



Dell Terms and Conditions of Sales (For Commercial Customers)

The following terms and conditions of sale ("Terms and Conditions of Sales") apply to all products and services that customers purchase directly from Dell ("Products and Services"). The Terms and Conditions of Sales apply also to Products and Services that the parent company and overseas affiliates of Dell sell in Japan. By ordering products and services, customers are deemed to agree to the Terms and Conditions of Sales. The Terms and Conditions of Sales are subject to change without prior notice to customers. Since the Terms and Conditions of Sales do not apply to Products and Services that customers buy from third parties, customers are advised to carefully read the terms and conditions of sales of such third parties. In instances where individual agreements concerning Products and Services exist between customers and Dell, the provisions of the individual agreements take precedence over the Terms and Conditions of Sales.

Article 1: Definitions

"Dell" means Dell Japan Inc. (headquartered in Kawasaki city, Saiwai-ku, Kanagawa prefecture), a Japanese corporation.

"Customer" means a corporation specified in the written estimate, invoice, order acceptance statement, or statement of delivery, etc., issued by Dell.

"Agreement" means a sales contract or a service provision contract based on the Terms and Conditions of Sales between Dell and a customer concerning the provision of Products and Services.

Article 2: Conclusion of an agreement

1. Products and Services are provided on the basis of the Terms and Conditions of Sales. Not included in the Terms and Conditions of Sales are conditions stated by customers in writing on their order statements, etc. Customers acknowledge the content and agree to be bound by the Terms and Conditions of Sales.
2. Customers warrant that they buy the Products and Services for the purpose of use by customers and not for the purpose of resale. In case Dell permits a resale, customers shall also refer to the Dell Terms and Conditions of Sales for Resale.
3. An agreement, unless provided otherwise, takes effect when Dell has issued a declaration of intent to accept order in response to a placement of order by a customer and the declaration of intent has reached the customer. The declaration of intent of Dell to accept the order can be made by e-mail, phone, fax, or by means agreed on between Dell and the customer.
4. An agreement does not take effect without a declaration of intent from Dell to accept the order of the customer even if the customer has already paid to Dell the price of the ordered Products and Services. In such a case, Dell may opt not to accept the customer's order due to a supply shortage, erroneous price indication, or such other circumstances.
5. After an agreement takes effect, customers may not without the consent of Dell amend or cancel the order.

Article 3: Order, price, payment

1. Unless provided otherwise, customers shall pay the price of the Products and Services before the handover to the customer.
2. After the placement of an order for Products and Services, customers may not change the method of payment. However, if a customer has opted for payment by credit card or loan finance and it is found after a review of the customer's credit score that payment by credit card or loan finance is not possible, the customer may be requested to choose an alternative payment method.
3. Customers shall separately pay shipping charges, consumption taxes, and other statutory public dues.
4. Dell may charge a penalty of 14.6% p.a. in case of late payment by a customer. If a customer fails to pay the price for Products and Services by the payment deadline, Dell may dissolve the agreement.
5. Dell may at its discretion, without giving notice to customers, amend Products and Services or terminate production or service provision. In case of amendment or termination of provision of products or services, Dell may supply a substitute that in the judgment of Dell is with respect to functions and features equivalent to the product or service ordered by the customer.
6. Unless agreed in writing by Dell, customers may not setoff against the price of Products and Services any claims that customers hold in Dell related to transactions with Dell or claims held in Dell by assignment from third parties, or any other claims held in Dell.

Article 4: Software

1. Software provided based on the Terms and Conditions of Sales is provided subject to the terms and conditions of the license agreements concerning such software ("Software License Agreements"). Customers agree to observe Software License Agreements. Customers agree that Dell provides no warranty for software except in cases where Dell is the licensor (licensor).
2. Title to the intellectual property rights to software rests with the software licensor.

Article 5: Transfer of title and risk

Title to the product transfers to the customer when Dell has received the purchase price for the product from the customer. Risk transfers to the customer when the product is handed over to the customer. In the case of software products, the rights to the software remain at all times with the software licensor.

Article 6: Delivery

1. Deliveries of products or provision of services is made by Dell to or at the place designated by the customer and accepted by Dell ("Place of Delivery"). Notably, unless stipulated otherwise, the Place of Delivery must be located in Japan. Customers who wish to change the Place of Delivery, if the change is accepted by Dell, may be asked by Dell to pay an additional shipment charge and commission.
2. Dell may, at its discretion, deliver products to the customer in installments.
3. The prospective product delivery dates advised to customers by Dell are estimates and not part of the agreement.
4. If a customer is absent at the time of delivery or provision of Products and Services and cannot be contacted within one week, or if a customer refuses to accept the delivery or provision of Products and Services at the Place of Delivery, Dell may deem the sales and purchase agreement for the Products and Services at issue terminated by the Customer. Notably, as a rule, customers may not take delivery of products at the Dell store where delivery is arranged.

Article 7: Receipt

1. In case a delivery is of insufficient quantity or the wrong product has been delivered, unless due to reasons attributable to the responsibility of Dell, the customer shall notify Dell within thirty (30) days of delivery of the product, whereupon Dell will verify the notification from the customer and make a second delivery to supplement the shortfall or to provide a product equivalent to the product ordered. Customers may not defer payment of part or all of the price of the product in the interim while Dell verifies the notification from the customer.
2. New products bearing the Dell brand name that customers purchase directly from Dell may be exchanged or returned within ten (10) days of delivery. However, the following instances are excluded.
 - 1) Third-party products sold by Dell as Software & Peripherals (peripherals).
 - 2) Dell/EMC products
 - 3) Dell EqualLogic and EqualLogic-brand products
 - 4) Dell Compellent and Compellent-brand products
 - 5) Dell KACE and KACE-brand products
 - 6) Dell Force10 and Force10 products
 - 7) PowerVaultML6000 Tape library
 - 8) Printer ink and toner
 - 9) Consumables such as projector lamps
 - 10) Other software users licenses
 - 11) Services, and
 - 12) Spare parts

Refunds are paid net of shipping charges. Returned products must be new or in the condition delivered by Dell. Items contained in the same package with the product, such as manuals, discs, CDs, electrical cables, and other items, must be returned with the product.

Article 8: Warranty

1. Unless stipulated otherwise, for products that bear the Dell brand name ("Dell Products," excluding third-party products and software) Dell provides one (1) year's warranty from the date of shipment of the product on defects in material or workmanship that preclude normal usage of the product ("Dell Standard Warranty"). Shipment dates of Dell Products can be checked here (<http://support2.jp.dell.com/jp/jp/spm/warranty/?&~ck=anavm>).
2. The Dell Standard Warranty consists of repair or exchange for products that are returned to a facility of Dell within one (1) year from the shipment date. Shipping charges associated with the repair or exchange of products during the Dell Standard Warranty period are paid by Dell. Terms and conditions of the Dell Standard Warranty can be viewed here (http://supportapj.dell.com/support/topics/topic.aspx/jp/shared/support/service_warranty/main?c=jp&l=jp&s=filter=gen&~section=contract) and are available by mail upon request.
3. Excluded from the Dell Standard Warranty are the following.
 - 1) Software (OS and software added to Dell Products through the Custom Factory Integration (CFI) Program, third-party software, and reloaded software)
 - 2) Third-party products and accessory that do not bear the Dell brand name
 - 3) Products affected by factors such as accident, misuse, wrong use, or external factors including electric power problems; product adjustment, repair, and maintenance services not authorized by Dell; product use inconsistent with the product operating manual; failure to follow instructions issued by Dell; damage caused by the use of parts and accessories not supplied by Dell; and such other factors.
 - 4) Products with their tag numbers and/or serial numbers missing or altered.
 - 5) Normal wear
4. Customers who buy a third-party product from Dell agree that the third-party warranty provided by the third-party for the said product is distinct from the Dell Standard Warranty, and that the third-party warranty is the only warranty provided for the third-party product. Customers may not require Dell to provide the third-party warranty for a third-party product.
5. This Article regulates all warranty liabilities and statutory liability for defects of Dell to customers.

Article 9: Chargeable services

1. Dell provides customers with chargeable services and technical support pursuant to the service and technical support policies of Dell currently in effect. The contents of services and technical support vary depending on the product.
2. Dell provides chargeable services and technical support pursuant to service terms and conditions stipulated by Dell. The terms and conditions of service provision can be viewed on the corporate website of Dell (<http://support.jp.dell.com/jp/jp/spm/>).
3. Dell may, at its discretion, amend the content and the terms and conditions of chargeable services.
4. Dell is not liable to provide the chargeable service unless Dell has received full payment.



Article 10: Liabilities and exemptions

1. Dell's total liability herein in respect of each event or series of connected events shall not exceed the amount invoiced for the applicable Products and/or services under the Contract.
2. Customers shall hold Dell harmless of and free from all liability for loss, injury, or death due to negligence, nonfeasance or willful misconduct, or breach of the Terms and Conditions of Sales by customers or customers' employees, agents, or subcontractors.
3. Customers agree that Dell is not liable if the product is rendered unusable in part or in total due to the disappearance, destruction, deletion, or alteration of data or software. Moreover, even if Dell has been notified of the possibility of such damage, Dell is not liable to customers for unexpected, indirect, special, or consequential damage, or loss of income that arises from the purchase or use of products or from services provided.
4. In case of erroneous representation by Dell of printed, clerical, or other nature, or omission of information, in sales indications, estimates, price indications, order acceptance statements, invoice statements, and other documents, or in information (including information of the online store of Dell) issued by Dell, Dell may correct such error or omission without liability to Dell. Moreover, Dell may deem invalid orders for Products and Services placed by customers based on such error or omission.
5. In case of a breach of the Terms and Conditions of Sales by a customer, if the customer fails to respond to a pertinent inquiry from Dell within the period stipulated by Dell, or if an act of malfeasance by the customer is detected with regard to an order for Products and Services, Dell may at its judgment refuse to accept orders for Products and Services, dissolve the agreement, terminate shipment or provision of Products and Services, and take such other steps as found necessary by Dell.
6. Data stored on the hard disk of a product returned by customers must be deleted at customers' responsibility. If a customer fails to delete such data, Dell is not responsible in any way for the stored information.

Article 11: Intellectual property rights

1. All intellectual property rights related to the Dell corporate name, Products and Services designations, and printed materials attached to products and services or contained in the same package with Products and Services belong to Dell, the parent company of Dell, and overseas affiliates and subsidiaries of Dell, or to licensors. Intellectual property rights means patents, trademarks and service marks, registered designs, applications for registration of the aforementioned, copyrights, design rights, know-how, secret information, corporate names, trade names, and other equivalent rights protected in specified regions.
2. Customers may not use the intellectual property rights stipulated in the previous Paragraph without the permission of Dell, the parent company of Dell, overseas affiliates and subsidiaries of Dell, or the licensor.

Article 12: Limitations on exports

1. Customers acknowledge that Products and Services sold on the basis of the Terms and Conditions of Sales incorporate technology or software that is the subject of regulations under the customs laws, export control laws, and other laws and regulations of the United States and countries and regions where the Products and Services are manufactured or sold ("Export Control Laws and Regulations"), and agree to observe such Export Control Laws and Regulations.
2. Because Products and Services purchased by customers are the subject of Export Control Laws and Regulations, the selling, leasing, or transfer by other methods, to countries specified by Export Control Laws and Regulations (currently, Cuba, Iran, North Korea, Sudan, and Syria) is prohibited. Furthermore, the selling, leasing, or transfer by other methods, of products to specified third parties (third parties stated in the Export Privileges Denied Persons List of the Bureau of Industry and Security in the U.S. Department of Commerce and third parties stated in other denied persons lists) is prohibited.
3. Customers are prohibited from selling, leasing, or by other methods transferring or enabling the use of products to or by third parties involved in activities related to weapons of mass destruction. Activities related to weapons of mass destruction include design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles, missile projects, and chemical or biological weapons, etc.
4. Since the conditions or restrictions applicable to exports under laws and regulations vary depending on the product and may change depending on future legal revisions, customers acknowledge the necessity to reference relevant laws and regulations in order to understand the conditions and restrictions applicable to products.
5. If Products and Services, in breach of Export Control Laws and Regulations, are sold, leased, or by other methods transferred to a third party, Dell will with respect to such Products and Services provide neither the Dell Standard Warranty nor other services of any kind.
6. If Dell, to ensure compliance with the Export Control Laws and Regulations, requests the submission of documents and information from customers, customers shall promptly submit such documents and information to Dell.

Article 13: Elimination of Antisocial Forces

1. Customer agrees to warrant that:
 - 1) it is not an organized crime group (*boryokudan*), organized crime group-related enterprise (*boryokudan kankei kigyou*), corporate extortionist (*Sokaiya*), or the equivalent or a member thereof (collectively "Antisocial Forces");

- 2) none of its officers (executive members, directors, executive officers, or any equivalent thereof) are Antisocial Forces; and
 - 3) it shall not engage in the following activities itself or via a third party during the period prior to the completion of delivery of goods or the provision of services sold pursuant to these Sales Conditions:
 - a) threatening behavior or violence against DELL; or
 - b) obstruction of the business of or causing damage to the credit of DELL through fraudulent means or force.
2. DELL may cancel this Agreement without notice if Customer breaches the warranty under preceding items (1) and (2) in paragraph 1 above or engages in acts in violation of item (3) in paragraph 1 above.

Article 14: Force majeure

Customers and Dell are not liable if the performance of duties under the Terms and Conditions of Sales is delayed by a situation that is reasonably beyond the control of customers and Dell. Furthermore, customers and Dell may, within reasonable measure, extend the deadline for the performance of obligations whose performance is delayed.

Article 15: Governing law and place of jurisdiction

The Terms and Conditions of Sales are governed by the laws of Japan. The agreed court of exclusive jurisdiction is the Tokyo District Court.

Article 16: General provisions

1. Customers may not without advance written permission of Dell assign positions under agreements or transfer rights and obligations under the Terms and Conditions of Sales.
2. If any part of the Terms and Conditions of Sales is ruled by a court, etc., to be invalid or unenforceable, the other provisions of the Terms and Conditions of Sales and the remainder of the affected provision remain in force and effect.

Dell Terms and Conditions of Sales (For Commercial Reseller Customers)

The following terms and conditions of sale ("Terms and Conditions of Sales") apply to transactions in which customers purchase products and services from Dell ("Products and Services") and resell these to their customers ("Resale Buyers"). The Terms and Conditions of Sales apply also to Products and Services that the parent company and overseas affiliates of Dell sell in Japan.

Article 1: Resale

1. Customers may resale Product and Services to Resale Buyers. By the time Customers place an order for Products and Services with Dell, Customers shall disclose to Dell from Resale Buyer to final user, information such as company name, responsible staff, and address ("Buyer Information"). If it is found that a customer has willfully or negligently supplied Dell with erroneous Buyer Information, Dell may, at its judgment, refuse to accept that customer's orders for Products and Services, dissolve the agreement, terminate the shipment or provision of Products and Services, and take such other steps as found necessary by Dell.
2. Customers may not, without separate written permission of Dell, warehouse products in facilities managed or owned by customers or third parties specified by customers, and may not sell such warehoused products to Resale Buyers.
3. Customers may not, without separate written permission of Dell, resell Products and Services to Resale Buyers outside Japan.
4. Customers may neither resell Products and Services to retailers whose customers are general consumers nor resell through web-based auctions.
5. Resale rights licensed to customers under the Dell Terms and Conditions of Sales are not exclusive.
6. Dell may, without incurring any liability to customers, sell Products and Services directly or indirectly to parties other than customers.
7. Customers shall determine their resale prices for Products and Services on their own account.

Article 2: The Foreign Corrupt Practices Act

For the resale activities of Products and Services, customers agree to observe the United States Foreign Corrupt Practices Act ("FCPA") and to observe the stipulations of the FCPA that prohibit direct or indirect payments or gifts to holders of public office for the purpose of influencing the acts or decisions of holders of public office within their professional authorities or sway holders of public office by using the influence of politicians or political parties. Customers agree to neither breach themselves nor willfully entice a third party to breach the FCPA with regard to sales, user licenses, and uses of products.

Article 3: Limitations on exports

Customers are under obligation to observe the Export Control Laws stipulated Article 12 also with respect to Resale Buyers.

Dell Lease Special Contract

The Lease Special Contract below shall apply when Customer uses Products or enjoys Services pursuant to a lease agreement with a leasing company ("Leasing Company"). The same shall also apply to sales of Products and Services within Japan by Dell's parent company and overseas affiliates.

Special Contract 1: Lease

1. Customer agrees to comply with Terms and Conditions of Sales applicable to end users of Products and Services, and to not exercise any claims which violate these provisions in leasing the product or service ("Leased Property") pursuant to an agreement with a Leasing Company. The applicable provisions include, but are



not limited to, Article 4 (Software), Article 8 (Warranty), Article 10 (Liabilities and Exemptions) and Article 12 (Limitation on exports).

2. If Customer places lease order application regarding the Leased Property to the Leasing Company, it shall be deemed that the Customer has accepted the terms of this Lease Special Contract and that the Customer has agreed to be bound by the conditions provided in this Lease Special Contract. Moreover, Customer agrees that provisions stipulated in the agreement between Customer and the Leasing Company shall not affect this agreement in any way.
3. If Customer cannot obtain a lease from the Leasing Company after delivery of the Leased Property for any reason, Dell shall have the right to request return of the Leased Property or repayment of the purchase price from the Customer at its discretion, and Customer consents to this right.

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