

Service Offering Description for Customer-managed Dell APEX Data Storage Services

1. Introduction. This Service Offering Description is governed by the APEX Agreement located at www.dell.com/apexagreement (“APEX Agreement”) and this Service Offering Description and the APEX Agreement together govern the Dell APEX Service (as defined below). “APEX Agreement” for a Dell reseller or distributor purchasing the Dell APEX Service directly from Dell shall mean the APEX Reseller Agreement or Distributor Agreement, respectively, located at <https://www.delltechnologies.com/partner/en-us/partner/apex-partner-agreement.htm>. Dell (as defined in the APEX Agreement) will provide the Dell APEX Service.

1.1 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 words that are not defined in this Service Offering Description are defined in the APEX Agreement.

- “Activation Date” means the date that the Dell APEX Service is available for use. Notwithstanding the foregoing, the Activation Date is the first day of the month following Deployment. In the event Deployment is delayed, due to no fault of Dell, the Activation Date is the first day of the second month following delivery of the APEX System to the Site.
- “Dell APEX Service” or (“APEX Service”) means Dell’s Customer-managed Dell APEX Data Storage Service as further described below, and that Customer is authorized to consume under this Service Offering Description and the APEX Agreement. For clarity, the Dell APEX Service does not include Deployment (or any Deployment-related responsibilities) when performed by a Deployment Partner.
- “Dell Channel Partner” means a Dell partner that purchases Dell APEX Service for resale or for providing services to End Users. Dell Channel Partners include but are not limited to resellers, distributors, channel service providers, and OEM partners.
- “Deployment” means installation and configuration of the Dell APEX Service (including an Capacity Expansion as applicable) at the Site in Dell’s sole discretion.
- “Deployment Partner” means a Dell Channel Partner engaged by Customer and responsible for the Deployment of the Dell APEX Service.
- “Related Software” means software provided by Dell in connection with the Dell APEX Service for the sole purpose of enabling Customer to use the Dell APEX Service. Related Software may include development software and tools, and software to be installed on end user devices for the purpose of using the Dell APEX Service. Related Software excludes software that Dell makes available under separate terms or pursuant to a separate agreement.
- “Base Capacity” means storage capacity used to determine minimum recurring charges.
- “OnDemand Capacity” means storage capacity consumed beyond Base Capacity, which is used to determine charges for OnDemand usage.
- “Total Capacity” means all capacity on the APEX System (including Base Capacity and all additional capacity to support OnDemand Capacity).

1.2 Dell APEX Service. Dell will provide an on-premises storage subscription service to be consumed via Related Software. The Dell APEX Service shall be purchased with configurations, Base Capacity and OnDemand Capacity, as defined in the Order. This Dell APEX Service is made available with a minimum term commitment of either one (1), two (2), three (3) years, four (4) years, or five (5) years. The Dell APEX Service includes: (i) proactive capacity and health monitoring and (ii) 24x7 support services, each as defined in Section 4.3.

2. Technical Documentation and Resources. Documents and resources are available at <https://www.dell.com/en-us/dt/apex/storage/data-storage-services/index.htm>. Technical documentation available at <https://www.dell.com/support/home/en-us/product-support/product/apex-data-storage-service/docs> is provided to the extent, and in such form and quantity, as is reasonably necessary to support Customer’s internal use of the Dell APEX Service.

3. **System Data.** Dell may collect data on the configuration, operation, performance and use of the APEX Service (“System Data”). System Data does not encompass any Customer Content. Dell will treat any personal information collected in System Data with the applicable jurisdiction’s 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 You and Your End Users, (b) enhance or propose enhancements to Your or Your 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, Your End Users, or third parties, Dell shall exclusively own and retain all rights in System Data that is anonymized, i.e. that neither identifies You or Your 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’s disablement of related System Data 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. **Service Operations.**

4.1 **Site Location.** Dell will ship the Dell APEX System to the Site. The Dell APEX System (as defined in the APEX Agreement) cannot be deployed at ‘dark sites’, meaning locations that do not allow the Dell APEX System in the Dell APEX Service to connect with anyone outside of that location. Customer must allow Dell’s or Deployment Partner’s authorized technician access to the Site in a timely and secure manner for the following activities:

- A. Initial Site survey – Initial Site survey information is collected through the ordering process on the APEX Console. Dell or Deployment Partner, whomever Customer has engaged for Deployment, will contact Customer to verify the information and will work with Customer to complete the configuration workbook. Customer acknowledges that delays in providing or providing inaccurate information for the Site survey or the configuration workbook may cause delays in the completion of subsequent Dell APEX Service activities and/or additional charges.
- B. Deployment of the Dell APEX System and activation of the Dell APEX Service.
- C. Remediation of problems with the Dell APEX Service (e.g., needing to replace faulty hardware) where the issue cannot be addressed remotely.
- D. Expand or contract Total Capacity as needed.
- E. Retrieval of the Dell APEX System from the Site(s).

Any delays or restrictions in providing access to the Site and/or remote access to the Dell APEX System used to deliver the Dell APEX Service will affect the Dell required on-site activities. For example, Customer restrictions of access during certain hours or other Customer processes or conditions at the Site.

4.2 **Customer’s Obligations.** Except for Cloud Service Provider partners in good standing in the Dell Technologies Partner Program, Customer may not use the Dell APEX Service, Dell APEX System, or Related Software in a service provider capacity. Customer shall remain directly liable to Dell for any breach of these terms resulting from Customer’s end users or its customers’ violation of these terms.

Customer agrees to obtain necessary rights, permissions and consents associated with: (a) Customer Content; and (b) non-Dell software or other components that you direct or request that Dell use with, install, or integrate with the APEX Service.

Customer shall proactively notify Dell and Deployment Partner, if applicable, of any changes to the Site, networking, or relevant components that are connected to the Dell APEX Service. Customer will not disable related System Data collection features.

To the extent applicable to the Dell APEX Service, Customer will, at Dell’s or Deployment Partner’s request and Customer’s expense, perform the following:

- A. provide adequate floor space, power, and cooling for the Dell APEX System, as well as buffer space for future Dell APEX System expansion;

- B. provide networking switches, rack equipment, and maintain, as applicable, data cables, and any other materials or software necessary to allow the other components of the Dell APEX Service to operate according to its specifications (Customer must provide rack and switch supported by storage appliance);
- C. utilize the Dell APEX Service with reasonable care and in accordance with this Service Offering Description and APEX Agreement;
- D. keep the Dell APEX System located at the Site free and clear of any liens or encumbrances;
- E. restore Customer Content on the Dell APEX Service (including any that Customer provides on external hard drive);
- F. make available to Dell, Customer technical personnel familiar with Customer's business requirements (primary and alternate designated technical personnel), and, if applicable, make the personnel available to Deployment Partner for Deployment-related activities;
- G. provide to Dell complete and accurate information regarding Customer's business requirements in respect of the Dell APEX Service, and provide the information to Deployment Partner for Deployment-related activities;
- H. respond within a reasonable timeframe (or if no time period is specified, within three (3) Business Days) to all requests for approvals, which approval shall not be unreasonably withheld or delayed, provided however approval shall be deemed to have been provided if Customer has not responded within the applicable time period;
- I. cooperate with Dell;
- J. promptly notify Dell of any third-party claims or invalid or nonexistent licenses that may have an impact on this Service Offering Description or the Dell APEX Service;
- K. give Dell or Deployment Partner personnel and their subcontractors access to the Site to the extent reasonably necessary for them to perform the Dell APEX Service, including to affect the necessary Deployment, adjustments, maintenance and repairs;
- L. perform all other obligations of Customer described in this Service Offering Description, including but not limited to those obligations outlined in 4.6, 4.7, and 5.10;
- M. agree to the pre-qualification checklist requirements as stated in the APEX Console (directly or through a Dell Channel Partner);
- N. Provide VMware Infrastructure to host Utility Configuration Collector ("UCC") Edge VM Access to Secure Connect Gateway User accounts for each asset;
- O. provide Dell access to the VMware Infrastructure to install UCC component or, if Customer selected self-install option, Install UCC component;
- P. conduct event, incident, and change management with 24x7 coverage;
- Q. maintain appropriate security policies and access management controls;
- R. monitor and manage the on-going capacity utilization and performance of the storage subscription; and
- S. manage on-going storage activities, including the creation, attribution, and retirement of storage resources and their relevant replication and security policies, access controls, etc.

4.3 Contacting Dell for Support and Service Terms. Dell is the single point of contact for all Dell APEX Service support requests. All support for the Dell APEX Service is conducted through the support information provided to the Customer at the start of the Dell APEX Service. Any attempts to contact Dell through any other means could result in delayed support. Support features include:

- A. ProDeploy Plus (PDP) includes solution design, rack integration, onsite implementation and networking integration also includes implementation of required remote connectivity for CloudIQ and secure connect gateway (SCG). PDP is included in Dell APEX Service with Dell Deployment and is excluded from Dell APEX Service with Deployment by a Deployment Partner. For details on PDP, contact Customer's sales representative or Dell Channel Partner.;

- B. ProSupport Plus (PSP) with Mission Critical Support including Break-Fix assistance and parts replacement. PSP also includes twice a year system maintenance at customer request. For details on PSP, contact Customer's sales representative or Dell Channel Partner.;
- C. Customer Success Manager (CSM) is included as a primary Point-of-Contact for Dell APEX Services. They assist with Service Activation, Billing, and Capacity expansions. The CSM will replace the Service Account Manager (SAM) included with ProSupport Plus for this service; and
- D. Data Sanitization is included to certifiably erase customer data before the assets are returned to Dell at the end of the subscription. Data sanitization service description link can be found at https://i.dell.com/sites/csdocuments/Legal_Docs/en/us/asset-recovery-services-data-sanitization-for-enterprise-and-data-destruction-for-enterprise-sb-en.pdf

Additional information on Service Terms and Support for the Dell APEX Service including Dell's commitments regarding Support can be found in Appendix A, Supplemental Terms and at: <https://www.dell.com/support/home/en-us/product-support/product/apex-data-storage-service/docs>.

4.4 Restriction on Modification of Dell APEX Systems. The Dell APEX System used to deliver the Dell APEX Service is a closed system, for use solely with the Dell APEX Service. Customers are not allowed to access the components, add/remove/disable or otherwise interact with, or modify the Dell APEX System except as expressly permitted in writing by Dell. When Customer receives the Dell APEX System at the Site, Customer must not open or disturb the package and must keep the package in a safe location at the Site until Dell's or Deployment Partner's authorized technician arrives to unbox and set it up, establish the configuration, and power it on. Thereafter, problems with the Dell APEX System will be handled through the support process. Customer may not move the Dell APEX System from the Site except with the prior written approval from Dell. If approved, Customer will be responsible for the costs to relocate, redeploy, and recertify the APEX System as needed to ensure it remains implemented to Dell APEX standards. If Customer violates the terms of this section, then Dell will be relieved of its support obligations, and Dell may choose to discontinue or suspend the Dell APEX Service at the compromised location, and/or terminate Customer's subscription to the Dell APEX Service.

4.5 Dell APEX System. Dell will determine, at its discretion, the hardware and software applicable for the Dell APEX System and Dell APEX Service. After reasonable notice to Customer, Dell reserves the right to replace or refresh the Dell APEX System at Site(s) at any time for any reason. Dell also reserves the right to reuse the Dell APEX System for different customers when appropriate. If Dell elects to provide a previously deployed Dell APEX System to a customer, the Dell APEX System that is delivered will be refurbished and it will be verified that the data and configuration have been deleted. Dell will monitor capacity as part of the Dell APEX Service and is authorized in its sole discretion to expand (or contract) the capacity to maintain a sufficient OnDemand Capacity as the Customer's usage dictates and to overprovision the available capacity for future growth accommodation. Dell will notify Customer if OnDemand Capacity is required in order to schedule related activities. Should Total Capacity be consumed prior to expansion activities, Customer may experience a degradation of Dell APEX Service.

4.6 Security. Customer is responsible for the following:

- A. ensuring the physical security of the Dell APEX System and Customer-owned systems interacting with the Dell APEX System at each Site;
- B. managing the configuration of the Dell APEX Service through the APEX Console and, if applicable, other tools provided by Dell;
- C. All network security and vulnerability scans of the APEX solutions; and
- D. Customer's network security and vulnerability scans of the Customer systems connected to the Dell APEX System, and performing security monitoring of those systems.

4.7 Customer Data Removal and Backup. To the extent applicable to the Dell APEX Service, Customer shall, at Customer's expense, perform the following: back up its data before Dell performs any remedial, upgrade or other work on the Dell APEX System; 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 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 Dell APEX System prior to Dell retaking possession as described in Section 5.10 of this Service Offering Description. Customer may incur additional fees and expenses for any resulting additional time, materials, losses or damages incurred by Dell or its vendors or partners.

4.8 Deployment Exclusions. The Deployment features of the Dell APEX Service do not include the following:

- A. Any configuration of non-Dell provided equipment for the Dell APEX Service;
- B. Installation, configuration, migration, or testing of virtual machines (VM), hosts or other workloads;
- C. Any configuration of client computers;
- D. Configuration of client or VM networks; Network topology or performance assessment;
- E. Security design, network design (IP/Firewall) and/or modifications; and
- F. Any extra add-on options or services such as data migration for storage volumes and shares.

4.9 Deployment Partner. Customer may contract the Deployment only to Dell Channel Partners that enrolled in the Dell Partner Deployment Program and hold the relevant product deployment competency to act as a Deployment Partner. Pricing and scope for Deployment by Deployment Partner will be as agreed between Deployment Partner and Customer. Dell has no responsibility for: (a) Deployment (or any Deployment-related responsibilities) by anyone other than Dell personnel or (b) any delay or issue that arise from any Deployment not performed in accordance with Dell's instructions and the applicable documentation. Within 48 hours of completing the Deployment, Deployment Partner must notify the Dell CSM of the completion. Customer will require its Deployment Partner to notify Dell of the completion.

5. Business Operations.

5.1 Pricing. Pricing for the Dell APEX Service is provided in the APEX Subscription Quote. Customer's Dell Channel Partner is free to determine and set its own resale pricing to Customer for the Dell APEX Service. Enterprise license agreements may not be applied to the Dell APEX Service.

5.2 Billing. Customer or Customer's Dell Channel Partner, as applicable, will be billed monthly for the Dell APEX Service. Billing consists of a monthly Base Capacity charge and an OnDemand usage charge. A customer or its Dell Channel Partner, as applicable, will be billed for the entire Base Capacity whether that entire Base Capacity is used or not. OnDemand usage will be billed based on the average TBs used above the Base Capacity over each day of the month.

5.3 Metering.

5.3.1 Capacity Metering. Metering of capacity for APEX Storage Services include all of the storage used for user, system and temporary data, both compressed and non-compressed. Capacity is measured after the application of dedupe and compression technologies for all data stored on the system, including temporary data used for data reduction operations. Specific capacity metering is measured as follows:

- Block and File services are measured in consumed raw capacity which includes capacity used for data protection.
- Backup Target services are measured in consumed usable capacity which does not includes capacity used for data protection.

5.3.2 Interruption of Metering Capabilities.

- A. If Dell is unable to meter to determine the applicable fees due to actions by anyone other than Dell, including but not limited to a failure of equipment provided by Customer or Customer's failure to install or properly utilize the Dell metering equipment, then

- i) If the interruption is more than five days but less than 30, Dell shall invoice and customer shall pay fees for the affected period based on the Base Capacity and any OnDemand Capacity utilized during the last calendar month.
 - ii) If the interruption is more than 30 days, Dell shall invoice and customer shall pay fees for the affected period based on the entirety of all available capacity for the APEX System (e.g., Base Capacity and all other capacity available on the APEX System).
- B. If Dell is unable to meter to determine the applicable fees due to a failure caused by Dell (e.g., failure of the modem, software or other equipment used by Dell to meter usage), then
 - i) The fees owed by Customer during the affected period shall be based on the Base Capacity and customer's utilization of OnDemand Capacity during the last calendar month.
- C. Dell shall promptly notify Customer of any inability to electronically and/or physical access the APEX System, as applicable, and work cooperatively to reestablish access.

5.4 Subscription Term and Extension. The Dell APEX Service is offered for a committed term subscription of either one (1), two (2), three (3), four (4), or five (5) years as identified in Customer's (or Customer's Dell Channel Partner's) Order. Customer's initial Subscription Term and charges for the subscription begin on the Activation Date. If Customer utilizes the Dell APEX Service after Deployment but prior to the Activation Date, this Service Offering Description and the APEX Agreement apply to Customer's use of the Dell APEX Service. The Dell APEX Service is not transferable.

Prior to the expiration of the applicable Subscription Term, Customer or Customer's Dell Channel Partner may request an extension to the Subscription Term ("Subscription Term Extension") by contacting their sales representative. If such request is received less than 90 days before the expiration of the Subscription Term, then Customer or Customer's Dell Channel Partner will be subject to the charges for Monthly Extension Terms until the order for the extension is completed in accordance with the APEX Agreement. Subscription Term Extensions up to sixty (60) months from the initial Activation Date that do not include Capacity Expansion (as defined below) are subject to the pricing provided with the Quote for the original Subscription Term. Subscription Term Extensions beyond 60 months from the initial Activation Date are subject to new pricing and Customer or Customer's Dell Channel Partner should contact its sales representative for a new Quote. During a Subscription Term, Customer may not reduce capacity.

5.5 Capacity Expansion. Customer or Customer's Dell Channel Partner may increase the Total Capacity ("Capacity Expansion") of the APEX Service by contacting their sales representative. Capacity Expansions are subject to a new Quote for new pricing and alignment to an available committed term subscription as provided in Section 5.4. Any Capacity Expansion occurring within the final twelve (12) months of the original Subscription Term will also require a Subscription Term Extension. Customer or Customer's Dell Channel Partner must contact their sales representative to request a new Quote for the Capacity Expansion and complete the order in accordance with the APEX Agreement. Charges for Orders under this Section will begin on the Activation Date. During a Subscription Term, Customer may not reduce capacity.

5.6 Notice and Monthly Extension Terms. If Customer does not intend to use the Dell APEX Service after the Subscription Term, Customer must provide Dell with written notice of Customer's intent to terminate no later than ninety (90) days before the end of the then current Subscription Term to avoid additional costs. If Customer purchased the Dell APEX Service from a Dell Channel Partner, Customer will cause its Dell Channel Partner to provide such written notice to Dell to avoid additional costs.

If Customer or Customer's Dell Channel Partner has not, provided Dell with notice of Customer's intent to end the subscription, the subscription will continue after Customer's initial Subscription Term on a monthly basis ("Monthly Extension Term"). For the Monthly Extension Term(s), Customer or Customer's Dell Channel Partner, as applicable, will be billed at the monthly rate provided in the APEX Subscription Quote, until Customer or Customer's Dell Channel Partner cancels the Monthly Extension Term(s). Customer or Customer's Dell Channel Partner, as applicable, may cancel the Monthly Extension Term by providing Dell with at least ninety (90) days' written notice of Customer's intent to terminate the Monthly Extension Term and returning the Dell APEX System to Dell in accordance with this Service Offering Description.

5.7 Suspension and Re-Enablement. During the time Customer's access to and use of the Dell APEX Service is suspended for any reason as provided in the APEX Agreement, Customer will be required to stop use of the Dell APEX Service. Dell will not support the Dell APEX Service during the period of suspension.

5.8 Termination of the Dell APEX Service. If Dell terminates Customer's access to the Dell APEX Service, then Customer will permanently lose Customer's access to the configurations and environments, which will be deleted by Dell. Notwithstanding the foregoing, if Customer wishes to extract Customer Content from the Dell APEX Service (to the extent Customer has not already done so prior to termination of Customer's Subscription Term), Customer must notify Dell before Dell's authorized technician removes the Dell APEX System from the Site, and, subject to additional fees, Dell will assist Customer in extracting Customer Content from the Dell APEX Service. Customer will be responsible for all fees associated with Customer Content extraction. If Customer does not notify Dell before Dell APEX System removal, the Customer Content will be permanently deleted and it will not be recoverable. Dell shall have no obligation nor responsibility for deleting Customer Content in accordance with this section.

5.9 Cancellation. Except to the extent otherwise required by applicable law, Customer or Customer's Dell Channel Partner, as applicable, cannot cancel or terminate the Dell APEX Service prior to the expiration of the committed Subscription Term. Customer may stop using the Dell APEX Service at any time, but Customer is liable for all remaining charges for the Subscription Term, regardless of whether Customer actually uses the Dell APEX Service for the entire Subscription Term. There is no refund for any committed charges that Customer or Customer's Dell Channel Partner paid at the time the Dell APEX Service was purchased from Dell, regardless of whether or not Customer actually uses the Dell APEX Service for the entire Subscription Term. If Customer is on a Monthly Extension Term (as defined in Section 5.6 (Notice and Monthly Extension Terms)), Customer may stop using the Dell APEX Service at any time during the month, but Customer or Customer's Dell Channel Partner, as applicable, is obligated for monthly fees at the monthly rate until Dell is provided with written notice of Customer's intent to terminate the Monthly Extension Terms for the Dell APEX Service in accordance with Section 5.6 (Notice and Monthly Extension Terms).

5.10 Decommission of Dell APEX System. If Customer has elected to terminate the Dell APEX Service at the end of Customer's Subscription Term, Customer will have thirty (30) days from the time Dell notifies Customer and Customer's Channel Partner, as applicable, of its intent pick up the Dell APEX System or if no notice is provided by Dell, then thirty (30) days from the last day of the Subscription Term, as applicable, within which to delete Customer Content from the Dell APEX System. If the Dell APEX Service is terminated prior to the end of the term, Customer will have thirty (30) days from the time Dell notifies Customer and Customer's Channel Partner, as applicable, of termination, within which to delete Customer's Content from the Dell APEX System. In any case, it is Customer's obligation to delete Customer Content as per the Customer's own requirements. At the end of the thirty (30) days, Dell's authorized technician will remove the Dell APEX System from the Site. Pursuant to Section 5.8 (Termination of the Dell APEX Service) above, if Customer has not deleted Customer Content from the system, it may be deleted by Dell.

5.11 Retaking Possession of the Dell APEX System. Upon termination of the Dell APEX Service, with notice to Customer and Customer's Channel Partner, as applicable, and in accordance with local law, Dell or Dell's authorized technician may enter the Site to recover the Dell APEX System. Customer is responsible for ensuring that Customer Content has been removed from the Dell APEX System, within the time period specified in the Section 5.10 (Decommission of Dell APEX System) above. If the APEX Agreement or the Dell APEX Service is terminated, Customer or Customer's Dell Channel Partner, as applicable, shall be responsible for the payment of the actual documented costs and reasonable attorney's fees incurred by Dell in retaking possession of the Dell APEX System and/or seeking to recover amounts due and owing.

5.12 Replaced Parts. Where Dell replaces a part in the APEX System, Customer are solely responsible for removing all Customer Content stored on the replaced part(s), irrespective of the medium in which it is stored, prior to Dell's taking possession of the part. Dell will permanently delete all data, including Customer Content, from the replaced part, and such data will not be recoverable. Dell has no liability to Customer with respect to the

disposition of any of Customer Content that Customer did not remove from replaced parts.

6. Location-Specific Terms and Conditions.

6.1 United States of America. Insert the following section at the end of Section 4.

4.10 U.S. Customers and HIPAA. Dell hereby disclaims any and all responsibility for any restoration of Customer Content (including on any that Customer provides on USB flash drive). If Customer has operations in the United States or is otherwise subject to the US Health Insurance Portability and Accountability Act (“HIPAA”), Customer warrants and represents that prior to providing Dell access to the Dell APEX Service, 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 the Dell APEX Service 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; (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). Customer is 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 the Dell APEX Service.

6.2 Australia and New Zealand.

A. For Australia, insert the following at the end of Section 4.

4.10 Critical Infrastructure Assets. Notwithstanding anything to the contrary; (i) to the extent Customer is or becomes the responsible entity for one or more critical information assets, as such terms are defined in the Security of Critical Infrastructure Act 2018 (“SOCI Act”), as amended, Customer will remain solely responsible for any compliance obligations under the SOCI Act with respect to such assets unless otherwise agreed to in writing with Dell; (ii) unless and solely to the extent otherwise notified by Customer in writing to Dell, Customer represents and warrants that it is not using, and will not use, the Dell APEX Service to store, transmit, or otherwise process business critical data, as that term is defined in the SOCI Act (“BCD Use”); and (iii) should Dell be notified or otherwise become aware of Customer’s BCD Uses, Dell may: (A) require Customer to comply with such other terms relating to BCD Use as notified to Customer in writing, or (B) terminate Customer’s access to the Dell APEX Service.

6.3 South Korea.

A. For South Korea, the following Section 5.6 replaces Section 5.6 above.

5.6 If Customer wishes to use the Dell APEX Service after the Subscription Term, Customer should provide notice to Dell of its intention to request a Subscription Term Extension by contacting its sales representative or Dell Channel Partner.

B. For South Korea, the last sentence of Section 5.9 is deleted.

Appendix A: Supplemental Terms for Customer-managed Dell APEX Data Storage Services

1. **Introduction.** This Appendix supplements the Service Offering Description for Customer-managed Dell APEX Data Storage Services that governs the Dell APEX Service.

2. **Overall Scope of Dell APEX Service.**

A. **Dell Deployment, including Rack integration** (this section does not apply if Customer has engaged or contracted with a Dell Channel Partner to conduct Deployment of the Dell APEX Service):

- Rack integration deployment tasks, includes Planning, coordination, physical installation,

cabling and labeling (Ethernet & Power cables per unit), power-up test, configuration of the Dell APEX Service in the data center server cabinet, and delivery of the Dell APEX Service.

- Customer must ensure there is enough PDU connectivity to fulfill the order when needed for physical installation.
- Customer shall provide carts, hand trucks, ladders, lifts, etc and place any equipment to be racked in the immediate area of the rack into which it will be installed.
- Customer shall ensure that the required power outlets are installed and functional in the location of the hardware installation, the required PDUs are installed and functional (unless purchased with the product), ensure any existing equipment repositioning is completed prior to arrival and ensure and any modifications needed existing racks to accept Dell equipment are completed prior to arrival.

Customer is fully responsible for all physical and security conditions present at the Site, including but not limited to:

- (1) the normal working condition and support for the equipment provided by Customer,
- (2) the physical and cybersecurity measures reasonably and necessary and appropriate to protect the Customer provided equipment,
- (3) the Dell APEX Service, and
- (4) any applicable Dell or Customer personnel.

Dell will not be liable for any claims or damages that may result from Customer's failure to properly install or maintain any materials or components that customer provides in connection with the Customer equipment. Dell will not be obligated to provide support for the Dell APEX Service if such support cannot be performed without some action being taken by Customer in connection with the Customer provided equipment.

B. ProSupport Plus for Enterprise with Mission Critical support, including:

- (1) Access to specialized technical support from Dell for troubleshooting assistance with the Dell APEX Service.
- (2) On-site dispatch of a technician and/or delivery of replacement parts to the Site to address issues with the Dell APEX Service.
- (3) Access to a remote Customer Success Manager (CSM).
- (4) Collaborative Assistance if issues arise with an eligible third-party vendor's products.
- (5) System Software Support for the Dell APEX Service from Dell.
- (6) For further information, details and applicable terms and conditions contact Customer's sales representative or Dell Channel Partner.

C. Asset Return, including:

- (1) Scheduling pick-up of the Dell APEX System and return to Dell.
- (2) Further information, details and applicable terms are set forth in Section 6 of this Appendix (Asset Return).

3. Customer Provided Equipment

- With the Customer Provided Rack option and, in limited circumstances, when approved by Dell in writing with the Dell Integrated Rack option, Customer may provide its equipment for use with the Dell APEX Service.
- If Customer provides equipment, Customer must provide and maintain, as applicable, power distribution, switches, racks, data cables, and any other materials or software necessary to allow the other components of the Dell APEX Service to operate according to its specifications (Customer must provide rack and switch supported by VxRail), and ensure there is enough PDU space to fulfill the order when needed for physical installation.

- Customer shall provide carts, hand trucks, ladders, lifts, etc and place any equipment to be racked in the immediate area of the rack into which it will be installed.
- Customer shall ensure that the required power outlets are installed and functional in the location of the hardware installation, the required PDUs are installed and functional (unless purchased with the product), ensure any existing equipment repositioning is completed prior to arrival and ensure and any modifications needed existing racks to accept Dell equipment are completed prior to arrival.

Customer is fully responsible for all physical and security conditions present at the Site, including but not limited to:

- (1) the normal working condition and support for the equipment provided by Customer,
- (2) the physical and cybersecurity measures reasonably and necessary and appropriate to protect the Customer provided equipment,
- (3) the Dell APEX Service, and
- (4) any applicable Dell or Customer personnel.

Dell will not be liable for any claims or damages that may result from Customer's failure to properly install or maintain any materials or components that Customer provides in connection with the Customer equipment. Dell will not be obligated to provide support for the Dell APEX Service if such support cannot be performed without some action being taken by Customer in connection with the Customer provided equipment.

4. Asset Return

A. Definitions and Terms. As used in this document, the following definitions will apply:

- (1) "Dell's Logistics Provider" means the logistics provider acting on instructions from Dell.
- (2) "Serial Number" means the unique identifier assigned to a unit of Dell APEX System by the manufacturer.
- (3) "Shipping Document" means Dell's Logistics Providers waybill, bill of lading or piece count documentation.

B. Scheduling of asset return includes:

- (1) **Scheduling Pick up.** Dell will assign Dell's Logistics Provider for pick up and return of the Dell APEX System. Dell's Logistics Provider will contact the Customer to confirm the unit count of Dell APEX System and schedule for pick up at the Site. Pick up will occur at a mutually agreeable date during local business hours, Monday – Friday 8:00am to 5:00pm (local time). This is typically three business days after the date of contact, but no later than 30 days from the end of the Subscription Term or Monthly Extension Term(s), as applicable.
- (2) **Changes/Cancellations.** Customer must provide two (2) business days' notice prior to the scheduled date for Asset Return or may incur additional fees.

C. Pick Up and Return to Dell. Dell's Logistics Provider shall:

- (1) **Upon** arrival, contact the Customer's site representative and proceed to the pick-up Site;
- (2) **Record** a unique serial number / service tag number for each unit of Dell APEX System and record the number of units of Dell APEX System being removed from the Site;
- (3) Bulk package the Dell APEX System using pallets, slip sheets and shrink wrap (Note: the Dell APEX System will not be individually boxed – see Customer Responsibilities);
- (4) Provide Customer with a Shipping Document for signature before leaving the Site.

D. Asset Return Customer Responsibilities are:

- (1) **General.** THE CUSTOMER SHALL BACKUP ANY DATA THE CUSTOMER DESIRES TO RETAIN PRIOR TO DELL APEX SYSTEM BEING MADE AVAILABLE TO DELL.

Dell does not perform restoration of any data or software from the Dell APEX System.

(2) Pick Up. Prior to pick up of the Dell APEX System, the Customer shall:

- a. Have contacted Dell or their Services Delivery Manager for appropriate approval/return authorization.
- b. Declare, at time of pick-up scheduling, any Site access issues, security restrictions, union labor requests, certificate of insurance requirements, dock restrictions or time restrictions.
- c. Remove all confidential, proprietary, sensitive or other non-public data and any third-party software not included in Section 1.1.A of the Service Offering Description from any and all Dell APEX Systems.
- d. Uninstall seismic bolt, if it is installed, from rack.
- e. Take Dell APEX System off network and power down the Dell APEX System to be removed.
- f. Remove from Dell APEX System and retain all loose data storage media.
- g. Verify Dell APEX System contains only computer hardware and no other products such as appliances, office equipment, biohazard waste, biohazard equipment, materials, packaging or boxes;
- h. Verify Dell APEX System is complete and properly assembled as the value for Dell APEX System that has been disassembled (for example, hard drives, memory or batteries missing from the system) may be reduced or eliminated;
- i. Decommission the Dell APEX System and clearly separate such Dell APEX System from other equipment not for pick up;
De-installation
 - o The hardware must be unracked from the customer provided racks
 - o Customer is responsible for un-racking the hardware. If the hardware is not ready for pickup Dell's Logistics Provider must notify the CSM within 48hours. If CSM is unable to reschedule then sections 5.6 and 6.3 apply.
 - o Optionally, Customer should be able to purchase a service to do this
- j. Provide a Site representative to direct Dell's Logistics Provider to the Dell APEX System to ensure correct equipment is removed by Dell's Logistics Provider.
- k. In case of Customer Provided Equipment, identify, power off and label Dell's equipment before/after the Dell's Logistics Provider shows up on Site

(3) Customer Data Removal and Data Back-Up Obligation.

- a. The Customer represents and warrants that Customer has removed all Customer Content, specially all confidential, proprietary, sensitive, or other non-public data from the Dell APEX System prior to Dell retaking possession as described in Section 5 of this Service Offering Description.
- b. Dell will not have any responsibility for any restoration of data or software on the Dell APEX System. Customer must back up its data before Dell performs any remedial, upgrade, or other work on the Dell APEX Service. If applicable law prohibits exclusion of liability for lost data, then Dell will only be liable for the cost of the typical effort to recover the lost data from Customer's last available back-up.
- c. If Customer breaches any of its obligations or warranties outlined in this document, Dell shall not be liable for any damages resulting from the Customer's breach. Alternatively, the Customer may incur additional fees and expenses for any resulting additional time or materials, loss or damage incurred by Dell or its providers.