

SETTLEMENT AGREEMENT AND RELEASE

The parties to this Agreement are County of Washtenaw, Michigan (“Customer”), and Dell Marketing, L.P. (“DMLP”).

This Agreement applies to various allegations, contentions and claims related to recent issues experienced by Customer with respect to the data center solution provided by Dell in accordance with Order No. 759262237 – DR6000 36TB (Order Date 1/23/15) and Order No. 759261932 – Dell Business Resiliency Suite (Order Date 1/15/15), purchased pursuant to DMLP’s Participating Addendum for WSCA/NASPO PC Contracts 2009-207160 between DMLP and Washtenaw County dated November 4, 2009 (“The Dell Data Center Solution Products and Services”).

The parties have agreed that they desire to resolve this action and settle all potential legal actions or claims that have been or could have been asserted related to the Dell Data Center Solution Products and Services. The parties further agree that the terms and conditions of this Agreement are not to be construed as an admission of liability by any of the parties. The parties enter into this Agreement only as a compromise to avoid any further expense and to protect their respective interests and to terminate all controversy. The parties acknowledge that this Agreement is entered into voluntarily, in good faith and for no collusive purpose, and with the intention to be legally bound.

In consideration of the foregoing, the mutual promises set forth in this Agreement and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. In consideration of the release and discharge set forth in paragraph 2, within 45 (forty-five) days following receipt of the execution of this Agreement, Dell will deliver a check payable to Customer in the total amount of \$492,078.60 (Four Hundred Ninety-Two Thousand Seventy-Eight Dollars and Sixty Cents).

2. **IN CONSIDERATION OF AND EXPRESSLY CONDITIONED ON THE PROMISES DESCRIBED IN THE PRECEDING PARAGRAPH, AND INTENDING TO BE LEGALLY BOUND, CUSTOMER, IN ITS OWN RIGHT AND ON BEHALF OF ITS AGENTS, SERVANTS, EMPLOYEES, SUBCONTRACTORS, INDEPENDENT CONTRACTORS, LICENSORS, LICENSEES, CLIENTS, CUSTOMERS, ATTORNEYS, INSURERS, PARTNERS, PREDECESSORS, SUCCESSORS AND ASSIGNS (HEREINAFTER COLLECTIVELY REFERRED TO AS “RELEASOR”) DOES HEREBY RELEASE AND FOREVER DISCHARGE AND COVENANTS NOT TO SUE DMLP AND ITS PAST AND PRESENT SHAREHOLDERS, OFFICERS, DIRECTORS, AGENTS, SERVANTS, EMPLOYEES, SUBCONTRACTORS, INDEPENDENT CONTRACTORS, LICENSORS, LICENSEES, CLIENTS, CUSTOMERS, ATTORNEYS, INSURERS, PARENTS, SUBSIDIARIES, AFFILIATES, PARTNERS, LIMITED PARTNERS, JOINT VENTURERS, PREDECESSORS, SUCCESSORS AND ASSIGNS (HEREINAFTER COLLECTIVELY REFERRED TO AS “RELEASEES”), OF AND FROM ANY AND ALL MANNER OF ACTIONS AND CAUSES OF ACTIONS, SUITS, DEBTS, DUES, ACCOUNTS, BONDS, COVENANTS, CONTRACTS, AGREEMENTS, WARRANTIES, JUDGMENTS, DAMAGES, CLAIMS, COUNTERCLAIMS, LOSSES AND DEMANDS WHATSOEVER, IN LAW OR EQUITY, WHETHER KNOWN OR UNKNOWN, INCLUDING, BUT NOT LIMITED TO, ANY CLAIMS THAT WERE ASSERTED OR COULD HAVE BEEN ASSERTED ARISING OUT OF, IN CONNECTION WITH, OR IN ANY WAY RELATING TO, THE DELL DATA CENTER SOLUTION PRODUCTS AND SERVICES, WHICH AGAINST RELEASEES, RELEASOR EVER HAD, NOW HAS, OR HEREINAFTER CAN, SHALL OR MAY HAVE.**

3. The parties agree that the terms and conditions of this Agreement shall remain confidential, and that in response to any inquiries expressly inquiring about Customer’s claims, the response shall be

that the parties have amicably resolved any differences they may have had. However, the parties may disclose the terms and conditions of this Agreement: (1) to their accountants, attorneys, auditors, or insurers, only after advising them of this confidentiality provision; (2) to the extent required upon order of a court, governmental and/or administrative agency; (3) to the extent the parties otherwise agree in writing; or (4) as otherwise required by law. The provisions of this paragraph shall not apply to any disclosure in legal proceedings to enforce the rights or obligations contained in this Agreement, or to any disclosures necessary and appropriate to the defense of any claims asserted against Customer or Releasees.

5. The parties acknowledge that they have obtained or had the opportunity to obtain the advice of legal counsel prior to signing this Agreement. The parties acknowledge that in executing this Agreement, they do not rely upon any inducements, promises, or representations made by any other party and that there are no written or oral understandings or agreements directly or indirectly connected with this Agreement that are not incorporated herein. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing the document to be drafted. Each of the parties is entering into this Agreement voluntarily, without duress, with the consultation and advice of its legal counsel, and with full understanding of its terms.

6. The parties agree that they have read this Agreement and they fully understand and appreciate its contents, that they have the legal capacity and authority to execute it and they have executed the same and make the settlement provided herein voluntarily and of their own free will.

7. The parties agree that this Agreement shall be construed in accordance with the laws of Michigan.

8. **Complete Agreement.** This Agreement constitutes the complete and entire agreement between the parties concerning the matters covered herein and supersedes all prior and contemporaneous discussions, negotiations, understandings, and agreements, representations, and understandings of the parties, whether oral or written, expressed or implied, pertaining to the subject matter contained herein. Each of the parties acknowledges that no other party, nor any agent or attorney of any other party, has made any promise, representation, or warranty whatsoever, express or implied, and not contained herein, concerning the subject matter hereof to induce the party to execute or authorize the execution of this Agreement, and acknowledges that the party has not executed or authorized the execution of this instrument in reliance upon any such promise, representation, or warranty not contained herein. No change or modification to this Agreement shall be binding on any party unless it is in writing executed by all parties. This Agreement shall be binding upon the shareholders, officers, directors, agents, servants, employees, subcontractors, independent contractors, licensors, licensees, clients, customers, attorneys, insurers, parents, subsidiaries, partners, limited partners, joint venturers, predecessors, successors and assigns of the respective parties hereto.

9. If any one or more of the provisions of this Agreement shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and in any event, the validity and enforceability of all other provisions of this Agreement shall not be affected.

11. This Agreement may be executed in counterparts, the separate parts of which shall constitute a single document.

12. Copies of the Original Agreement, whether transmitted by facsimile or other means, shall be effective.

13. The parties agree that each party will bear its own legal costs and expenses incident to this Agreement.

ENTERED INTO THIS _____ day of _____ 2017.

Customer

By:
Title:

Dell Marketing, L.P.

By:
Title: