

Service Description: Dell Asset Recovery Services IT Asset Lease Return-Onsite Wipe and Processing

Service Overview

Dell is pleased to provide Asset Recovery Services. This service offers an environmentally appropriate and convenient way to dispose of computer equipment. There are four key features to asset recovery: (1) **Scheduling**, (2) **Onsite Data Wipe**, (3) **Pick Up & Return to Leasing Agency** and (4) **Reporting**.

Definitions and Terms: As used in this Service Description, the following definitions will apply:

- a. "Data Wipe" will mean the certified data destruction process which consists of a functional and properly seated hard drive within a System receiving a three (3) pass data wipe in which the data is overwritten using an automated script (for example data is overwritten with 0's and 1's) and a sector verification of each hard drive following the 3 pass data wipe. Onsite Data Wipe is not available under this Service Description for server hard drives.
- b. "Data Wipe Summary" will mean a serialized inventory list of the System and System hard drives attempted to be wiped by Dell during each Site visit.
- c. "Dell's Logistics Provider" will mean logistics provider acting on instructions from Dell.
- d. "Leasing Agency" will mean a third party entity that has been designated by Customer to receive Customer's lease return Equipment.
- e. "Logistics ID" will mean the unique identifier captured by Dell for each Piece being Picked Up hereunder.
- f. "Pick Up" will mean the collection process for Equipment from the Site.
- g. "Piece" will mean each System, monitor, printer, server or other IT hardware (collectively referred to herein as "Equipment").
- h. "Serial Number" will mean the unique identifier assigned to a Piece by the manufacturer.
- i. "Service(s)" will mean the processes for asset recovery described in this Service Description.
- j. "Site" will mean the Customer location at which the Pick Up and/or Data Wipe is to be performed.
- k. "System" will mean a desktop or portable computer (e.g. laptop, notebook, netbook etc.) containing (i) one functional and properly seated hard drive to be Data Wiped and (ii) a functional and properly installed optical drive for use by Dell to perform the Data Wipe. System expressly excludes servers.

Terms & Conditions Overview

This agreement ("Service Description") is made between the customer ("Customer") and the Dell entity identified on Customer's invoice ("Dell"). By purchasing these Services (as defined herein) from Dell, Customer agrees to be bound by all terms and conditions set forth in this Service Description. Please read this Service Description carefully and note that Dell may change the terms of this Service Description at any time by posting an update on www.dell.com/servicecontracts*.

This Service is provided in connection with Customer's separate signed master services agreement with Dell that expressly references and authorizes Customer to order ARS Services pursuant thereto; or, in the absence of such agreement, Dell's standard Commercial Terms of Sale ("CTS"), which can be obtained at www.dell.com/servicecontracts* and is incorporated by reference in its entirety herein. Notwithstanding these master service agreements, in the event of an irreconcilable conflict between the provisions set forth in this Service Description and the CTS (or any separately signed agreement), Customer hereby agrees the provisions set forth in this Service Description, being agreed upon subsequent to those of the applicable master agreement, shall govern.

Service Expires 4 Years After Purchase. EXCEPT TO THE EXTENT APPLICABLE LAW REQUIRES OTHERWISE, YOU MAY USE THIS SERVICE DURING THE 4 YEAR PERIOD FOLLOWING THE DATE OF ORIGINAL PURCHASE ("EXPIRATION DATE"). THE ORIGINAL PURCHASE DATE IS DEFINED AS THE EARLIER OF THE DATE OF THE INVOICE FOR THE SERVICE OR ORDER CONFIRMATION FROM DELL.

DELL'S DELIVERY OF THE SERVICE WILL BE DEEMED SATISFIED AFTER THE EXPIRATION DATE EVEN IF YOU DO NOT USE THE SERVICE.

* The URL <http://www.Dell.com/ServiceContracts> links Customer to Dell's global service contract webpage from where Customer will select their geographic region, preferred language (if applicable) and the appropriate business segment from which they purchased the Service (e.g. Large Enterprise, Small & Medium Business and/or Public Sector.). Customer will then be able to select the appropriate service contract for review. You may also contact your Dell sales representative for assistance with obtaining any service contracts.

Dell's Responsibilities

1. Scheduling

- a. **Data Wipe.** Dell will contact Customer to schedule the Data Wipe at each Site for a mutually agreeable time during business hours Monday – Friday 8:00am to 5pm (local time). Data Wipe will generally be scheduled no earlier than ten (10) business days after the date of contact.
- b. **Pick Up.** After completion of Data Wipe services, Dell will assign Dell's Logistics Provider for Pick Up and shipping of Equipment. Dell's Logistics Provider will contact Customer to confirm Piece count and schedule each Site for Pick Up at a mutually agreeable date during business hours Monday – Friday 8:00am to 5pm (local time). Pick Up will generally be scheduled no earlier than three (3) business days after the date of contact.
- c. **Changes/Cancellations.** Two (2) business days notice prior to the scheduled date for Services is required for changes or cancellations to avoid additional fees.

2. Data Wipe. Dell shall:

- a. arrive at the Site, contact Customer's Site representative and proceed to the Data Wipe Work Space (as defined under Customer Responsibilities, Section 2.b, below);
- b. record the following information on the Data Wipe Summary for each System: manufacturer, model number, properly seated and functional hard drive(s) serial number(s);
- c. perform the Data Wipe on each System;
- d. for each System hard drive on which Data Wipe is attempted, designate on the Data Wipe Summary whether the Data Wipe was successful ("PASS") or unsuccessful ("FAILED");
- e. remove any hard drive from a System for which the Data Wipe was unsuccessful (e.g. hard drive cannot be wiped or overwrite failed) and return such hard drive to Customer's representative; a tag will be attached to the hard drive indicating date/time and reason for the failure of the disk wipe (if known);
- f. return all Systems (excluding hard drives which were not successfully wiped) to the secured storage location designated by Customer for future Pick Up;
- g. provide Customer with a PDF version of the Data Wipe Summary on a USB flash drive (to be provided by Customer) prior to leaving the Site; and
- h. provide a Data Wipe Acknowledgement form to Customer's Site representative for their review and signature to certify that the Data Wipe Summary provided in PDF (in step 2.g above) accurately reflects: (i) the System hard drives that were successfully wiped ("PASS") and subsequently moved by Dell to the secured storage location designated by Customer for future Pick Up and (ii) the System hard drives that were not successfully wiped ("FAILED") and were subsequently returned to Customer's Site representative for disposition by Customer.

3. Pick Up & Return to Leasing Agency. Dell's Logistics Provider shall

- a. arrive at the Site, contact Customer's Site representative and proceed to the Pick Up Site;
- b. record a unique Logistics ID for each Piece and record the number of Pieces being removed from the Site on the Pick Up Report;
- c. record the manufacturer serial number for each desktop, notebook or server
- d. assign a cosmetic grade to each desktop, notebook or server
- e. bulk package the Equipment using pallets, slip sheets and shrink wrap (Note: the Equipment will not be individually boxed – see Customer Responsibilities);
- f. provide Customer with a Bill of Lading or Way Bill for signature before leaving the Site; and

- g. transport the Equipment to Leasing Agency.
4. **Reporting.** Dell shall deliver to Customer, within 35 business days* from the date of Pick Up, a copy of the Data Wipe Summary. (*Pick Ups in offshore territories, islands and other remote locations will be subject to a longer reporting lead time)

Customer Responsibilities

1. **General.** CUSTOMER SHALL BACKUP ANY DATA OR SOFTWARE CUSTOMER DESIRES TO RETAIN PRIOR TO EQUIPMENT BEING MADE AVAILABLE TO DELL. Services provided under this Service Description do not include the restoration of any data or software from Systems.
2. **Data Wipe.** Customer shall
 - a. remove/disable all passwords and other access security features and terminate any theft deterrent or laptop tracking software contained within such Equipment from Systems designated for Data Wipe Services prior to Dell's arrival;
 - b. provide safe and sufficient work space at the Site where the Data Wipe Services will be performed ("Data Wipe Work Space") which shall at a minimum include:
 - a. table/desk space, chairs, electrical outlets with adequate lighting;
 - b. space adequate to stack at least 20 desktops to perform concurrent data wipes;
 - c. sufficient access to electrical power
 - c. consolidate and locate all Systems designated for Data Wipe Services in the same immediate area as the Data Wipe Work Space;
 - d. provide a Site representative each day Data Wipe is scheduled to be performed to direct Dell to the Data Wipe Work Space and designate the Systems on which Dell should perform the Data Wipe;
 - e. provide monitors and external power supplies for use with Systems during the Data Wipe (monitors not required for portable computers);
 - f. provide a secured storage location in the same immediate area as the Data Wipe Work Space for storage of Systems that were successfully Data Wiped until Pick Up occurs;
 - g. review the Data Wipe Acknowledgement form and sign such form to certify Customer's agreement that the Data Wipe Summary provided in PDF (in step g of Section 2 entitled "Data Wipe" above) accurately reflects: (i) the System hard drives that were successfully wiped ("PASS") and subsequently moved by Dell to the secured storage location designated by Customer for future Pick Up and (ii) the System hard drives that were not successfully wiped ("FAILED") and were subsequently returned to Customer's Site representative for disposition by Customer; and
 - h. provide a blank USB flash drive to Dell for the PDF version of the Data Wipe Summary to be provided by Dell prior to leaving the Site.
3. **Pick Up.** Prior to Pick Up, Customer shall:
 - a. declare, at time of Pick Up scheduling, any Site access issues or time restrictions;
 - b. REMOVE ALL CONFIDENTIAL, PROPRIETARY, SENSITIVE OR OTHER NON-PUBLIC DATA AND ANY THIRD PARTY SOFTWARE FROM ANY AND ALL EQUIPMENT (E.G. SERVERS, HARD DRIVES THE FAILED THE DATA WIPE, ETC.) WHICH WAS NOT IDENTIFIED BY DELL ON THE DATA WIPE SUMMARY AS BEING SUCCESSFULLY DATA WIPED ("PASS");
 - c. remove from Equipment and retain all loose data storage media (e.g. CD, DVD, ZIP);
 - d. consolidate the Equipment at each Site (including the Systems that have been successfully Data Wiped) in a ground level location which is reasonably accessible by the Dell Logistics Provider ("Pick Up Site");
 - e. provide a Site representative to direct Dell's Logistics Provider to the Equipment;
 - f. unpack/unbox all Equipment and clearly segregate such Equipment from equipment not for Pick Up (please note: if Equipment is packed or boxed by Customer prior to Pick Up, Dell may require the Pick Up to be rescheduled at Customer's expense);
 - g. verify Equipment contains only computer hardware and no other products, materials, packaging or boxes;

4. **Customer Warranty.** Customer represents and warrants Customer has removed all confidential, proprietary, sensitive or other non-public data from all Equipment which was not identified by Dell on the Data Wipe Summary as being successfully Data Wiped ("PASS").

If Customer breaches any of its obligations or warranties outlined in this Service Description, Dell shall not be obligated to provide the Services or liable for any damages resulting from Customer's breach. Alternatively, Customer may incur additional fees and expenses for any resulting additional time or materials, loss or damage incurred by Dell or its providers.

Pricing & Payment Terms

Asset Recovery Services under this Service Description are only available for twenty (20) or more Systems per Site visit. A minimum charge equivalent to the cost to Data Wipe twenty (20) Systems will be charged for each visit to each Site during which Data Wipe Services are performed.

Customer will be charged on a per Piece basis subject to the minimum quantity stated in the Service Description. The per Piece price will be set forth in a quote generated by Dell and includes the associated cables, peripherals, docking stations, port replicators, external drives, keyboards and mice.

Miscellaneous items will be aggregated, weighed and billed at the rate of one Piece for every 40 lbs or 18 Kg. of weight.

Pick Up and/or recycling of Customer's packaging/boxes are not included in the cost of this Service and will incur additional charges.

Customer hereby agrees to pay the price for each Piece per the applicable Dell order confirmation, as well as any additional fees/charges and costs set forth in this Service Description. Customer acknowledges and agrees that Dell shall be entitled to set off amounts due to Dell under this Service Description against the amounts otherwise payable by Dell to Customer hereunder.

Additional Fees.

- Services rendered by Dell for Pieces in excess of the amount ordered will be billed at the per Piece price for the associated Service.
- Standard transportation fees are included in the Service.
 - Piece(s) weighing more than 40 lbs or 18 Kg may incur additional transportation charges.
 - Pick Ups in offshore territories, islands and other remote locations will incur additional charges.
- If Customer, the Site and/or the Equipment do not conform to the requirements set forth in this Service Description, the applicable Services may need to be rescheduled and/or additional fees and charges will apply.
- Access, time or vehicle restrictions may incur additional charges.
- Failed Pick Up attempts by Dell's Logistics Provider where the Customer or Equipment (e.g. Equipment is packed by Customer prior to Pick Up) is not ready at the agreed upon date of the Pick Up may result in additional fees.
- Customer will be responsible for any costs incurred if incorrect Systems are identified for Data Wipe or Pick Up.

Important Additional Information

Not Transferable. The Service is not transferable by Customer.

Dell Partners. Customer hereby acknowledges and agrees that Dell may utilize affiliates and subcontractors to perform these Services, in whole or in part. From time to time, Dell may change the location where Services are performed and/or the party performing the Services; provided however, Dell shall remain responsible to Customer for the delivery of Services.

Service Change or Cancellation. Two (2) business days notice by Customer prior to the scheduled date for Services is required for changes or cancellations to avoid additional fees. To cancel the Service, send the request to the Dell Account Team. If a Pick Up has been scheduled by the Customer directly with Dell's Logistics Provider, Customer must also cancel the Pick Up directly with such Dell Logistics Provider.

No Returns. Equipment cannot be returned once Pick Up occurs.

No Contaminated Products. The Service will not be provided for Equipment that is or has become contaminated or suspected of being contaminated with chemicals, biological agents or other substances that are not integral to the original new Equipment or otherwise associated with normal office environments. Customer is liable for all costs and expenses associated with not informing Dell of any such contamination.

Title and Risk of Loss: Dell or Dell's Logistics Provider will bear the risk of loss or damage to the Equipment from departure from the Pick Up Site until delivery to the Leasing Agency location provided by Customer.

Software/Data Backup. DELL HEREBY DISCLAIMS ANY AND ALL LIABILITY FOR ANY RESTORATION OF DATA OR SOFTWARE ON EQUIPMENT (INCLUDING ON ANY CUSTOMER PROVIDED USB FLASH DRIVE).

US Regulation of PHI. For Customers with operations in the United States or who are otherwise subject to the US Health Insurance Portability and Accountability Act ("HIPAA"), Customer warrants and represents that prior to providing Dell access to Equipment which has been used for processing and/or storage of Protected Health Information as defined in 45 C.F.R. Section 160.103 ("PHI"), all PHI on such Equipment has been rendered unusable, unreadable or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the U.S. Secretary of Health "Secretary" by either:

- (i) clearing, purging, or destroying PHI from any electronic media in a manner consistent with NIST Special Publication 800-88, *Guidelines for Media Sanitization*; or
- (ii) encrypting PHI as defined in 45 C.F.R. 164.304 (currently the Secretary has identified the process for encrypting data set out NIST Special Publication 800-111 as meeting this standard); or

Customer shall be responsible for confirming any updated guidance from the Secretary on how to secure PHI in order to render it unusable, unreadable, or indecipherable, to unauthorized individuals and will comply with any applicable guidance as it relates to PHI found on equipment or materials submitted to Dell for processing.

Commercially Reasonable Limits to Scope of Service. Dell may refuse to provide Services if, in its opinion, the condition, size or location of the Equipment creates an unreasonable risk to Dell or Dell's Service providers or is beyond the scope of Services. Dell is not liable for any failure or delay in performance due to any cause beyond its control.

Limits of Data Wipe. No Data Wipe process leaves a System as free from unreadable residual data as a comparable new product. Dell makes no (i) recommendations regarding the Customer's data removal requirements or (ii) representations regarding the effectiveness of one method of data removal over another.

Terms and Conditions. As it relates specifically to the Services provided under this Service Description only, and despite any conflicting terms in the CTS, your master services agreement, or any other agreement as it may pertain to these Services, the following terms and conditions apply:

A. Warranty. DELL WARRANTS THAT IT WILL PERFORM THE SERVICE WITH COMMERCIALY REASONABLE CARE. DELL MAKES NO OTHER WARRANTY AND DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

B. LIMITATION OF LIABILITY. DELL'S AND ITS SERVICE PROVIDERS' LIABILITY FOR SERVICES PROVIDED IN ACCORDANCE WITH THIS SERVICE DESCRIPTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LIABILITY, WILL BE AT ALL TIMES SUBJECT TO THE FOLLOWING LIMITATIONS AND EXCLUSIONS:

1. IN NO EVENT SHALL DELL BE LIABLE (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR ANY OF THE FOLLOWING: (I) LOST PROFITS, LOSS OR CORRUPTION OF DATA OR SOFTWARE, LOSS OF BUSINESS, OR COMPLIANCE WITH THIRD PARTY REQUIREMENTS THAT MAY APPLY TO

DATA ON CUSTOMER'S EQUIPMENT (II) CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE (IF APPLICABLE) DAMAGES OR (III) ANY THIRD PARTY CLAIM.

2. DELL SHALL HAVE NO LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR THE SECURITY OR CONFIDENTIALITY OF DATA RESIDING ON EQUIPMENT EXCEPT FOR THE UNAUTHORIZED DISCLOSURE OF DATA FROM A SYSTEM HARD DRIVE WHICH DELL AND/OR ITS SERVICE PROVIDERS' FAILED TO PROPERLY PERFORM THE DATA WIPE AT CUSTOMER'S SITE IN ACCORDANCE WITH THE PROCESSES SET FORTH HEREIN AND SUBSEQUENTLY CERTIFIED SUCH HARD DRIVE AS BEING SUCCESSFULLY WIPED ON THE DATA WIPE SUMMARY. IN SUCH CASE DELL SHALL BE LIABLE TO CUSTOMER FOR DIRECT DAMAGES RESULTING FROM SUCH DISCLOSURE UP TO THE LIABILITY CAP SET FORTH IN SECTION B.4 BELOW.

3. DELL'S MAXIMUM AND SOLE LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR IN CONNECTION WITH ANY CLAIM FOR LOSS OF ANY PHYSICAL ITEM OF EQUIPMENT SHALL IN NO EVENT EXCEED THE LOSS OR DAMAGE CHARGE ASSESSED BY THE LESSOR OF THE EQUIPMENT BUT IN NO EVENT GREATER THAN THE RESIDUAL VALUE ESTABLISHED BY THE LESSOR.

4. DELL'S AGGREGATE LIABILITY (WHETHER IN CONTRACT, TORT OR OTHERWISE) FOR ANY AND ALL CLAIMS OF LIABILITY ARISING OUT OF, OR IN CONNECTION WITH THIS SERVICE DESCRIPTION WITHIN ANY CALENDAR YEAR SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS SERVICE DESCRIPTION IN SUCH CALENDAR YEAR.

DELL DOES NOT LIMIT ITS LIABILITY FOR FRAUD, PERSONAL INJURY OR DEATH ARISING FROM ITS 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 THIS SERVICE DESCRIPTION, 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.

