCE.** In the event of a conflict between provisions of this Agreement and/or those of the Channel Partner Agreement and/or Dell's Site Terms, the order of precedence shall be as follows:

1. Channel Partner Agreement, 2. This Agreement, 3. Dell's Site Terms.

9. **DISCLAIMER** The information and materials contained on this Portal and all web sites linked to this Portal, including text, graphics, links or other items - are provided "As is", "As Available". Dell does not warrant the accuracy, adequacy, reliability or completeness of this information and materials and expressly disclaims liability for errors or omissions in such information and materials. No warranty of any kind, implied, express or statutory, including but not limited to the warranties of non-infringement of third party rights, title, merchantability, satisfactory quality, fitness for a particular purpose and free from computer virus, is given in conjunction with the information and materials.

Dell does not make any representation, warranty or endorsement of any of the products, services or information provided in this Portal. All products and services sold shall be subject to Dell's Terms and Conditions of Sale and the Channel Partner Agreement. This disclaimer shall take effect to the fullest extent permitted by law.

10. **COPYRIGHT NOTICE** The copyright of this Portal is owned by Dell, its agents and/or professional advisors. No part or parts hereof may be reproduced, distributed, republished, displayed, broadcast, hyperlinked or transmitted in any manner or by any means or stored in an information retrieval system without the prior written permission of Dell or the copyright owner provided that permission is granted to download and print the materials on this Portal for personal, non-commercial use only provided Channel Partner does not modify the materials and that Channel Partner retain all copyright and other proprietary notices contained in the materials. This permission terminates automatically if Channel Partner breaches any of these terms or conditions. Upon termination, Channel Partner will immediately destroy any downloaded and printed materials. Channel Partner also may not, without Dell's permission, "mirror" any material contained on this Portal on any other server.

11. **TRADE MARKS** The trade marks, service marks, and logos (the "Trade Marks") used and displayed on this Portal are registered and unregistered Trade Marks of Dell and others. Nothing on this Portal should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trade Mark displayed on this Portal, without the written permission of Dell or other Trade Mark owner. Dell aggressively enforces its intellectual property rights to the fullest extent of the law. The name of Dell or the Dell logo may not be used in any way, including in advertising or publicity pertaining to distribution of materials on this Portal, without prior written permission. Dell prohibits use of the Dell logo as a "hot" link to any Dell site unless establishment of such a link is approved in advance by Dell in writing.

12. **EXCLUSION OF LIABILITY.** Dell shall in no event be liable for any damages, loss or expense including without limitation, direct, indirect, special, or consequential damage, or economic loss arising from or in connection with:

1. any access, use or the inability to access or use this Portal, or reliance on the contents of this Portal;

2. any system, server or connection failure, error, omission, interruption, delay in transmission, or computer virus;

3. any use of or access to any other website linked to/through this website;

4. any product, service or information of any merchant or service provider on this Portal, even if Dell or its agents or employees are advised of the possibility of such damages, losses and/or expenses. Any hyperlinks to any other websites are not an endorsement or verification of such websites and such websites should only be accessed at the user's own risks. This exclusion clause shall take effect to the fullest extent permitted by law.

13. **INDEMNIFICATION.** To the fullest extent permitted by law, Channel Partner shall indemnify, defend, and hold harmless Dell and its subsidiaries, affiliates, parents, successors, and assigns, from any claim, demand, cause of action, debt, or liability (including reasonable attorney fees, expenses, and court costs) arising from (i) Channel Partner's breach of this Agreement or (ii) Channel Partner's conduct related to the Program.

14. **CHANNEL PARTNER TRANSMISSIONS** Any material, information or idea Channel Partner transmits to or posts on this Portal by any means will be treated as non-confidential and non-proprietary, and may be disseminated or used by Dell or its affiliates for any purpose whatsoever, including, but not limited to, developing, manufacturing and marketing products. Channel Partner is prohibited from posting or transmitting to or from this Portal any unlawful, threatening, libellous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material, or any other material that could give rise to any civil or criminal liability under the law.

15. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL DELL BE LIABLE FOR ANY LOST PROFITS OR LOSS OF BUSINESS, OR FOR LOST OR CORRUPTED DATA OR SOFTWARE. IN ADDITION, DELL SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, RELIANCE, EXEMPLARY, INCIDENTAL, OR INDIRECT LOSS OR DAMAGES, WHETHER ANY CLAIM FOR SUCH DAMAGES IS BASED ON TORT, CONTRACT, OR OTHER THEORIES, AND WHETHER DELL KNEW OR SHOULD HAVE KNOWN THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING IN THESE TERMS AND CONDITIONS, THE REMEDIES SET FORTH IN THESE TERMS AND CONDITIONS SHALL APPLY EVEN IF SUCH REMEDIES FAIL THEIR ESSENTIAL PURPOSE.

16 **GOVERNING LAW AND JURISDICTION.** Channel Partner access to, use and transmission on this Portal shall be subject to the laws of India and the exclusive courts in Bangalore, India alone shall have jurisdiction to try any dispute arising hereunder.

17. **CONDITIONS OF ACCESS** Dell may at any time revise the Terms and Conditions by updating this version. By using this Portal, Channel Partner agrees to be bound by any such revisions and should therefore periodically visit this Portal page to determine the then current version of the Terms and Conditions to which Channel Partner is bound. Dell reserves the right to discontinue this Portal at any point of time and without any notice.

18. **MODIFICATIONS.** Dell reserves the right to modify the Program, including the eligibility requirements, access conditions and benefits and this Agreement and may prescribe additional terms and conditions, at any time without prior notice. When changes are made, Dell may notify Channel Partner of the changes via email. If any modification is unacceptable to Channel Partner, Channel Partner's sole

recourse is to terminate Channel Partner's participation in the Program. If Channel Partner continues to participate in the Program, such participation will constitute Channel Partner's binding acceptance of the changes and Channel Partner's consideration supporting any such modification. No oral modifications are permitted under this Agreement and Channel Partner agrees not to rely upon any oral representations made at any time.



**DELL CHANNEL PARTNER TERMS AND CONDITIONS-
INDIA**

Part B: TERMS AND CONDITIONS FOR INDIA CHANNEL PARTNER

By clicking on the “I Accept” tab, You (“**Channel Partner**”) agree to act as the channel partner of Dell (“**Channel Partner**”) for the purchase and remarketing of the Products in the Territory, subject to and at all times in compliance with the following terms and conditions (“**Channel Partner Terms and Conditions**”).

Channel Partner’s relationship with Dell shall be governed by the below Channel Partner Terms and Conditions.

1. DEFINITIONS

1.1 In the Channel Partner Terms and Conditions (which expression shall be deemed to include the Channel Partner Specifications, Supplementary Letters and the Programme Guidelines as referred in Clause 10 below), unless the context otherwise requires, the following expressions have the following meanings:

- (a) **Channel Partner Specifications:** means the details communicated to the Channel Partner vide [●] which *inter alia* contains particulars in respect of sales target and the Territory.
- (b) **Commencement Date:** means the date upon which these Terms and Conditions become effective as specified in Dell’s acceptance email or letter of notification.
- (c) **Deal Registration:** the process of registration of a sales opportunity at the Dell Partner Portal (defined hereinafter) by the Channel Partner.
- (d) **Dell:** Dell India Private Limited or any of its subsidiaries or affiliates [as identified in the Channel Partner Specifications/ Invoice].
- (e) **Dell Partner Portal:** means the Dell Channel Partner Direct homepage http://partnerdirect.dell.com/sites/channel/en_in/pages/pp_default.aspx wherein the Channel Partner registers itself and upon such registration acquires the status of an authorised Channel Partner of Dell
- (f) **Documentation:** means literature accompanying the Products.

- (g) **Intellectual Property Rights:** means patents, trade and service marks, registered designs, applications for any of the foregoing, copyrights, design rights, know-how, confidential information, trade and business names and any other similar protected rights in any country.
- (h) **Invoice Price:** means, in relation to the purchase of Products, the amount invoiced by Dell to Channel Partner excluding all country, provincial, state and local sales, use, value added, excise, privilege, franchise and similar taxes, duties or levies and any transport and insurance charges included in such invoice.
- (i) **Marks:** means Dell's trademarks and service marks as created from time to time.
- (j) **Party:** individually means Dell and the Reseller and the term 'Parties' collectively means Dell and Reseller together.
- (k) **Products:** means products (which shall include services but not spare or replacement parts) supplied by Dell but not necessarily manufactured, assembled or, in the case of software, owned by Dell Inc. or any of its subsidiary companies or affiliates.
- (l) **Supplementary Letter:** means a letter, referencing to these Channel Partner Terms and Conditions, sent by Dell to Channel Partner by way of [●] on a periodic basis setting out Channel Partner's agreed sales targets and updates to the marketing plans, and shall include the rebate programme letters or successor programme (if any) as may be introduced by Dell from time to time. Supplementary Letters are incorporated herein by reference and shall form part of these Channel Partner Terms and Conditions.
- (m) **Territory:** means the city or cities/ state or states specified in the Channel Partner Specifications.
- (n) **Year:** means a period of 12 calendar months.

2. APPOINTMENT

- 2.1 The Channel Partner, to be appointed as a Dell authorised reseller, hereby accepts these Channel Partner Terms and Conditions by clicking on the "I Accept" tab.
- 2.2 Dell hereby appoints Channel Partner and Channel Partner hereby agrees to act as the non-exclusive re-seller of Dell "Dell Authorized Reseller" for the purchase and remarketing of the Products in the Territory. On and from such the Commencement Date, the Channel Partner shall become eligible to act as a non-exclusive re-seller of Dell for purchase and remarketing of Products for the duration of the Term in the Territory in accordance with these Channel Partner Terms and Conditions.

- 2.3 Channel Partner shall perform its obligations hereunder in accordance with all reasonable instructions which Dell may give Channel Partner from time to time.
- 2.4 Channel Partner shall not be entitled to assign or sub-contract any of its rights or obligations under these Channel Partner Terms and Conditions or appoint any sub-Channel Partner or agent to perform such obligations except with the prior written consent of Dell.
- 2.5 Channel Partner shall not be entitled to any priority of supply of the Products over Dell's other customers (including other Channel Partners) and Dell may allocate production and delivery among its customers as it sees fit.
- 2.6 Channel Partner represents and warrants to Dell that it has the necessary ability and experience to carry out the obligations assumed by it under these Channel Partner Terms and Conditions, and that by agreeing to these Channel Partner Terms and Conditions it is not and will not be in breach of any express or implied obligation to any third party binding upon it.
- 2.7 These Channel Partner Terms and Conditions shall be deemed to have been executed by the Parties at Bangalore, India.

3. DURATION

- 3.1 These Channel Partner Terms and Conditions and the appointment of the Channel Partner under these Channel Partner Terms and Conditions shall commence on the Commencement Date and shall continue until [1 years from the Commencement Date] “**Initial Period**”, whereupon it shall be automatically be extended by a further period of 1 year terms (collectively “**Term**”) ; unless Dell has given notice of its intention not to extend the appointment of the Channel Partner, in which event the appointment of the Channel Partner shall expire forthwith on the expiry of the Initial Period or the date of the notice from Dell whichever is the later. The Channel Partner acknowledges and agrees that there is no promise or assurance of any continuation of any business relationship which is entirely at the discretion of Dell but if an extension is provided to the Channel Partner, the sales targets for this [●] period of extension will be specified in fresh channel partner specifications intimated by Dell to the Channel Partner.

4. SALE AND PURCHASE OF THE PRODUCTS

- 4.1 The sale and purchase of the Products as between Dell and Channel Partner shall be governed by Commercial Terms of Sale in force for the Territory from time to time (“Conditions of Sale”).
- 4.2 If there shall be any inconsistency between the provisions of the said Conditions of Sale and any provisions of these Channel Partner Terms and Conditions, then the latter shall prevail.
- 4.3 Channel Partner agrees that it will market the Products only within the Territory and shall not export the Products from the Territory without Dell’s prior written consent.

- 4.4 Dell will provide Channel Partner with pricing applicable to the Territory to include Dell's standard quantity discounts appropriate to the Channel Partner's Sales Targets as specified in the Channel Partner Specifications. Unless Channel Partner and Dell have agreed to a different discount, Dell's standard pricing policy for Dell-branded systems, which include both hardware and services in one discounted price, allocates the discount off list price applicable to the service portion of the system to be equal to the overall calculated percentage discount off list price on the entire system.
- 4.5 Dell will provide Channel Partner with [2 weeks] prior notice of any price increases. If Dell accepts orders for Products within the [2 weeks] period, the Products will be sold at the prior prevailing prices.
- 4.6 Channel Partner must notify Dell within [60] days from the date of invoice, any short shipped, wrong shipped, defective and damaged Products. Dell at its discretion and at its own cost on shipping and taxes may repair, replace the Products notified. No claim in this regard will be accepted by Dell from Channel Partner after expiry of said [60] days period
- 4.7 Dell will provide general service and technical support for the Products in accordance with the then-current service and technical support policies in effect (available via the Internet on Dell's website at http://www1.ap.dell.com/content/topics/topic.aspx/ap/policy/en/terms_ss?c=in&l=en&s=gen or upon request) Dell may, at its discretion, revise its general and optional support programs and the terms and conditions that govern them.

5. CHANNEL PARTNER'S OBLIGATIONS

5.1 Marketing and Promotional Activities

Channel Partner shall:

- 5.1.1 use its best endeavours to promote and extend the sale and use of the Products throughout the Territory including amongst other things launching new Products, researching market opportunities, preparing marketing and sales plans for review by Dell, preparing sales literature, giving presentations to customers and potential customers, participating in marketing events and programmes (e.g. advertising, training events, trade shows and seminars) and managing public affairs activities agreed between Channel Partner and Dell;
- 5.1.2 not by itself or with others participate in any illegal, deceptive, misleading or unethical practices including, but not limited to, disparagement of the Products or Dell or Dell Inc. or any of its subsidiary companies or affiliates or other practices which may be detrimental to the Products or the public interest;

- 5.1.3 not make any promises or representations or give any warranties or guarantees in respect of the Products except such as are consistent with those in the Documentation or which otherwise accompany the Products or as expressly authorised by Dell in writing;
- 5.1.4 not supply those of Dell's existing customers that Dell identifies from time to time;
- 5.1.5 shall use its best endeavours to follow up on all leads provided by Dell to Channel Partner regarding any of Dell's major account multinational customers, and shall provide Dell with monthly reports on all sales and related activities undertaken in connection with such customers (it being acknowledged and agreed by Channel Partner that Dell shall have no affirmative obligation to provide such leads to Channel Partner at any time).
- 5.1.6 comply with Dell's current policy (as may be subject to updates and amendment from time to time at Dell's discretion) for the setup, content and maintenance of those Internet and intranet sites used by Channel Partner for the marketing and distribution of the Products. No domain name or url's containing the word "Dell" shall be registered by Channel Partner (or on its behalf) in the Territory (or elsewhere) without the prior written consent of Dell;
- 5.1.7 at all times seek Dell's written authorization to market any Products through any online web stores.
- 5.1.8 effect a Deal Registration within 30 days of being accepted as Dell's Channel Partner.

5.2 **Operational and Legal**

Channel Partner shall:

- 5.2.1 use the Marks and trade names relating to the Products only in the registered or agreed style in connection with the marketing and sale of the Products and shall not use the Marks or trade names in connection with any other products or services or as part of the corporate or any trade name of Channel Partner or in connection with activities outside the permissions given in the Channel Partner Terms and Conditions;
- 5.2.2 not alter, obscure, remove, interfere with or add to any of the trade or service marks, trade names, markings or notices affixed to any of the Products, to the Product packaging or to the Documentation at the time when they are delivered to Channel Partner;
- 5.2.3 observe all applicable laws and regulations in respect of and obtain all necessary licences, consents and permissions relevant to Channel Partner and required for the storage, marketing, sale and servicing of the Products in the Territory;

- 5.2.4 provide Dell with all information necessary to enable Dell to ensure that the Products comply with local laws and regulations and promptly advise Dell of any change or proposed change thereto;
- 5.2.5 not at any time represent itself as the agent of Dell, Dell Inc. or any of its subsidiary companies or affiliates;
- 5.2.6 permit Dell and its authorised agents at all reasonable times to enter any of Channel Partner's premises for the purpose of ascertaining that Channel Partner is complying with its obligations under these Channel Partner Terms and Conditions;
- 5.2.7 at all times employ a sufficient number of full-time sales and technical staff having sufficient expertise properly to sell the Products and provide technical support and service in respect of them and capable of addressing customer enquiries and needs regarding the Products;
- 5.2.8 during the continuance of the Term, buy all of its supplies of the Products from Dell and not from other entities unless otherwise so authorized in writing by Dell;
- 5.2.9 ensure that all Products purchased, sold and/or under its control prior to delivery to its customer(s) shall be properly stored and maintained. Proper storage includes storing and maintaining the Products in environmental conditions that will prevent damage, degradation and components failures that may be brought on by temperature extremes, humidity, condensing humidity, dust, shock and vibration and other external factors;
- 5.2.10 to the extent technically feasible, and at Channel Partner's expense, connect to Dell's electronic mail system, provide Dell with Channel Partner's electronic mail address, and monitor such system on no less than a daily basis for communications regarding Channel Partner's customers, delivery, pricing, servicing and other information relevant to Channel Partner's activities under these Channel Partner Terms and Conditions;
- 5.2.11 maintain a list of all Channel Partner's customers acquiring Products sold by Dell to Channel Partner and will make the list available to Dell upon request so as to enable Dell to notify such customers of any information concerning the Products, in the event that Dell is generally required to notify all other customers of such Products. Channel Partner will also notify its customers of any information concerning the Products upon Dell's request;
- 5.2.12 provide details of any specific deals that any customer in the Territory is willing to pursue with Dell. Channel Partner shall properly register that deal with Dell as per the deal registration process communicated to Channel Partner separately;
- 5.2.13 not engage or indulge in any activities such as deep price cuts in the Territory on the Products, that could lead Dell, Product, Dell brand to disrepute.

5.2.14 shall comply with all applicable laws, orders and regulations of any governmental authority with jurisdiction over its activities in connection with these Channel Partner Terms and Conditions including all laws relating to personal data and privacy. Dell shall have the right to require the Channel Partner to put in place appropriate measures to ensure compliance with the provisions relating to personal data and privacy including without limitation the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011. If requested by Dell, Channel Partner will furnish to Dell any information required to enable Dell to comply with applicable laws and regulations related to Products.

5.3 Costs and Regulatory

Channel Partner shall:

5.3.1 be responsible for all of the costs of administering these Channel Partner Terms and Conditions within the Territory including costs attributable to any safety or regulatory approval processes necessary within the Territory as also for stamp duty costs, as may be applicable on these Channel Partner Terms and Conditions.

5.4 General

Channel Partner shall:

5.4.1 promptly inform Dell of any facts or opinions of which Channel Partner becomes aware likely to be relevant in relation to the commercial exploitation of the Products in the Territory or which are advantageous or disadvantageous to the interests of Dell;

5.4.2 at all times conduct its business ethically and in a manner that will reflect favourably on the Products and on the good name and reputation of Dell, its subsidiary companies and affiliates;

5.4.3 promptly escalate any customer related issues to Dell as per the escalation matrix provided; further if any dispute shall arise between Channel Partner and any of its customers in respect of the Products, promptly inform Dell and comply with all reasonable directions of Dell in relation thereto;

5.4.4 except in respect of proper use, not alter or interfere with the Products or the Documentation;

5.4.5 take title and risk of loss upon receipt of the Products

5.4.6 when requested, Channel Partner will provide customer's purchase orders prior to shipment of Products by Dell.

6. PAYMENT

- 6.1 Invoice and Payment Terms. Unless credit terms have been expressly agreed by Dell, payment for the Products shall be made in full before physical delivery of the Products to the Channel Partner (or Channel Partner's customer). All taxes in relation to the same shall be borne by the [●]. Time for payment is of the essence. Dell reserves the right to charge interest on sums overdue, on a day to day basis at the rate of 24% per annum. The interest on payment shall be calculated from the date the payment becomes due till the date of actual date of receipt of the payment by Dell. Such interest shall be payable on demand.
- 6.2 Other Effects of Non-Payment. In addition, without waiving any other rights and remedies at law or under these Channel Partner Terms and Conditions, if an invoice is overdue, Dell may (a) refuse to accept additional orders under these Channel Partner Terms and Conditions; (b) terminate these Channel Partner Terms and Conditions; (c) refuse to ship ordered Products; and/or (d) seek collection from Partner, including all legal fees and other costs of collection
- 6.3 Dell shall be entitled to deduct from any monies due to Partner any sums owed by Partner to Dell.

7. AUDIT AND INSPECTION

- 7.1 During the Term the Channel Partner shall maintain true, accurate, and complete accounting books and records concerning the Products, staff and the sales. Channel Partner shall permit Dell and its authorized representatives at all reasonable times to enter any of Channel Partner's premises, including warehouses and to access to such accounting books and records and shall provide necessary office space and all other reasonable facilities to enable Dell or its authorized representatives to examine and verify such accounting books and records during normal business hours on a quarterly basis. In addition, Dell has the right to conduct random field inspections on any business branch of the Channel Partner at any time during the normal business hours without an advance notice to the Channel Partner.

8. REPORTS AND MEETINGS

- 8.1 At the beginning of every month, the Channel Partner shall provide Dell with that month's rolling forecast of its requirements for the Products (including product mix and quantities) together with details of inventory status and a forecast of marketing communication expenses.
- 8.2 The Channel Partner will also attend such meetings and provide such additional information and reports as is reasonably required by Dell.

All such reports shall be in English.

9. DELL' S OBLIGATIONS

Dell shall:

- 9.1 provide Channel Partner with such sales, marketing and technical assistance as Dell may in its discretion consider necessary to assist Channel Partner with the promotion of the Products pursuant to its obligations under these Channel Partner Terms and Conditions including, amongst other things, promptly reviewing sales literature and public affairs activities prepared or suggested by Channel Partner;
- 9.2 provide Channel Partner with adequate quantities of technical and promotional literature and other relevant information relating to the Products;
- 9.3 endeavour to give Channel Partner reasonable advance written notice of any significant change to the Products; and
- 9.4 If requested by the Channel Partner, Dell shall provide such technical training in the installation, implementation and use of the Products as is agreed, in accordance with Dell's standard practises and scale of charges in force from time to time.

10. PRODUCT RELATED PROGRAMMES

- 10.1 In order for the Products to compete effectively in the computer market place in the Territory, it may become necessary for Dell to implement short or long term marketing, service, support or other Product related programmes during the financial calendar year/quarter followed by Dell that may not be specifically addressed in these Channel Partner Terms and Conditions. Channel Partner recognises that, from time to time, Dell may announce these programmes through the publication of a set of guidelines for each programme ("Programme Guidelines"). Channel Partner agrees that any Programme Guidelines provided by Dell will automatically become a part of and be incorporated into these Channel Partner Terms and Conditions, mutatis mutandis, without further action being required on the part of either of the Parties. Dell and Channel Partner shall, in good faith, discuss any situation that may arise with Channel Partner which falls outside of the scope of any such Programme Guidelines.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 All Intellectual Property Rights in or relating to the Products and the Documentation are and shall remain the property of Dell, its parent or associated companies or its licensors, as the case may be.
- 11.2 Channel Partner shall notify Dell immediately if Channel Partner becomes aware of any illegal or unauthorised use of the Products or the Documentation or any of the Intellectual Property Rights

therein or relating thereto and will assist Dell (at Dell's expense) in taking all steps necessary to defend Dell's or its parent or associated companies' rights therein

11.3 The provisions of this Clause shall survive the expiry of the Term.

12. CONFIDENTIALITY

12.1 Confidential Information shall include all or any part of the following:

12.1.1 information relating to either Party's operations, business plans, undisclosed products and prices or other information marked or stated to be "Confidential" at the time of disclosure (and where stated is subsequently confirmed in writing to be confidential) or by its nature has the necessary quality of confidence about it - all of which information is not readily ascertainable to persons not connected with one party or the other; or

12.1.2 any of the terms of the these Channel Partner Terms and Conditions.

12.2 Confidential information shall not include information which:-

12.2.1 is already known (without restriction) to the recipient Party prior to the commencement of the negotiations leading to acceptance of these Channel Partner Terms and Conditions as evidenced by its written records; or

12.2.2 is or becomes publicly known through no wrongful act of the recipient Party; or

12.2.3 is rightfully received from a third party without similar restriction and without breach of any obligation of confidentiality; or

12.2.4 is independently developed by the recipient Party without breach of these Channel Partner Terms and Conditions; or

12.2.5 is furnished by one Party to a third party without similar restriction on the third party; or

12.2.6 is approved for release by written authorisation of the furnishing Party.

12.3 With regard to any Confidential Information:-

12.3.1 Both Parties shall use the same standard of care as they use for their own trade secret information not to disclose the Confidential Information to any other person, firm, company or organisation (other than their own employees having a need to know and consultants provided they are bound by a written agreement to protect the Confidential Information); and

- 12.3.2 Each Party will use all reasonable endeavours to prevent persons (except persons authorised by each party) from having access to such Confidential Information; and
- 12.3.3 Neither Party will copy or reproduce or cause to be copied or reproduced by any means whatsoever the whole or any part of the Confidential Information for any unauthorised purpose; and
- 12.3.4 Each Party shall promptly return or destroy (and certify that such destruction has taken place) all such Confidential Information and any copies, whether authorised or not, to the other upon the other's request at any time; and
- 12.3.5 Should one Party be compelled by law or be required to act in compliance with the legal requirement of a governmental agency to disclose the Confidential Information, that Party shall provide the other with reasonable notice of any disclosure and comply with any reasonable instructions as to such disclosure; and
- 12.3.6 In the case of accidental or inadvertent disclosure, by a Party, that Party shall take reasonable steps to prevent misuse or further disclosure.
- 12.4 Notwithstanding anything elsewhere in these Channel Partner Terms and Conditions, the provisions of this Clause shall survive the termination or expiry of the Term.

13. SOFTWARE

- 13.1 All software, including the operating systems marketed by Dell under its name, is provided subject to the license agreement that is part of the package. Channel Partner is responsible for ensuring that any customer who requests that Channel Partner installs software on a Product on their behalf shall have the necessary rights and licenses prior to any such installation. All software is warranted in accordance with the license agreements that govern their purchase and use.

14. RESERVATION OF RIGHTS

Dell reserves the right:

- 14.1 to revise and/or discontinue Products at any time without notice consistent with Dell's policy of on-going Product up-date and revision. Whilst there may be differences in detail, revised or updated Products will have the functionality and performance of the Products ordered. The Channel Partner accepts that Dell's policy may result in changes between the specification of the Product delivered to the Channel Partner and the specification of the Product ordered as described in any specification sheet or catalogue or website.
- 14.2 to refuse any order of Channel Partner for the Products; and

- 14.3 to require Channel Partner either not to use or to cease to use any advertising or promotional materials in respect of Products which Dell considers not to be in the best interests of Dell or any of its subsidiary companies or affiliates; and
- 14.4 to use in the Products parts which are not new but have been refurbished or tested and are equivalent to new parts;
- 14.5 to revise list prices without notice.

15. THE TERRITORY

- 15.1 Dell shall have no liability to Channel Partner in the event that any of Dell's Channel Partners appointed in other territories import any Dell systems or parts that are same or similar to the Products into the Territory for sale therein.
- 15.2 Channel Partner shall not advertise or maintain stocks of the Products outside the Territory or otherwise actively solicit orders for the Products from persons who are situated outside the Territory.

16. LEGAL RELATIONSHIP

- 16.1 During the Term, Channel Partner shall be entitled to use the title ["DELL AUTHORISED RESELLER"] but such use shall be in accordance with Dell's policies in effect from time to time. Dell may also certify and award the Channel Partner with other titles from time to time based on Channel Partner's turnover, technical skills, techno commercial capacity and/or any other criteria that Dell seems appropriate. Before using such title/s (whether on Channel Partner's business stationery, advertising material or elsewhere) Channel Partner shall submit to Dell proof prints and such other details as Dell may require and Dell may in its discretion grant or withhold permission for such proposed use.
- 16.2 Except where specifically provided to the contrary, the relationship of the parties is that of seller and buyer and nothing in these Channel Partner Terms and Conditions shall render Channel Partner a partner or agent of Dell. Channel Partner is an independent contractor buying and selling in its own name and at its own risk. Channel Partner shall not bind or purport to bind Dell to any obligation nor expose Dell to any liability nor pledge or purport to pledge Dell's credit. Channel Partner will not register any authority or organisation as agent or representative of Dell in the Territory without Dell's prior written consent. Dell may withhold such consent without assigning any reason to the Channel Partner.

17. TERMINATION

- 17.1 Notwithstanding anything else contained herein, the appointment of the Channel Partner and these Channel Partner Terms and Conditions may be terminated by Dell forthwith on giving notice in writing to Channel Partner if:
- 17.1.1 Channel Partner shall (or shall threaten to) sell, assign, part with or cease to carry on its business or that part of its business relating to the distribution of the Products; or
 - 17.1.2 the control of Channel Partner shall be transferred to any person or persons other than the person or persons in control of Channel Partner at the date hereof (Dell shall also be entitled to terminate these Channel Partner Terms and Conditions by giving 30 days notice, after Dell shall have become aware of the change in control); or
 - 17.1.3 Channel Partner breaches or Dell has reason to suspect that Channel Partner may be in breach of any export control requirement or regulation imposed by any relevant authority, including the U.S. government, the government of the Territory in which the Products are received, in any way in relation to the Products or their use, sale or transfer as stated in Clause 22; or
 - 17.1.4 Channel Partner enters into or Dell suspects that Channel Partner has entered in to arrangements which (i) could result in a conflict of interest with Dell; or (ii) might reflect adversely upon the Products or the business, integrity or goodwill of Dell.
 - 17.1.5 Channel Partner does not effect a Deal Registration within 30 days of being accepted as a Channel Partner;
 - 17.1.6 Channel Partner breaches any of these Channel Partner Terms and Conditions including but not limited to violation of the Territory assigned to the Channel Partner that results in leakage of Products into unassigned Territory or into restricted countries as set out in clause 22 below.
- 17.2 Notwithstanding anything else contained herein, these Channel Partner Terms and Conditions may be terminated by either Party forthwith on giving notice in writing by way of [●] to the other if:
- 17.2.1 the other Party commits any material or persistent breach of any term of these Channel Partner Terms and Conditions and (in the case of a breach capable of being remedied) shall have failed, within 30 days after the receipt of a request in writing from the other Party so to do, to remedy the breach (such request to contain a warning of such Party's intention to terminate);
 - 17.2.2 the other Party shall have a receiver or administrative receiver or the equivalent appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent

amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other Party shall enter into any voluntary arrangement with its creditors or shall become subject to an administration order.

17.2.3 Notwithstanding anything else contained herein, these Channel Partner Terms and Conditions may be terminated by either Party at any time by the giving of notice in writing to the other at least sixty (60) days prior to the effective date of such termination.

17.2.4 Unless a payment is late or Channel Partner is in breach of a material provision of these Channel Partner Terms and Conditions at the time such notice of termination is given, Dell will receive and accept orders in accordance with these Channel Partner Terms and Conditions up to the date of termination.

17.2.5 Channel Partner shall not be entitled to any compensation (whether for loss of distribution rights, goodwill or otherwise) as a result of the termination of these Channel Partner Terms and Conditions in accordance with its terms.

17.2.6 Each delivery of a consignment of the Products shall be regarded as a separate contract of sale and no one default in a delivery shall be cause for terminating these Channel Partner Terms and Conditions.

18. SALES TARGETS

18.1 Before the Commencement Date the Parties shall endeavour to agree either a monthly/ or quarterly sales targets for Channel Partner and these targets shall be updated in the Channel Partner Specifications and [sent to the Channel Partner by Dell].

In the absence of agreement of sales targets, Dell has the unilateral right to fix such sales targets in its sole discretion. Dell shall act reasonably in the exercise of this discretion.

18.2 If Channel Partner shall fail to achieve any of the sales targets detailed in the Channel Partner Specifications, Dell may, within 45 days after the expiration of the relevant quarter, forthwith by notice in writing to Channel Partner:

18.2.1 amend the prices at which Channel Partner may buy Products from Dell; or

18.2.2 reduce or otherwise vary the extent of Channel Partner's appointment; or

18.2.3 terminate these Channel Partner Terms and Conditions.

19. FOREIGN CORRUPT PRACTICES ACT

Channel Partner acknowledges that it is familiar with the Foreign Corrupt Practices Act of the United States (the "FCPA") and the FCPA's prohibitions regarding the payment or giving of anything of value, either directly or indirectly, to an official of a foreign government or political party for the purpose of influencing an act or decision in his official capacity, or inducing the official to use his or his party's influence with that government, to obtain or retain business involving Products. Channel Partner agrees to not violate or knowingly let anyone violate the FCPA with respect to the sale, licensing and use of Products.

20. EFFECT OF TERMINATION

On the termination of the Channel Partner Terms and Conditions:

- 20.1 all the rights and obligations of the Parties under these Channel Partner Terms and Conditions shall automatically terminate except:
 - 20.1.1 for rights of action accruing prior to termination and any obligations which expressly or by implication are intended to survive termination.
 - 20.1.2 Channel Partner shall be entitled to sell any of its stocks of the Products which have been fully paid for and which are required to fulfil any unperformed contracts of Channel Partner outstanding at the date of termination (and to that extent and for that purpose the provisions of these Channel Partner Terms and Conditions shall continue in effect);
- 20.2 Channel Partner shall immediately eliminate from all its literature, business stationery, publications, notices and advertisements all references to the title ["DELL AUTHORISED RESELLER"] and all other representations of Channel Partner's appointment hereunder, including the Marks and any trade names or other notations used by Dell during the term of these Channel Partner Terms and Conditions;
- 20.3 Channel Partner shall immediately discontinue all use of the Marks and all trade names used by Dell during the Term of these Channel Partner Terms and Conditions and shall, where relevant, co-operate with Dell or its appointed agent to apply to the appropriate authorities to cancel recordation of these Channel Partner Terms and Conditions or any related licence from all government records;
- 20.4 Channel Partner shall at its own expense forthwith return to Dell or otherwise dispose of as Dell may instruct all technical and promotional materials and other documents and papers whatsoever sent to Channel Partner and relating to the Products or the business of Dell (other than correspondence between the Parties) and all property of Dell being in each case in Channel Partner's possession or under its control;

- 20.5 all orders for undelivered Products shall be automatically cancelled;
- 20.6 all outstanding unpaid invoices in respect of the Products shall become immediately payable in place of the payment terms previously agreed between the Parties;
- 20.7 Dell shall forthwith pay to Channel Partner any amount standing to the credit of Channel Partner's account with Dell (less any moneys then owed by Channel Partner to Dell);
- 20.8 Dell shall be entitled to repossess any Products which have not been paid for against cancellation of the relevant invoices (and so that Channel Partner hereby irrevocably licenses Dell, its employees and agents to enter any of the premises of Channel Partner for such purpose);
- 20.9 Dell shall be entitled (but not obliged) to purchase all or any unsold Products in the possession or under the control of Channel Partner which have been paid for by Channel Partner (and which are not required to fulfil any unperformed contracts of Channel Partner outstanding at the date of termination) at the Invoice Price (or, if lower, the written down value of the Products appearing in the accounting records of Channel Partner at the date of termination), subject to Dell paying all necessary value added or sales or other relevant taxes, duties or levies, and paying the cost of and arranging transport and insurance and to notifying Channel Partner in writing of its requirements within 14 days of the date of termination. Channel Partner shall give Dell all necessary assistance and co-operation for the purpose of giving effect to the provisions of this sub-clause and of delivering the Products to Dell but, subject thereto, any Products which are not purchased by Dell within 30 days of its notice may be sold by Channel Partner (Channel Partner using its best endeavours to sell the same within 3 months thereafter) in accordance with the terms of these Channel Partner Terms and Conditions (and to that extent and solely for that purpose such terms shall continue in effect).

21. WARRANTY

- 21.1 Notwithstanding anything contained in Dell's standard conditions of sale referred to in Clause 4 above, the warranty extended to Channel Partner by Dell under such conditions of sale shall be effective for a period of [twelve months] as of the date of invoice ("Standard Warranty"), provided that Dell may, from time to time, at Dell's sole discretion, offer extensions of the foregoing [twelve] month warranty on such terms and with such limitations as Dell may determine. This Standard Warranty does not cover damage, fault, failure or malfunction due to external causes, including accident, abuse, misuse, problems with electrical power, servicing not authorized by Dell, usage and/or storage and/or installation not in accordance with Product instructions, failure to perform required preventive maintenance, normal wear and tear, act of God, fire, flood, war, act of violence or any similar occurrence; any attempt by any person other than Dell personnel or any person authorised by Dell, to adjust, repair or support the Products and problems caused by use of parts and components not supplied by Dell. The Standard Warranty does not cover any items that are in one or more of the following categories: software; external devices; accessories or parts added to the Product after the Product is shipped from Dell;

accessories or parts added to the Product through Dell's Custom Factory Integration (CFI) program; accessories or parts that are not installed in the Dell factory; or third party products purchased under Dell Software & Peripherals (S&P) Program. During such [twelve] month warranty Dell will provide, on an exchange basis, replacement parts for the Dell branded Products covered under this Standard Warranty when a part requires replacement. Channel Partner must report each instance of Dell branded Product failure to the local Dell Technical Support in advance to obtain Dell's concurrence that a part should be replaced. Dell may then choose either of the following two options:

21.1.1 Dell may chose to ship the replacement part to Channel Partner. In such instance, Dell will ship parts using next-business-day delivery, (if available). Dell will include a prepaid shipping container with each replacement part for Channel Partner's use in returning the replaced part to Dell. Dell reserves the right to claim part lost at cost from Channel Partner for failing to return replaced / defective parts to Dell within 15 days. Channel Partner is to credit Dell for the part lost in future payment to Dell within the same month of the claim. Replacement parts are new or reconditioned. Dell may provide replacement parts made by various manufacturers when supplying parts to Channel Partner; or

21.1.2 Dell may direct Channel Partner to return the part directly to Dell's supplier of, or third party repairer for such part. In such instance, Channel Partner will ship parts directly to the supplier or third party repairer, and be responsible for monitoring the return of such part to the Channel Partner for inclusion in the Channel Partner's spare parts inventory. Failure of the supplier or third party repairer to return parts shall not excuse the Channel Partner from its obligation to provide warranty support for its customers. In the event that shipping costs are not covered by the supplier or third party repairer as part of its agreement with Dell, Dell agrees to credit Channel Partner for shipping costs to be applied against future purchases of Products.

The warranty term for a replacement part is the remainder of the original [twelve] month warranty period or any extended warranty period then in effect. Channel Partner agrees to extend to its customers in the Territory no less than the minimum warranty provisions offered to the Channel Partner hereunder, including under any such extended warranty program.

Exclusions. Dell does not give any warranty that the Products are fit for any particular purpose and this Standard Warranty is given in place of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, trade usage, course of dealing or otherwise including warranties or conditions of merchantability, fitness for purpose, satisfactory quality and/or compliance with description, all of which are hereby excluded to the fullest extent permitted by law

21.2 Dell will support Channel Partner's warranty commitments by honouring Dell's warranties to Channel Partner under those standard conditions of sale as modified hereby.

- 21.3 Channel Partner also agrees to perform warranty services on Products within the Territory but not sold by Channel Partner. Dell will honour its warranty obligations in respect of those Products.
- 21.4 Channel Partner will provide its customers with the Documentation and will maintain a current, updated list of those of its customers that have Products, and will provide Dell with such copies of this list as Dell may request. Channel Partner acknowledges that Dell may use this list to notify Channel Partner's customers of matters concerning the Products, if the need arises.
- 21.5 If Dell appoints a Third Party Maintenance (TPM) organisation which operates within the Territory, Dell shall inform the Channel Partner and the Channel Partner may elect to use the services of such TPM to provide warranty services to its customers.
- 21.6 Third Party Products shall mean, products manufactured by any third party. Channel Partner agrees that, in relation to Third Party Products purchased through Dell, where such of the Third Party Products are covered by a relevant manufacturer's warranty then the Standard Warranty shall not extend to such Third Party Products and such manufacturer's warranty shall be the sole warranty in respect of such Third Party Products. The Channel Partner shall utilise that warranty for the support of such Third Party Products and in any event not look to Dell for such warranty support.
- 21.7 Channel Partner agrees to only pass on to Channel Partner's customers Dell's limited warranties within the scope of this Clause 21 and Channel Partner will be liable for any greater warranty that Channel Partner purposely or inadvertently transfers to Channel Partner's customers. Channel Partner will indemnify, defend and hold Dell harmless for any damages or other costs that arise because of Channel Partner's failure to properly inform Channel Partner's customers of Dell's current limited warranties.

22. EXPORT RESTRICTIONS

- 22.1 Channel Partner acknowledges that the Products licensed or sold under these Channel Partner Terms and Conditions, and the transaction contemplated by these Channel Partner Terms and Conditions, which may include technology and software, are subject to the export control laws and regulations of the United States ("U.S.") and may also be subject to the export laws and regulations of the country in which the Products are manufactured and/or sold. For any authorized resale under this agreement, Channel Partner acknowledges that it is its sole responsibility to comply with those laws and regulations and agrees to fully abide by those laws and regulations. Further, under those laws, the Products shipped pursuant to these Channel Partner Terms and Conditions may not be sold, leased or otherwise transferred to restricted end-users (including those on the U.S. Department of Commerce, Bureau of Industry and Security "Entity List" and other lists of denied parties) or to restricted countries (including Cuba, Iran, North Korea, Sudan and Syria). In addition, the shipped Products may not be sold, leased or otherwise transferred to, or utilized by an end-user engaged in activities related to weapons of mass destruction, including

without limitation, activities related to the design, development, production or use of nuclear weapons, materials, or facilities, missiles or the support of missile projects, and chemical or biological weapons. Channel Partner further acknowledges that the Products may also be subject to the export laws and regulations of the Territory in which the Products are received, and that Partner will abide by such laws and regulations. Partner understands that applicable requirements or restrictions may vary depending on the Products delivered and may change over time and that, to determine the precise controls applicable to the products acquired, it may be necessary to refer to relevant laws and regulations. In addition, Channel Partner agrees to indemnify, defend and hold Dell harmless from any loss, expense, penalty or claim against Dell due to Channel Partner's violation or alleged violation of any such applicable laws and regulations.

23. WAIVER

23.1 No waiver of any term is valid unless it is in writing and physically or electronically signed by an authorised person of the party charged with the waiver. A waiver is valid for the specific situation for which it was sought. All remedies provided for in the Channel Partner Terms and Conditions are cumulative and in addition to and not in lieu of any other remedies available to either party at law in equity or otherwise.

24. INDEMNITIES

24.1 Dell shall indemnify Channel Partner against all claims and liabilities that:

24.1.1 through normal use or possession of the Products infringes the intellectual property rights of any third party; or

24.1.2 the Products do not comply with local laws and regulations relating to its sale and use in the Territory, and which are not due to Channel Partner's negligence, recklessness or misconduct or any breach of its contractual obligations under this Agreement.

24.2 Channel Partner shall indemnify Dell against all claims and liabilities which Dell may sustain or incur, or which may be brought or established against it by any person and which in any case arise out of or in relation to or by reason of:

24.2.1 the negligence, recklessness or misconduct of Channel Partner in the performance of any of its obligations including but not limited to, in connection with the storage, marketing, supply, installation or maintenance of the Products;

24.2.2 any unauthorised action or omission of Channel Partner or its employees;

24.2.3 misrepresentations regarding the Products;

24.2.4 any action by Channel Partner that brings Dell's name and its Brand to disrepute;

- 24.2.5 the manner in which Channel Partner markets and sells the Products;
 - 24.2.6 the independent supply by Channel Partner of any products or services for use in conjunction with or in relation to the Products;
 - 24.2.7 any breach or alleged breach of any applicable laws or regulations relating to the use, marketing or sale by Channel Partner or any of its customers of the Products in the Territory; or
 - 24.2.8 neglect to follow any recommendations made by Dell relating to the use, marketing or sale by Channel Partner of the Products in the Territory.
- 24.3 If any claim is made against either Party for which indemnification is sought under this Clause, the indemnified party shall consult with the other and, subject to being secured to its reasonable satisfaction, shall co-operate with the other in relation to any reasonable request made by the other in respect of such claim.

25. LIMITATION OF LIABILITY

- 25.1 If Dell shall be in breach of any of its obligations contained in Clause 9 above, its liability shall be limited to replacing the Products concerned or, at its option, refunding the price paid by the Channel Partner (subject to the Channel Partner returning the defective Products to Dell) or, if an abatement of the price is agreed with the Channel Partner, refunding to the Partner the appropriate part of the price paid
- 25.2 Notwithstanding anything else contained in these Channel Partner Terms and Conditions but subject to Clause 25.3 below, Dell shall not be liable to the Channel Partner for loss of profits, revenue, anticipated savings, or indirect or consequential loss or damage, whether arising from negligence, breach of contract or any other course of action arising out of the subject matter of these Channel Partner Terms and Conditions.
- 25.3 Dell does not exclude liability for death or personal injury caused by its negligence.
- 25.4 The express terms of these Channel Partner Terms and Conditions are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law
- 25.5 Except in respect of Dell's liability under Clause 25.3, the total liability of Dell (whether in contract, tort, statutory duty or otherwise) under these Channel Partner Terms and Conditions shall not exceed the total amount paid by the Channel Partner for the Products in the 12 months

preceding the month in which the incident giving rise to liability occurs or USD 500,000 whichever is the lesser, in respect of each event or a series of connected events.

26. REPRESENTATIONS AND WARRANTIES

The Channel Partner hereby represents and warrants to Dell that:

- 26.1 It is not entering into these Channel Partner Terms and Conditions as an officer, employee, or agent of any other entity or individual;
- 26.2 In performing its obligations under these Channel Partner Terms and Conditions, it will not represent or appear on behalf of Dell before any agency, body or authority of the Government for any purposes whatsoever;
- 26.3 It has the necessary ability and experience to carry out the obligations assumed by it under these Channel Partner Terms and Conditions and that by virtue of entering into these Channel Partner Terms and Conditions it is not and will not be in breach of any express or implied obligation to any third party binding upon it.
- 26.4 It is fully empowered by its constitutive documents and/or by the applicable laws to accept these Channel Partner Terms and Conditions and make the representations and warranties contained herein so as to be binding upon it;
- 26.5 It shall perform its obligations and duties under these Channel Partner Terms and Conditions accurately and in accordance with instructions, specifications, procedures, standards, guidelines, timeframe, as may be issued by Dell from time to time;
- 26.6 It shall be responsible for the its personnel taxes if any, and shall indemnify and hold harmless Dell from any liability in this connection;
- 26.7 It shall perform its obligations under these Channel Partner Terms and Conditions in such manner as to not adversely affect the reputation and goodwill of Dell or its business associates;
- 26.8 It shall obtain all necessary Government and other regulatory approvals for performance of the obligations under these Channel Partner Terms and Conditions; and
- 26.9 It is under no obligation or restriction nor will it assume any obligation or restriction which would interfere or be inconsistent with, or present a conflict of interest concerning, its obligations under these Channel Partner Terms and Conditions.

27. FORCE MAJEURE

- 27.1 Neither Party shall be liable for any delay in performing any of its obligations under these Channel Partner Terms and Conditions if the delay is caused by circumstances beyond its

reasonable control. The delaying Party shall be entitled to a reasonable extension of time for the performance of such obligations.

- 27.2 If and when the period of incapacity exceeds 90 days, then the Channel Partner Terms and Conditions shall automatically terminate unless the parties first agree otherwise in writing.

28. NOTICES

- 28.1 Unless expressly stated otherwise elsewhere in these Channel Partner Terms and Conditions, all notices which are required to be given shall be in writing and shall be sent to the [e –mail] address of the recipient or such other address as the recipient may designate by notice given in accordance with the provisions of this clause.
- 28.2 Failing any such address being so set out or designated, notices shall be sent to the recipient's registered office or in a Territory where registration is not required, to its principal office. Any notice may be delivered personally or by first class prepaid letter post (or the equivalent), telex or facsimile transmission and shall be deemed to have been served, if by hand when delivered, if by post 48 hours after posting, if by telex or facsimile transmission when despatched.
- 28.3 Any notice which affects or may affect the validity or existence of these Channel Partner Terms and Conditions shall only be delivered personally or sent by recorded delivery first class letter post (or its equivalent in any Territory) by a party and only to a duly authorised representative of the other party.

29. INTERPRETATION

In these Channel Partner Terms and Conditions:

- 29.1 reference to any statute or statutory provision includes a reference to that statute or statutory provisions as from time to time amended, extended or re-enacted;
- 29.2 words importing the singular include the plural, words importing any gender include every gender, words importing persons include bodies corporate and un-incorporate; and (in each case) vice versa; and
- 29.3 the headings to the Clauses are for each of reference only and shall not affect the interpretation or construction of these Channel Partner Terms and Conditions.

30. ENTIRE CHANNEL PARTNER TERMS AND CONDITIONS

These Channel Partner Terms and Conditions supersedes all prior agreements, arrangements and undertakings between the parties and constitutes, the entire agreement between the parties relating to the subject matter hereof. The Channel Partner agrees that these Channel Partner

Terms and Conditions shall prevail over any terms and conditions that may be contained in any purchase orders, acknowledgment or documents issued by Channel Partner to Dell.

31. ASSIGNMENT

Dell may assign or otherwise transfer these Channel Partner Terms and Conditions or any of its rights and obligations hereunder whether in whole or in part. Channel Partner shall not assign or otherwise transfer these Channel Partner Terms and Conditions or any of its rights or obligations hereunder whether in whole or in part without the prior written consent of Dell.

32. ILLEGALITY OR SEVERANCE

If any provision of these Channel Partner Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Channel Partner Terms and Conditions and the remainder of the provisions in question shall not be affected thereby.

33. LAW AND JURISDICTION

These Channel Partner Terms and Conditions shall be governed by and construed in accordance with the laws of India. Any dispute arising in connection with these Channel Partner Terms and Conditions shall to the extent possible be settled through friendly consultations between the Parties. If the dispute cannot be settled through consultations [within sixty (60) days after one party has served written notice to the other Party requesting the commencement of such consultations], either Party may refer the dispute to the arbitration as specified below..

Any dispute, controversy or claim arising out of or relating to these Channel Partner Terms and Conditions, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the Indian Arbitration and Conciliation Act, 1996 and the rules made there under in force.

Subject to the above, courts at Bangalore, India shall have exclusive jurisdiction.

34. GOVERNING LANGUAGE

These Channel Partner Terms and Conditions shall be interpreted and construed in accordance with the English language.

35. AUTHORITY

If either Party is a corporation or limited liability company, each person executing or accepting these Channel Partner Terms and Conditions on behalf of such Party hereby covenants, represents and warrants that such Party is duly formed or duly qualified and that each person executing these

Channel Partner Terms and Conditions on behalf of such Party is an officer or member of such party and is duly authorized to enter into, accept, execute, acknowledge and deliver these Channel Partner Terms and Conditions to the other Party.

36. **INTERIM INJUNCTIVE RELIEF**

The Channel Partner expressly acknowledges that damages alone will be an inadequate remedy for any breach or violation of any of the provisions of these Channel Partner Terms and Conditions. Accordingly, the Channel Partner agrees that Dell shall be entitled, as a matter of right, to petition a court of competent jurisdiction to provide preliminary, interlocutory or interim equitable relief including injunctive relief, to preserve the status quo between them, to prevent a threatened breach of these Channel Partner Terms and Conditions, or otherwise to protect its rights and interests under these Channel Partner Terms and Conditions; provided, that no application for such relief shall be deemed a waiver of the agreement to arbitrate and promptly following disposition of any such petition, the sole and exclusive remedy with respect to such dispute shall be arbitration pursuant to Clause 33, and provided further that Dell may seek relief under this Clause in any Court having jurisdiction. Such remedy shall not be exclusive, but shall be cumulative of all other rights so granted as well as any rights and remedies either of them may have at law or in equity.

37. **NO-OBJECTION**

Dell and the Channel Partner hereby acknowledge and agree that these Channel Partner Terms and Conditions and the arrangement hereunder are not to be construed as a joint venture, investment, technology transfer, trademark license or any other such arrangement between Dell and/ or any of its affiliates, with the Channel Partner. The Channel Partner also acknowledges and agrees that Dell or any of its affiliates, are free to enter into any joint venture, investment, technology transfer, trademark license or any other arrangement with any party, even if the same competes with the arrangement under these Channel Partner Terms and Conditions or the business of the Channel Partner. The Channel Partner further undertakes that if requested by Dell at any point in time, they shall issue a no-objection in the manner and format required by the relevant regulatory authorities in India, if applicable, in favour of Dell and/or any of its affiliates as requested by Dell, and undertake such further acts and omissions, as may be required, to enable Dell and/ or any of its affiliates to enter into any joint venture, investment, technology transfer, trademark agreement or any other such arrangement with any third party, whether the same, allied or any other field as that of the arrangement under these Channel Partner Terms and Conditions or the business of the Channel Partner.

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Exhibit 1 to the Dell Channel Partner Terms and Conditions of Dell Logo Use by Channel Partner

Channel Partner (“Licensee”) is granted a limited, non-transferable, non-exclusive, and revocable license to use the Dell logo (“Logo”), subject to the following terms, and conditions:

1. Licensee shall not use a Logo obtained from any source other than Dell, and shall not modify or alter the Logo in any way. Licensee may find details about the Logo usage in the Channel Partner Handbook. Licensee shall strictly follow the instructions in the Channel Partner Handbook.
2. Licensee shall not to use the Logo in connection with any activity that is unlawful, libelous, defamatory, obscene, disparages Dell or Dell’s products or services, or that in any way infringes the intellectual property or other rights of any person or entity.
3. Licensee shall not use the Logo in any manner that is likely to create the impression that Licensee is a legal partner, affiliate, or franchisee of Dell, or is otherwise related to Dell. Licensee will clearly and prominently identify itself in its offers, advertising, marketing, and promotional materials.
4. Licensee agrees to use the Logo only in connection with the marketing of Dell products or services. Licensee shall not use or display the Logo on its invoices, bills, or shipping memos.
5. Licensee acknowledges that Dell owns all rights in the Logo, and agrees that it will not contest the validity of Dell’s rights, either during or after the license term.
6. Licensee will indemnify and hold Dell harmless against any claims, actions, or demands relating to its business activities or the use of the Logo in connection with such activities or otherwise.
7. Dell may immediately terminate Licensee’s right to use the Logo for violation of any of these terms and conditions, or any terms and conditions governing Licensee’s provision of Dell products or services, or for any other reason that Dell deems appropriate. Upon such termination, Licensee shall immediately cease use of the Logo or any similar mark, name, or logo, including any name or mark containing the term “Dell.”
8. Licensee agrees not to use any Dell logo, trademark, or intellectual property other than the specified Logo.
9. Dell grants Licensee no other rights except those set forth expressly herein.