

US SELF-PACK SERVICE TERMS

These Service Terms ("Service Terms") contain the terms that apply to the self-pack return services (the "Service") requested by you ("Customer") from Dell Financial Services L.L.C. ("DFS") on this website. If you have financed this Service through a signed schedule to a leasing agreement with DFS, then the End of Lease Service Terms attached to that schedule shall govern instead of these. "Customer" shall include Customer's corporate subsidiaries, as well as corporate parents, or any affiliates approved in writing by DFS to receive the Service under the Service Terms. By ordering the Services, Customer agrees to be legally bound by these Service Terms. In the event Customer issues a purchase order to DFS for the Service, any pre-printed terms on such purchase order are expressly rejected by DFS and are prohibited from being incorporated into the Service Terms and shall be void and of no effect. The Service Terms are only applicable to the Service being provided by DFS and not to any other service(s) being provided by any other Dell entity.

Customer and DFS agree to the following terms and conditions:

- 1. Self-Pack Return Logistics.** DFS, by itself or through a third-party provider ("Provider"), will provide box(es), packing material(s), and waybill(s) to Customer for the products identified by DFS and Customer (the "Returning Products"). Customer will package and prepare the Returning Products for pick up using these materials and provide the packaged Returning Products to a parcel carrier identified by DFS or its Provider.
- 2. Customer Obligations for Self-Pack Return Logistics.** Customer will cooperate with Provider in connection with the Service. Prior to the scheduled Service, Customer will provide to DFS a written list identifying all items by type, quantity and service tag (serial) number. Customer is responsible for the de-installation of each Returning Product. Unless otherwise agreed between DFS and Customer, risk of loss to the Returning Products shall transfer from Customer to DFS once Customer provides Returning Products to the parcel carrier identified by DFS or its Provider.
- 3. Terms of Purchase.** By submitting an order for Services, Customer consents to obtaining the Service being performed pursuant to these Service Terms. Provided Customer complies with its obligations herein, DFS shall provide and implement the Service. Customer agrees that it is responsible for and will pay or reimburse DFS upon invoice for all government imposed taxes, duties, fines assessed or imposed on the Service (but excluding taxes imposed on DFS's income or for which Customer has provided DFS with a valid tax exemption certificate acceptable to the relevant taxing authority prior to any taxes being paid by DFS).
- 4. Invoicing and Payment.** The cost of the Service and the Customer's payment terms shall be as described in the invoice.
- 5. Purchases from a Third-Party Reseller.** This Section shall not apply to Customers who purchase the Service directly from DFS. If Customer purchases from a party other than DFS (each a "Reseller"), then Customer acknowledges that its payment for the Service is subject to the agreement between the Customer and the Reseller (the "End-User Reseller Agreement"). Otherwise, Customer agrees that these Service Terms shall apply to Customer's use of the Service notwithstanding anything to the contrary in the End-User Reseller Agreement. DFS shall not be liable to Customer for any representations, warranties, indemnities or damages beyond those set forth in these Service Terms. Customer acknowledges that to the extent DFS does not receive payment for the Service from the Reseller; DFS shall have the right to suspend or terminate the Service until such payment is received. DFS shall have no liability to Customer for such suspension or termination of Service and Customer shall look solely and exclusively to the Reseller for any and all damages and liability associated with such suspension or termination of the Service.
- 6. Term & Renewal.** These Service Terms shall apply to the identified Returning Products and shall remain valid up until the date the Returning Products are either returned or purchased.
- 7. Third-Party Products & Warranties.** "Third Party Products" means any third-party hardware, services or software including open-source software, leased by DFS. Some manufacturers' warranties or service contract terms and conditions for Third Party Products may become void if DFS or anyone else, other than the manufacturer or its authorized representative, provides services for or works on the hardware or software (such as providing maintenance and repair services). DFS DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE SERVICES MAY HAVE ON THOSE WARRANTIES. Except as agreed to in writing between Customer and DFS, Third Party Products shall be exclusively subject to terms and conditions between the third party and Customer. DFS shall have no liability for Third Party Products and Customer shall look exclusively to the third-party provider for any damages or liability with respect to the provision of such Third Party Products.

8. **Customer Responsibilities.** It is the Customer's responsibility to backup any data or software on Customer's system(s) that Customer desires to retain prior to providing the Returning Products for pickup. Customer must remove/disable all passwords and other access security features and terminate any theft deterrent or laptop tracking software contained within such Returning Products. Customer must de-register Returning Products and other associated systems from Windows Autopilot or other software used to setup, pre-configure or manage Returning Products. Customer shall remove any and all confidential, proprietary, sensitive or other non-public data (including, but not limited to, any Protected Health Information ("PHI") as defined in *45 CFR 160.103* pursuant to Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (hereinafter called "PHI Data") or any data protected by the Family Educational Rights and Privacy Act ("FERPA") (hereinafter called "FERPA Data")) and any third-party software from all Returning Products prior to pick up by parcel carrier. Customer represents and warrants that all confidential, proprietary, sensitive or other non-public data (including PHI Data and FERPA Data) has been removed from hard drives pursuant to the above. To the extent Customer fails to remove any confidential, proprietary, sensitive or other non-public data (including PHI Data and FERPA Data) from any hard drive, DFS expressly disclaims any claim and/or liability that may later arise in connection therewith. **DFS SHALL HAVE NO LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR THE SECURITY OR CONFIDENTIALITY OF DATA (INCLUDING PHI DATA AND FERPA DATA) RESIDING ON THE HARD DRIVE COMPONENTS. CUSTOMER MUST REMOVE ALL DATA (INCLUDING PHI DATA AND FERPA DATA) PRIOR TO PICK UP.**
9. **Representations and Warranties.** Customer warrants that (i) other than any security or other interest retained by DFS in the Returning Products, title to the items is free and clear of all liens and claims of any kind, and (ii) performance of the Service shall not result in a breach by Customer of any agreement or judgment binding upon Customer or any applicable law or regulation. In the event Customer breaches any representation or warranty contained in these Service Terms, Customer agrees, to the extent permitted by law, to defend and hold harmless DFS and its respective officers, directors, employees, representatives and agents from and against, all claims, demands, damages, losses, liabilities, actions, costs or expenses, including reasonable legal fees and expenses arising from or incurred in connection with these Service Terms, Returning Products, or Service, regardless of the form of action.
10. **Data Indemnity.** Customer agrees to defend and hold DFS harmless and pay for all costs and fees arising from any claim or liability or legal obligation in connection with any data (including PHI Data and FERPA Data) that is contained or may possibly be accessed on the Returning Products ("Data") including without limitation (i) any claim that Data was accessed improperly or not maintained in a secure manner or (ii) any obligation or liability arising from any law or regulation concerning the security or protection of stored or transmitted data (including PHI Data and FERPA Data) or personal information.
11. **Limitation of Liability.**
 - a. **Warranty Disclaimer.** DFS makes no warranty and disclaims all warranties and conditions, whether express or implied, with respect to the Service, including but not limited to any implied warranties or conditions of merchantability, fitness for a particular purpose, performance, suitability or non-infringement; any warranty relating to third party products or third party services; any warranty with respect to the performance of any hardware or software used in conducting the Services; or any warranty concerning the results to be obtained from the Services or the results of any recommendation DFS or Provider may make.
 - b. **Limitation of Liability.** WHETHER DIRECT OR INDIRECT, DFS SHALL HAVE NO LIABILITY FOR THE FOLLOWING, (A) SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES, (B) LOSS OF REVENUE, INCOME, PROFIT, OR SAVINGS, (C) LOST OR CORRUPTED DATA (INCLUDING PHI DATA AND FERPA DATA) OR SOFTWARE, LOSS OF USE OF SYSTEM(S) OR NETWORK, OR THE RECOVERY OF SUCH, (D) LOSS OF BUSINESS OPPORTUNITY, (E) BUSINESS INTERRUPTION OR DOWNTIME, (F) SERVICES, RETURNING PRODUCTS OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE BY CUSTOMER, OR (G) CORRUPTION, LOSS, DISCLOSURE OR USE OF DATA (INCLUDING PHI DATA AND FERPA DATA), CONFIDENTIAL INFORMATION OR THIRD PARTY SOFTWARE WHICH CUSTOMER FAILS TO REMOVE FROM ANY HARD DRIVE PRIOR TO MAKING SUCH HARD DRIVE AVAILABLE TO DFS. DFS'S MAXIMUM AND SOLE LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR ALL CLAIMS OF LIABILITY ARISING OUT OF, OR IN CONNECTION WITH ANY SERVICE PROVIDED PURSUANT TO THESE SERVICE TERMS SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER UNDER THESE TERMS FOR THE SPECIFIC SERVICE(S) GIVING RISE TO SUCH CLAIM DURING THE PRIOR TWELVE (12) MONTH PERIOD. EACH PARTY ACKNOWLEDGES THAT THESE LIMITATIONS APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE AND THAT, WITHOUT THESE LIMITATIONS, THE FEES FOR THE

SERVICES PROVIDED HEREUNDER WOULD BE HIGHER.

DFS DOES NOT LIMIT ITS LIABILITY FOR FRAUD, PERSONAL INJURY, TANGIBLE PROPERTY DAMAGE OR DEATH ARISING FROM ITS GROSS NEGLIGENCE OR ANY OTHER LOSS THAT CANNOT BE LIMITED UNDER APPLICABLE LAW. IN THE EVENT APPLICABLE LAW PROHIBITS IN ANY PART ANY LIMITATION OF LIABILITY IN THESE SERVICE TERMS, THE PARTIES AGREE THAT SUCH LIMITATION SHALL BE MODIFIED, WITHOUT FURTHER ACTION OF EITHER PARTY, SO AS TO BROADLY APPLY TO THE MAXIMUM EFFECT ALLOWED BY APPLICABLE LAW.

12. Additional Terms.

- a. **Independent Contractor Relationship; Assignment; Subcontracting.** The parties are independent contractors. Neither party will have any rights, power or authority to act or create an obligation, express or implied, on behalf of another party except as specified in these Service Terms. DFS has the right to assign, subcontract or delegate in whole or in part these Service Terms, or any rights, duties, obligations or liabilities under these Service Terms, by operation of law or otherwise, provided that DFS shall remain responsible for the performance of Services under these Service Terms. Otherwise, neither party may assign these Service Terms without the permission of the other.
- b. **Publicity and Use of Marks.** Customer may not use the name or any trademarks, trade names or service marks of DFS or any other Dell entity, or quote the opinion of any employee of DFS, in any advertising or marketing material (including press releases) without first obtaining the prior written consent of an officer of DFS.
- c. **Dispute Resolution.** The parties agree to work in good faith to resolve between them all disputes and claims arising out of or relating to these Service Terms before initiating a lawsuit. To this end, either party may request that each party designate an officer or other management employee to meet, with authority to bind the party to resolve the dispute or claim. During their discussions, each party will honor the other's reasonable requests for non-privileged and relevant information. This paragraph will not apply if: (i) the expiration of the statute of limitations for a cause of action is imminent; or (ii) injunctive or other equitable relief is necessary to mitigate damages.
- d. **Governing Law.** Unless otherwise required by applicable law, these Service Terms and the Service provided hereunder shall be governed by the laws of the State of Texas without regard to choice of law principles and any lawsuit arising hereunder must be brought in the state courts in Williamson County, Texas.
- e. **Entire Agreement; Severability; Section Headings.** These Service Terms contain the entire agreement with respect to the Service; supersede any previous agreements or understandings, oral or written (except with respect to the End of Lease Service Terms attached to a schedule to a leasing agreement with DFS); and may not be modified except in writing by both parties. If any provision of these Service Terms is determined by a court of competent jurisdiction to be void or unenforceable, the remainder of these Service Terms will remain in full force and effect. Section headings are for reference only and shall not affect the meaning or interpretation of these Service Terms.

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