

## Service Offering Description for Dell APEX Managed Device Service

**Introduction.** This Service Offering Description, including any Appendices hereto, applies to direct purchases from Dell and is governed by the terms and conditions located at <https://www.dell.com/learn/us/en/uscorp1/terms-conditions/commercial-terms-of-sale-us> (the "Agreement") and both documents together govern the APEX Service (as defined below). In the event of conflict, the following order of precedence shall control: (1) the Order, (2) this Service Offering Description and (3) the Agreement. Dell reserves the right to change these terms in its sole discretion.

**Definitions.** The definitions below apply to this Service Offering Description. Some capitalized terms are defined within the specific context in which they are used below. Other capitalized terms that are not defined in this Service Offering Description are defined in the Order or the Agreement.

## 1 Definitions.

**"APEX Service"** means Dell APEX Managed Device Service.

**"After Point of Sale Purchase – APOS"** means any purchases made after the primary transaction. For example, a Service contract that was purchased after the device was purchased would be an after point of sale Service purchase.

**"Business Hours"** means Monday through Friday, 8AM through 5PM Eastern Standard Time or Eastern Daylight Time, as applicable.

**"Content"** means data (including all text, sound, video, and image files), software (including machine images), and other information.

**"Customer"** means the party that has purchased Services under a quote, order, SOW or other purchasing mechanism.

**"Customer Content"** means Content that Customer or Customer's end users load or use on the APEX Service. Customer Content does not include configuration, performance, and/or usage data that Dell collects in connection with the APEX Service.

**"Device"** means a Dell personal computing (e.g., client) and other similar devices procured by Customer (such procurement may be standalone through a lease or capital purchase) which is receiving the APEX Service.

**"Device Management Platform"** means the solution that allows Dell to remotely enroll, deploy, and manage Devices in bulk, enforce security configurations on Devices, and distribute updates and any other content to Devices.

**"End of Life"** means the Dell-recommended standard for maximum life of Device.

**"End User(s)"** means Customer's employees, contractors, agents or any other third parties who utilize or access the Services.

**"Order"** means the quote, invoice, online ordering mechanism or any other document or electronic process that indicates Customer's purchase of the APEX Service.

**"Payment Term"** means the period of each APEX Service in a Customer Order, and any renewals. The set term can either have an annual or a monthly payment cadence depending on the selection of the underlying Support Contract by Customer.

**"Point of Sale Purchase – POS"** means a service or device purchased from Dell upfront either on Dell.com or through a Dell sales representative.

**"Third-Party Products"** means hardware, software, products, or services that are not Dell-branded. Third-Party Products are not embedded components of the APEX Service.

**"Underlying Support Contract"** means the base service coverage for the APEX Service which is either ProSupport or ProSupport Plus Service as selected by Customer.

## 2 Summary of APEX Services.

The APEX Services provided under this Service Offering Description include the following:

- Hardware deployment, configuration, and imaging
- OS, BIOS, driver, and firmware management (advanced device health and performance)
- CrowdStrike NGAV, BIOS verification below OS security, setup, deployment, maintenance, and alert triage
- BitLocker encryption and Cloud Key Management
- Fleet reports
- Remote Monitoring and Management (RMM)

### 3 System Data.

Dell may collect data on the configuration, operation, performance, and use of the Service ("System Data"). System Data does not encompass any Customer Content. Supplier will treat any personal information collected in System Data with the applicable Dell Privacy Statement, all of which are available at <http://www.dell.com/localprivacy> and each of which is hereby incorporated by reference. System Data may be used by Dell to (a) support or carry out its provision of the APEX Service to Customer and Customer End Users, (b) enhance or propose enhancements to Customer or Customer End Users' use or expansion of the APEX Service or other Dell products and services, or (c) exercise or fulfill its legal rights and obligations (collectively referred to as the "Purpose"). Any transfer of System Data to third parties will be consistent with the Purpose and applicable laws, and subject to protections appropriate for confidential customer information. Subject to any mandatory statutory rights of Customer, Customer End Users, or third parties, Dell shall exclusively own and retain all rights in System Data that is anonymized, i.e., that neither identifies Customer or Customer End Users nor is personally identifiable with an individual ("Anonymized System Data"). Such data shall be considered Dell's confidential information, and Dell may use or share Anonymized System Data for any lawful technical or commercial purposes. Customer will not disable related telemetry collection features. Customer's disablement of related telemetry collection features may entail disruption or disablement of the APEX Service, as advised by Dell in the documentation provided with the APEX Service or otherwise.

### 4 Pricing.

Fees for the APEX Service are based on a Payment Term selected by the Customer when they purchase their Underlying Support Contract, per Device (the "Fees"). The Fees will begin coterminous to the Underlying Support Contract. (see section 5 for more detail) and Customer will be billed the Fees for the Payment Term commencing on that date. The Fees are for the APEX Service only and does not include the cost of the hardware, software, peripherals, or any additional services not expressly included in this Service Offering Description. Dell reserves the right to modify the Fees in its sole discretion. Dell will notify Customer at least ninety (90) days in advance of any Fee increases. For additional details on pricing, consult a Dell sales representative or Dell.com.

### 5 Payment Terms and Expansion.

This Service Description commences on the date listed on your Order and continues through the term ("Term") indicated on the Order. Payment Terms for APEX Service are based on a Payment Term selected by the customer when they purchase their Underlying Support Contract. Payment Terms for APEX Service will be coterminous to the Underlying Support Contract. Notwithstanding the foregoing, the APEX Service will be billed regardless of whether Customer is using the APEX Service. The APEX Service must be purchased with eligible Dell hardware. If Customer desires to add Devices to the APEX Service after the initial order, Customer may place another APEX Service order through their sales representative or through Dell.com.

## 6 Notice and Renewal.

The term period will not renew automatically and the APEX Service will end at the end of the selected Payment Term. If Customer wishes to extend their Underlying Support Contract and their APEX Service, they must purchase a new service term either through Dell.com or their sales representative.

## 7 Dell Termination.

Dell may terminate the APEX Service for cause in the following circumstances: (a) non-payment by Customer for the APEX Service. (Note that Dell will make reasonable efforts to reconcile payment before a notice of cancellation is provided to Customer. Properly disputed fees will not result in termination of the APEX Service); (b) Dell becomes aware of any illegal activities Customer or its affiliates are engaged in; (c) Customer compromises any of Dell's intellectual property; (d) Dell ceases to provide the APEX Service; (e) circumventing or negating the solutions implemented by the APEX Service and Dell employees including, and not limited to: (i) preventing timely updates to the system, (ii) the system is beyond End of Life and will put Customer environment at risk, or (iii) End User or Customer behavior that puts Dell at risk. Upon termination of the APEX Service by Dell, Customer: (a) will permanently lose its access to the environments, (b) will no longer receive the APEX Services, (c) will have the environments and configurations deleted pursuant to Dell standard practices, and (d) all remaining Fees will be accelerated and become due immediately. Notwithstanding the foregoing, if Customer wishes to extract Customer Content from the Device (to the extent Customer has not already done so prior) Customer must notify Dell before Dell's authorized technician removes the APEX Service from Customer's Devices. Subject to additional fees, Dell will assist Customer in extracting Customer Content from the Device. Customer will be responsible for all fees associated with Customer Content extraction. If Customer does not notify Dell that it wishes to extract Customer Content before Dell removes the APEX Service, then Dell will permanently delete Customer Content and it will not be recoverable. Dell shall have no obligation or liability for deleting Customer Content in accordance with this Section.

## 8 Customer Termination.

Customer may cancel or terminate the APEX Service at any time, but Customer is liable for all remaining charges for the Payment Term in which the APEX Service is cancelled regardless of whether Customer actually uses the APEX Service for the entire Payment Term. There is no refund for any pre-paid Fees that Customer paid at the time Customer purchased the APEX Service. Customer is obligated to pay Fees as set forth on the Order until Customer provides Dell with notice to Technical Support or their sales representative of their intent to terminate the APEX Service. The APEX Service will continue through the remainder of the Payment Term. Cancellation fees may apply. The termination of the APEX Service does not automatically terminate the Underlying Support Contract. If Customer desires to cancel their Underlying Support Contract, they need to do so according to the terms of cancellation set forth in the Underlying Support Contract.

## 9 Decommission of AMDS Service.

If Customer has elected to terminate either the Underlying Support Contract or APEX Service at the end of Customer's committed Payment Term, Customer will have until the end of the Payment Term to utilize the benefits of the APEX Service. At the end of the Payment Term, Dell will deprovision the Device and remove any APEX Service software from the Device.

## 10 Customer Data Removal and Backup.

To the extent applicable to the APEX Service, Customer shall, at Customer's expense, perform the following:

1. back up its data before Dell performs any remedial, upgrade or other work on the Device;
2. operate and maintain a data back-up system in Customer's data center environment, including retaining multiple copies of Customer Content, consistent with industry best practices; and
3. provide for a daily back-up process, including backing up data before performance of any remedial, upgrade or other work on Customer's production systems.

The Customer represents and warrants that Customer has removed all Customer Content, especially all confidential, proprietary, sensitive, or other non-public data, from the APEX Service prior to Dell decommissioning the APEX Service. -Customer may incur additional fees and expenses for any resulting additional time, materials, losses, or damages incurred by Dell or its vendors or partners. For the avoidance of doubt, following Dell decommissioning the APEX Service, Dell has no obligation nor liability for any Customer Content, confidential, proprietary, sensitive, or other non-public data remaining on the Device. Additionally, the APEX Services do not include any data migration and Supplier has no responsibility for migration of Customer Content out of the APEX Service.

## 11 Device Provisioning.

### 11.1 Overview.

Dell will provision the Devices and perform the following tasks for each new or existing Device purchased with the APEX Service during the Device provisioning stage, provided the Device is turned on and connected to the internet:

1. Dell will load a clean operating system and Dell factory production drivers on new Devices purchased with the APEX Service at POS. This will be on an "as-needed" basis for APOS Devices depending on health check results.
2. Dell will load necessary remote monitoring, management, and security agents on the Device and register the Devices in the appropriate Dell endpoint management environment(s).
3. For APOS Devices, Customers would additionally need to follow the "Support Assist Consumer" prompting for provisioning.

### 11.2 Limitations.

The following activities are not included in the scope of the APEX Service:

1. Creation of a custom OS image.
2. Testing applications or hardware for compatibility with the custom image or customized BIOS settings.
3. Troubleshooting or technical support for Customer image with customized BIOS settings.
4. Network and server services.
5. Customer may not make changes to the provisioning requirements for Devices that have already begun the provisioning process.
6. Customer is responsible for all licenses to applications requested by Customer.
7. Other services not expressly set forth in this Service Offer Description.

## **12 Device Management and APEX Services.**

As part of the APEX Service, Dell will centrally manage the Device(s) through remote monitoring and management (RMM) tools during normal Business Hours. RMM allows Dell to centrally manage the Devices. RMM will monitor Devices and collect information to assist in providing technical support. In the event an issue is detected, the information collected can be sent to Dell to provide the APEX Services. APEX Service will provide remediation services in accordance with appropriate Underlying Support Contract selected by Customer.

### **12.1 RMM**

1. Monitoring of Devices for issues impacting normal operation and performance, including insight into telemetry-based utilization and performance reporting.
2. Automatic uploading of diagnostics and other data that allows proactive diagnosis of issues.
3. Periodic collection of device operational data that will allow Dell to have predictive information regarding the Device.
4. Automatic creation and deployment of custom update catalogs for Dell BIOS, driver, and firmware.
5. Providing optimizations and management of Devices via remediation scripts.

### **12.2 Steady-State Device Management.**

1. Dell will update BIOS and drivers on a regular cadence, as well as provide oversight of the update process.
2. Dell will identify the appropriate security, quality and Windows OS feature updates for Customer Devices and implement the updates at a regular cadence. Dell will provide oversight of the patching process. Critical security patches will be updated within a reasonable time frame.
3. Dell can update the configuration policies on Devices based on best practices on an “as-needed” basis.
4. When the Payment Term is terminated or expired or when Devices reach End-of-Life, Device management agents, BitLocker drive encryption, and manage security agents will be removed from the Devices.

### **12.3 Device Health.**

As part of the APEX Service, Dell will centrally manage the BIOS, OS, firmware and driver policies, updates and patches. If the policies drift, then Dell will return the settings from drift on a periodic basis. Dell will automatically or manually push remediations to the end user device as part of routine fleet maintenance. Dell will monitor fleet performance and remediate on an “as-needed” basis but cannot guarantee optimal performance for all Devices due to the number of factors that affect performance.

### **12.4 Device Security Management.**

As part of the APEX Service, Dell will centrally manage the security of the Device through a software application during normal Business Hours. This includes, but is not limited to, configuring the agent on the Device, updating and maintaining security policies, reviewing and acting on any relevant events and/or alerts, consulting with our security partner (where applicable), encrypting the storage on the Device, applying and enforcing certain operating system policies, and, in general, any other action that Dell deems necessary or convenient to reduce the risk of malware and/or malicious activity affecting the Device.

It is expressly stated and understood that Dell cannot ensure and does not warrant nor guarantee that the Device will be free of malware and/or malicious activity, but that Dell will undertake commercially reasonable measures to prevent such activity.

## 13 How to Contact Dell.

**Step One: Use one of the following support options to contact Dell for assistance:**

1. Contact Dell from a location which includes physical access to the Device.
2. Provide the Service Tag (as defined later herein), model number, current version of the operating system, and other information as requested by Dell. Dell will verify Customer's Device, applicable part of the APEX Service and response levels.

- **Online, Chat and Call Support:**

Website, chat and Call support available at [Contact Technical Support | Dell US](#)

**Step Two: Remote Troubleshooting**

1. When requested, identify error messages received and when they occur; what activities preceded the error message; and what steps have already taken to solve the problem.
2. Dell will work Customer through a series of troubleshooting steps to help diagnose the issue.
3. When available and with Customer's consent, Dell will connect directly to the Device over a secure internet connection to expedite troubleshooting.
4. Follow the instructions and any suggestions carefully. Diagnostic or troubleshooting steps like those outlined in steps one and two are essential to reaching the right resolution. Those steps may require more than one interaction or call with Dell or an extended session, and Customer may be asked to access the inside of the Device where safe to do so.
5. If, following completion of diagnosis or troubleshooting, Dell determines that it is necessary to replace a part, return the Device, or dispatch a service technician for on-site service, then Dell will provide additional instructions.

## 14 Customer Reports.

Dell will provide a monthly report summarizing the status of your APEX Service including the number of Devices currently under management, Device security, support cases opened by Customer and their classification and status, and other relevant information that Dell might deem necessary or convenient to share with Customer. Customer reports can be accessed at <https://portal.amds.dell.com/login>.

### 14.1 Out of Scope. The following tasks are not included with the APEX Service:

1. Support services such as ProSupport and ProSupport Plus are not included in the APEX Service. The APEX Service is a separately purchased addition to support services.
2. Data migration using tools other than the tools designated by Dell's personnel for the performance of the APEX Service.
3. User profiles for local accounts (not in a domain) will not be migrated.
4. Migrating data for user accounts to alternate domains is not supported.
5. De-installation or re-installation of any existing products or software applications.
6. Any recovery of data, including disaster recovery.
7. Transferring applications or scripting for application installations at the Device.
8. Any activities related to network infrastructure configuration or troubleshooting.
9. Development of any intellectual property created solely and specifically for the Customer.
10. Troubleshooting or fixing any existing Device problems except as specifically described in this Service Offering Description.
11. Testing integration between a Dell product and other third-party products, such as, but not limited to, third-party encryption or security products.
12. Purchase of software or software-as-a-service licenses.
13. Any services not described herein Service Offering Description.



## **14.2 Hardware Coverage Limitations.**

A Device or a component of a Device that carries a limited lifetime warranty will be serviced by Dell according to this Service Offering Description for the duration of your APEX Service. If you purchased a Device or component with a limited lifetime warranty, then after the Payment Term ends, support related to a Device or component with a limited lifetime warranty will be serviced pursuant to Customer's then-current Dell service contract.

## **14.3 Customer Responsibilities and Assumptions.**

Customer will be responsible to accomplish, perform or otherwise ensure the following conditions are met to receive the APEX Service:

## **14.4 Authority to Grant Access.**

Customer represents and warrants that it has obtained permission for both Customer and Dell to access and use the Devices, the data located thereon and all hardware and software components included therein, for the purpose of providing these APEX Services. If Customer does not already have that permission, it is Customer's responsibility to obtain it, at Customer's expense, before Customer asks Dell to perform the APEX Services. Customer will accept all updates and upgrades as necessary for the proper function and security of the APEX Service.

## **14.5 End User Access and Control.**

Customer is responsible to identify and authenticate all End Users to use the APEX Service. Customer will have control against unauthorized access by users, and maintain the confidentiality of usernames, passwords and account information. Customer is responsible for all activities by the users it has authorized and will notify Dell immediately of any unauthorized use of the APEX Service. To account for proper tax regulations, Dell must have the address where each End User will be using the APEX Service. It is the Customer's responsibility to inform Dell if there is a change of address for each End User for any reason.

## **14.6 Cooperate with Online Diagnosis, Phone Analyst and On-site Technician.**

Customer will cooperate with and follow the instructions given by Dell. Experience shows that most product problems and errors can be corrected remotely by closely following the remote diagnosis instructions or through close cooperation between the user and the analyst or technician. Customer will provide Dell access to all required environments for the Payment Term. Customer will ensure availability of sufficient network bandwidth and access to perform the APEX Service.

# **15 Additional Terms and Conditions.**

## **15.1 Devices.**

Each Device is tagged with a serial number on the bottom of the Device (the "Service Tag"). The APEX Service only applies to each Device and does not include support for any peripherals. For example, a printer purchased with a Device is not covered by the APEX Service.

## 16 Other Provisions.

1. The APEX Services may be performed outside the country in which Customer and/or Dell is located; provided, that Dell shall be responsible for maintaining licenses or permits required as a result of the location of providing the APEX Services. From time to time, Dell may change the location where the APEX Services are performed and/or the party performing the APEX Services, provided however, Dell shall remain responsible to Customer for the delivery of the APEX Services.
2. While the APEX Service is intended to assist Customer to identify and reduce risk, it is impossible to completely eliminate risk, and Dell makes no guarantee that intrusions, compromises, or any other unauthorized activity will not occur in the Customer environment.
3. The APEX Services may include advice and recommendations, but Customer agrees that all decisions in connection with the implementation of such advice and recommendations will be the responsibility of, and made by, Customer. Dell is not providing legal or regulatory advice.
4. Dell will not be responsible for non-performance due to software failure or software errors including any software failures or functionality limitations of third-party products.
5. To the extent Dell's liability is not any way excluded under the Agreement, Dell will have no liability for loss or recovery of data, programs or loss of use of device(s) arising out of or in connection with the APEX Services provided under this Service Offering Description.
6. Customer is responsible for the identification and interpretation of, and ensuring compliance with, any laws, statutes, rules, regulations, and standards applicable to it or its affiliates' business or operations.
7. Dell shall not be responsible for any delay or failure to provide the APEX Service to the extent caused by:
  - a) failures by Customer, including its employees, agents, users, affiliates or contractors, to perform its responsibilities under this Service Offering Description.
  - b) defect, deficiency or failure with respect to Customer's network, devices, software, data or other equipment not caused by Dell; or
  - c) modifications to Customer's network, devices, or other equipment made by a party other than Dell or its representatives.
8. If either party becomes aware of the occurrence of one or more of the foregoing events, they shall notify the other party accordingly. Notwithstanding such occurrence, Dell may, in its sole discretion, following discussion with Customer regarding the impact of such incident, continue to provide the APEX Service using commercially reasonable efforts. Customer shall reimburse Dell for its reasonable additional costs of providing the APEX Service actually incurred and out of pocket expenses for such efforts but only to the extent attributable to the items defined above.
9. Third Party Warranties. The APEX Services may require Dell to access hardware or software that is not manufactured by Dell. Some manufacturers' warranties may become void if Dell or anyone else other than the manufacturer works on the hardware or software. Customer will ensure that





Dell's performance of APEX Services will not affect such warranties or, if it does, that the effect will be acceptable to Customer. Dell does not take responsibility for third party warranties or for any effect that the Services may have on those warranties.

10. Transfer of Service. In the event Customer transfers, sells or otherwise no longer has possession of the Device, the APEX Service will no longer apply to that Device.