

DELL Supplementary Terms for Infrastructure Products

These Supplementary Terms for Infrastructure Products (“**Supplementary Terms**”) apply specifically to your purchase of Infrastructure Products (as defined below) from Tech Data Corporation and its US affiliates (“Tech Data”) and to your sale of Infrastructure Products.

These Supplementary Terms are passed through by Tech Data from Dell. TECH DATA IS NOT LIABLE FOR ANY STATEMENTS OR OBLIGATIONS (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES) CONTAINED HEREIN. For clarification purposes, any pricing is solely determined between you and Tech Data.

1. **Definitions.** The definitions below shall apply to the purchase and sale of Infrastructure Products to Resellers (defined below).
 - 1.1 “**Customer Support Tools**” means any software or other tools which Dell makes available to Reseller, or End-User to enable certain service features of Products (as applicable) and to enable Reseller, or End-User to perform various self-maintenance activities.
 - 1.2 “**Dell Service Area**” means the area that is within: (i) one hundred drivable miles of a Dell service location for Infrastructure Products; and (ii) the same country as the Dell service location.
 - 1.3 “**Delivery**” for Equipment occurs (1) for the U.S., when Dell provides the Equipment to a carrier at Dell’s designated point of shipment, or (2) for Canada, when the Equipment clears Canadian customs. “**Delivery**” for Software occurs (a) for the U.S., when Dell provides physical media to a Dell-designated carrier at Dell’s designated point of shipment, (b) for Canada, when the physical media clears Canadian customs, or (c) for U.S. or Canada, the date Dell notifies Reseller or End-User that Software is available for electronic download.
 - 1.4 “**Documentation**” means Dell’s then-current, generally available user manuals and online help for Infrastructure Products.
 - 1.5 “**End User**” or “End-User” means any entity purchasing or otherwise obtaining Products and/or Services for its own internal end-use (and not for resell, distribution, or sub-licensing to others).
 - 1.6 “**Equipment**” means “Dell”, “EMC”, or “Dell EMC”-branded hardware that Dell provides under these Supplementary Terms.
 - 1.7 “**Independent Software**” means “Dell”, “EMC” or “Dell EMC”-branded software that can operate on hardware other than Equipment.
 - 1.8 “**Infrastructure Products**” means Equipment that comprises data storage and converged function data management products and their related Software, including but not limited to PowerMAX/VMAX, Unity, SC, Vblock, VxBlock, VxRack, VxRail, Data Domain DD3300, and IDPA DP4400 Products and Independent Software (e.g., backup and recovery software). Not all Infrastructure Products are eligible or available for purchase and distribute under these Supplementary Terms. The list of Infrastructure Products eligible to purchase and distribute may be modified by Dell at any time and be

provided upon request. Certain Infrastructure Products (including Vblock, VxBlock and VxRack) contain components that are subject to Cisco Systems, Inc. ("Cisco") terms and conditions, and purchase and distribution of such Infrastructure Products with Cisco components are subject to additional terms and conditions which must be agreed to in writing before purchase and distribution such Infrastructure Products under these Supplementary Terms.

- 1.9 **"Installation Site"** means the ship-to address or other location identified on Dell's quote or order confirmation or other Dell-prepared document as the Infrastructure Product site of installation, use, or both.
- 1.10 **"Maintenance Aids"** mean any hardware, software or other tools, other than Customer Support Tools, that Dell uses to perform diagnostic or remedial activities on Products.
- 1.11 **"Product Notice"** means the information related to Products and Services posted at a Dell or EMC website at the time of the relevant quote, currently located at http://www.EMC.com/products/warranty_maintenance/index.jsp. To locate the applicable information related to the SC Series Products, please see the applicable service description listed at www.dell.com/servicecontracts/global. The Product Notice informs of Infrastructure Product-specific use rights and restrictions, unit of measure (if any), warranty periods, warranty upgrades and Support Services terms. The Product Notice in effect as of the date of the relevant quote will apply to Infrastructure Products, and is deemed incorporated into that quote and related purchase order by this reference. Upon request, Dell will provide a copy of the applicable Product Notice or attach it to the relevant quote.
- 1.12 **"Reseller"** means the entity purchasing the Dell Products to sell to an End-User.
- 1.13 **"Service Agreements"** means service contracts, including service descriptions available at www.dell.com/servicecontracts/global, service briefs, statements of work, services specifications and any other similar mutually agreed documents.
- 1.14 **"Software"** means "Dell", "EMC" or "Dell EMC"-branded generally available application, microcode, firmware and operating system software in object code format that is licensed by Dell or EMC.
- 1.15 **"Software Release"** means any subsequent, generally available version of Software or Independent Software provided after initial Delivery of such software, but does not mean a new product.
- 1.16 **"Support Services"** when used in these Supplementary Terms and applied to Infrastructure Products means the Services identified on the table located at <http://www.emc.com/collateral/warranty-maintenance/h4276-emc-prod-warranty-maint-table.pdf>. Support Services for SC Series Products are stated at <http://www.dell.com/learn/us/en/uscorp1/campaigns/global-commercial-service-contracts?c=us&l=en&s=corp>.
- 1.17 **"Time and Materials Service"** means any maintenance or support service that Dell provides but is not part of fixed-fee Support Services or other Dell generally available service-related offering using a pre-established fee. Dell charges separately for Time

and Materials Services on a time and materials basis and may include a separate set of Time and Materials terms and conditions.

2. **Installation.** Reseller will ensure that: (a) the Installation Site meets the specifications for Infrastructure Products including, without limitation, the Equipment's specifications for power and cooling; (b) the surfaces over which the Equipment will travel at Reseller's or the End-User's (as applicable) location between the carrier delivery point and the final location at the Installation Site meet the weight specifications for the Equipment; and (c) Dell has the contact information for a responsible single point of contact at the Installation Site.
3. **Support Services.** Dell will provide Support Services to Reseller (or, upon request, directly to End-User) subject to Reseller compliance, and as applicable, End-User's compliance, with the provisions of these Supplementary Terms and the Agreement. Reseller shall notify the End-Users of the relevant terms for Dell's provision and performance of Support Services for Infrastructure Products, which are subject to the Product Notices and Service Agreements.
 - 3.1 **Scope.** The contents of Support Services for each Infrastructure Product (the "**Support Option**") are set forth in the Product Notice or the Service Agreements, and unless otherwise indicated in the Product Notice or Service Agreements, consist of: (a) using commercially reasonable efforts to remedy failures of Infrastructure Products to perform substantially in accordance with Dell's applicable Documentation; (b) providing English-language (or, where available, local language) help line service via telephone or other electronic means; and (c) enabling Reseller (and through Reseller to End-User) (as applicable) to download Software Releases and Documentation updates that Dell makes generally available at no additional charge to other purchasers of Support Services for the applicable Infrastructure Product. Dell reserves the right to change the scope of Support Services for Infrastructure Products on sixty days' prior written notice.
 - 3.2 **Additional Support.** Dell reserves the right to charge for Support Services performed outside the time frames of the applicable Support Option as a Time and Materials Service. Except to the extent that Support Services are independent of the Equipment's location, Dell will have no obligation to provide Support Services for Infrastructure Products with respect to Equipment that is outside the Dell Service Area. Support Services do not apply to any Software other than the current and the immediately prior Software Release. Support Services are subject to Dell's then-current "End-of-Service-Life" policy for the respective Infrastructure Product, if applicable. Dell will have no obligation to provide Support Services for Software and problems that cannot be reproduced at Dell's facility or via remote access to Reseller's or End-User's facility. Support Services do not include the supply of Equipment upgrades, if any, needed to utilize new features or functionality in a Software Release.
 - 3.3 **Exclusions.** Support Services do not cover a problem that would have been excluded from coverage pursuant to section 8.4 ("Warranty Exclusions") had the problem arisen during the warranty period of the affected Infrastructure Product.
 - 3.4 **Reinstatement of Support.** Reseller may request that Dell reinstate Support Services for an Infrastructure Product for which Support Services have lapsed. Dell may do so at its discretion and reinstatement will be subject to a certification at Dell's then-current Time and Materials Service rates and conditions. Once the Infrastructure Product is

certified, Support Services will commence when Reseller pay: (i) the charge for the above-described Time and Materials Service; (ii) the amount Dell would have normally charged had Support Services been in effect during the period of the lapse or discontinuation; and (iii) the charge for the next twelve months of the newly-commenced Support Services.

4. **Software.** Software is subject to the manufacturer's license terms. License terms are included with the software packaging or presented to the Reseller (and through Reseller to End-User) (or its representative) during installation or Reseller's (and through Reseller, End-User's) use of the software or otherwise communicated. If no license terms accompany the software or have been made available in writing or online or otherwise agreed, the software is subject to the end user license agreement for Infrastructure Products, the current version of which can be downloaded under www.dell.com/e-eula.

5. **Responsibilities.**

- 5.1 **Cooperation.** Reseller (and through Reseller to End-User) will: (a) promptly notify Dell when an Infrastructure Product fails and provide Dell with sufficient details so that Dell can reproduce the failure; (b) allow Dell remote and on-site (when deemed necessary) access to the Infrastructure Product to provide Support Services; and (c) furnish necessary facilities (which for on-site access means suitable work space, computers, power, light, phone, internet network availability, software, and equipment reasonably required by Dell), information, and assistance required to provide Support Services.

- 5.2 **Support Contacts.** Unless a specific number of authorized contacts are indicated on the Product Notice or the applicable Service Agreement requires that Reseller, and require Reseller to pass the requirement to End-User, be in physical possession of the Equipment at the time a support request is submitted, Reseller (or End-User through Reseller) will designate in writing a reasonable number of authorized contacts, as determined by the parties, who will initially report problems and receive Support Services from Dell. Each representative will be familiar with the Reseller's requirements (or End-User's through Reseller) and will have the expertise and capabilities necessary to permit Dell to fulfill its obligations. Reseller (or End-User through Reseller) will provide changes to authorized support contacts to Dell in writing.

6. **Additional Support Services Terms.**

- 6.1 **Maintenance Aids and Spare Parts for Equipment.** Reseller (and Reseller will cause End-User to) authorize Dell to store Maintenance Aids and spare parts at the Installation Site and agree that these items are only for Dell's use. Reseller (and through Reseller to End-Users) will not, and will not authorize any third party to, use these items. Dell is authorized, upon the conclusion of the Support Services or at any other time, upon reasonable notice to Reseller (or through Reseller to End-User), to enter the Installation Site, or to use remote means to remove or disable Maintenance Aids and spare parts, as applicable. Reseller will reasonably cooperate, and advise End-Users cooperate, in this effort.

- 6.2 **Customer Support Tools.** Dell may choose to make Customer Support Tools available to assist Reseller (and through Reseller to End-Users) in performing various maintenance or support related tasks. Reseller (and End-Users through Reseller) may

use Customer Support Tools only in accordance with terms under which Dell makes them available.

- 6.3 **Service Data.** In connection with the performance and use of the Support Services, and Dell's remote support capabilities detailed in section 6.8 ("**Remote Support Capability**") below, Dell may obtain and receive, data or information, including Infrastructure Product-specific, service-related data such as Infrastructure Product diagnostics, configurations, usage characteristics, performance data, and deployment location (collectively, "**Service Data**"). Reseller will acknowledge and agree (and End-User through Reseller) to acknowledge and agree, that Dell will: (a) use, compile, display, store, process, reproduce, or create reporting and other services-related materials from the Service Data solely to provide the Support Services, including remotely accessing Infrastructure Products to install, maintain, monitor, support, receive alerts and notifications from and change certain internal system parameters of Infrastructure Products in End-User's environment in fulfillment of Dell's Support Services obligations; (b) provide End-User with visibility to End-User's actual Infrastructure Product usage and consumption patterns and make recommendations to End-User regarding improvements to End-User's environment and utilization of the Services; (c) utilize the Service Data in connection with predictive analytics and usage intelligence to consult with and assist End-User, directly or through Reseller, to optimize End-User's future planning activities and requirements; (d) aggregate and use the Service Data in an anonymous manner with that of others in the development and improvement of future products; and (e) copy and maintain the Service Data on Dell's systems as necessary to provide the Support Services. Dell agrees that the Service Data is subject to the confidentiality provisions in the Agreement. Reseller represents (and through Reseller to End-User) have obtained all rights, permissions, and consents necessary to allow Dell to use and transfer the Service Data within and outside of the country in which Reseller (and End-User through Reseller) is located.
- 6.4 **Data Security Options.** Reseller (and End-User through Reseller) at its own cost to, permanently erase all information, including without limitation all personally identifiable, confidential, and any other protected or sensitive information placed on Infrastructure Products before returning them to Dell for trade-in, repair, or disposal. Reseller (and End-User through Reseller) to, use a method that does not cause damage to the Infrastructure Products or any replaced parts or any other items that Reseller (and End-User through Reseller) provide to Dell for repair, trade-in, or disposal. Dell offers data erasure services and Dell will provide the descriptions and charges associated with Dell's then current data erasure services upon request. Reseller and End-User agree that Dell has no responsibility for any information that End-User or Reseller fail to erase that is on items sent to Dell.
- 6.5 **Proactive Product Changes.** Dell may, at its expense, implement changes to the Infrastructure Products upon reasonable notice to Reseller (and End-User through Reseller): (a) when the changes do not adversely affect interchangeability or performance of the Infrastructure Products; (b) when Dell reasonably believes the changes are required for purposes of safety or reliability; or (c) when Dell is required by law to do so. Reseller (and Reseller will cause End-User) will give) Dell reasonable access to the Infrastructure Products for these purposes.
- 6.6 **Software Releases.** When End-User begins using a Software Release for a particular Infrastructure Product, Reseller will cause End-User to, remove and make no further use

of all prior Software Releases for that product, and protect the prior Software Releases from disclosure or use by any third party. The End-User is authorized to retain a copy of each Software Release that the End-User properly obtains for archive purposes and use them as a temporary back-up if the current Software Release becomes inoperable. Reseller and Reseller will cause End-User to, use and deploy Software Releases only in accordance with terms of the original license for Software.

- 6.7 **Change of Equipment Location or Configuration.** End User (directly or through Reseller) may change the Installation Site or configuration of Equipment under Support Services only after written notice to Dell, and subject to the terms and conditions in this section 6.7. If the new location is in a different country, the move is subject to Dell's prior written approval and additional fees may apply. End user (directly or through Reseller to Distributor) must promptly notify Dell of any changes to the configuration, or movement of the Equipment by anyone other than Dell. To determine if the Infrastructure Products remain eligible for Support Services, Dell reserves the right to inspect and evaluate the changes in configuration or location of the affected Equipment, and to re-certify the Equipment at Dell's then current Time and Materials Service conditions and rates. Additional charges, if any, related to changes in configuration or location of the Equipment will apply from the date the change took place.
- 6.8 **Remote Support Capability.** As part of Support Services, Dell makes various remote support capabilities available for certain products in accordance with its then-current policies and procedures. Dell's warranty and Support Services fees are based on the availability and use of the remote support capabilities. End User may elect not to activate or to disable remote support capabilities, but must notify Dell (directly or through Reseller and Reseller) of this election without undue delay. If End-User chooses to disable or to not activate the remote support capabilities, then, with regard to all products affected by this choice: (i) Dell may assess a surcharge in accordance with Dell's then-current standard rates; and (ii) agreed response times or other agreed service levels (if any) will no longer apply.
- 6.9 **Alterations and Attachments to Infrastructure Products.** Dell does not restrict End-User from making alterations to, or installing other products in or with the Equipment at End-User's own expense; provided that End-User is responsible for any inspection fees, additional charges, or both, resulting from such activities. If the alterations or attachments prevent or hinder Dell from performing Support Services, then Reseller shall, upon Dell's request, take corrective action. Reseller failure to take appropriate corrective action with the End-User shall be deemed a breach of these Supplementary Terms.
- 6.10 **Transfer to Secondary Purchasers.** If End-User decides to sell, assign, or otherwise transfer the use, ownership, or both, of Equipment to a "**Secondary Purchaser**" (meaning a bona fide End-User that (1) is not considered, in Dell's reasonable discretion, to be a Dell competitor and (2) has not had prior disputes with Dell), to the extent Dell resources reasonably permit, Dell will make available to Reseller or End-User, as a Time and Materials Service, de-installation services. In addition, and to the extent Dell resources reasonably permit, Dell will make available directly or indirectly to the Secondary Purchaser: (a) Equipment installation and re-certification services as a Time and Materials Service; and (b) Support Services for Equipment that Dell has determined and notified the Secondary Purchaser meets Dell's certification criteria upon receipt of payment of Dell's then current Support Services fees. A Secondary Purchaser

of Infrastructure Products must obtain, directly or indirectly, the appropriate Software license from Dell and pay any applicable Software license fees.

- 6.11 **Software Support Services affected by Change in Equipment Status.** For Software used on or operated in connection with Equipment that ceases to be covered by Support Services or the Dell Equipment warranty, Dell reserves the right to send Reseller or End-User a written notice that Dell has either chosen to discontinue or change the price for Support Services for the Software (with the price change effective as of the date the applicable Equipment ceases to be covered). If Dell sends a discontinuation notice, or if Reseller or End-User reject or do not respond to the notice of a proposed price change within thirty days after receipt, Reseller and End-User will be deemed to have terminated the Software Support Services for its convenience and the terms of section 7.3 below will apply.
- 6.12 **Third Party Products Provided to Dell.** If End-User or Reseller provide or make available third party products, including any intellectual property developed by End-User, Reseller, for Dell to use in connection with Services, Reseller, and Reseller will cause End-User to: (a) authorize Dell to use the third party products as needed to provide the Support Services; (b) warrant that Reseller, or End-User have all consents, licenses, and sublicense rights as may be necessary to make these third party products available to Dell; and (c) agree that Dell is not liable to Reseller, or End-User if Dell's authorized use causes warranties or other services contracts for these third party products to become void.
- 6.13 **Pricing.** Additions to the Products as specified in the relevant quote or order confirmation may result in additional Support Services fees. Reseller will be charged for Time and Materials Service in accordance with terms governing each Time and Materials Service engagement.

7. **Term and Termination.**

- 7.1 **Software Support Services Term.** Independent Software or Software related Support Services that are ordered at the same time as the license for such Independent Software or Software shall commence on the date of shipment of the physical media or electronic availability of the Software and continue for the period specified on the Dell quote or order confirmation. Renewals of such Support Services shall commence and expire in accordance with the dates on the applicable Dell quote or order confirmation.
- 7.2 **Equipment Support Services Term.** Support Services (including Support Option upgrades, if applicable) for Equipment are provided during the Equipment warranty period set out in the relevant Product Notice or stated in a Dell quote or order confirmation. Renewals of such Support Services shall commence and expire in accordance with the dates on the applicable Dell quote or order confirmation. Support Services for hardware upgrades installed into Equipment are coterminous with the Support Services that are then in effect for the Equipment into which such upgrades are installed.
- 7.3 **Termination for Convenience.** Dell may terminate the Support Services for Infrastructure Product for its convenience (a) in accordance with section 6.11 or (b) upon sixty days' prior written notice. If Dell terminates Support Services for its convenience, Reseller's and End-User's sole and exclusive remedy and Dell's sole and exclusive

obligation shall be to refund the portion of any pre-paid Support Services fee that corresponds to the period between the effective date of the termination for convenience and the end of the then-current Support Services period.

7.4 **Termination for Breach.** Either Dell or Reseller may terminate the Support Services for a specific Infrastructure Product if the other party materially breaches these Supplementary Terms or the other party (or End-User as passed through Reseller) fails to comply with these Supplementary Terms with regard to such Infrastructure Product, provided that the terminating party has given thirty (30) days' written notice specifying the failure and the other party has not remedied such failure within such time. If Dell terminates the Support Services for Reseller's or End-User's material, uncured breach, that termination will be without further liability to End-User, Reseller, and without any obligation to refund any fees already paid for the Support Services. If terminated for Dell's uncured, material breach, sole and exclusive remedy and Dell's sole and exclusive obligation will be, at election, to either issue a credit for use against current or future purchases of Dell Products or Support Services or grant a refund for that portion of any pre-paid Support Services fee that corresponds to the period between the effective date of the termination for breach and the end of the then-current Support Services period.

8. **Infrastructure Product Warranties, Exclusions, and Disclaimers.** The following warranties and warranty exclusions and disclaimers apply for Infrastructure Products.

8.1 **Equipment and Software Media Warranty.** Unless stated otherwise in the Product Notice, Dell warrants that: (i) the Equipment and upgrades installed into that Equipment, when purchased from Dell and operated with normal usage and regular recommended service; and (ii) any physical media for Software, will be free from material defects in materials and workmanship, and will perform substantially in accordance with the applicable Documentation until the expiration of the warranty period stated in the Product Notice or, for SC Series Products, stated in the Dell quote or order confirmation. Unless otherwise noted on the Product Notice or the Dell quote or order confirmation, the warranty coverage for the microcode, firmware and operating system software that enables Equipment to perform as described in its Documentation will be no less than that which applies to the applicable Equipment. To the extent specified on the Product Notice and unless stated otherwise in the Dell quote or order confirmation, Support Services in the form of the Support Option noted on the Product Notice are included free of charge during the warranty period for Equipment. In some cases, Dell may offer an upgrade option for Support Services during the Equipment warranty period for separate purchase.

A. **Equipment Warranty Duration.** The warranty period for Equipment is stated on the Product Notice unless the Dell quote or order confirmation provides a different warranty period. The Equipment warranty commences upon Delivery. Upgrades to Equipment are warranted in the same manner as the Equipment in which the upgrades are installed from Delivery of the upgrade until the end of the warranty period for the Equipment into which the upgrades are installed.

B. **Software Media Warranty Duration.** The warranty for any physical media for Software and Independent Software is ninety days and commences upon Delivery.

- C. **Equipment and Software Media Warranty Remedies.** If End-User notifies Dell of a warranty claim during the applicable warranty period, then Dell will, at its option, either remedy the non-compliance or replace the affected Equipment with new or refurbished parts at Dell's discretion or applicable Software or Independent Software media. If Dell is unable to repair or replace the affected Equipment or media within a reasonable time, then End-User will return the Equipment or media to Dell, and Dell will provide a refund of the amount Dell received for the affected Equipment or media as depreciated on a straight line basis over a five year period. Distributor will provide a refund to Reseller and require Reseller to provide a refund to the End-User. The End-User must return to Dell the applicable defective Equipment or media, or portions of those items, and those items become Dell's property. If End-User receives a replacement but does not return the defective item to Dell, then Reseller, or End-User must pay Dell's then-current spare parts price for the replacement item. Dell has no liability under these warranty terms for defects in Equipment and media after expiration of the applicable warranty period. This subsection 8.1(C) states Dell's entire liability and Reseller's and End-User's exclusive remedies under warranties for the Equipment and Software and Independent Software media described in section 8.1.

8.2 **Independent Software Warranty, Duration, and Remedy.** Dell warrants that the Independent Software will, for ninety days following Delivery ("**Independent Software Warranty Period**"), substantially conform to the applicable Documentation. This limited warranty is not transferable. End-User must report errors to Dell during the Independent Software Warranty Period to invoke this warranty. In response to End-User's error notice, Dell will, at its own expense, either replace that Independent Software or correct any reproducible error. If Dell determines that it is reasonably unable to correct the error or replace the Independent Software, Distributor will provide a refund to Reseller and require Reseller to provide a refund to the End-User, and End-User's license for that Independent Software will terminate. This section 8.2 states Dell's sole obligation and Reseller's and End-User's exclusive remedy under the Independent Software warranty. This disclaimer of warranty may not be valid in some jurisdictions, and End-User may have warranty rights under law which may not be waived or disclaimed. Any law-based warranty extends only for thirty days from the date of Delivery (unless local law provides a different duration).

8.3 **Infrastructure Product Support Services Warranty and Remedy.** Dell will perform the labor portion of Support Services for Infrastructure Products in a workmanlike manner in accordance with generally accepted industry standards. End-User will, directly or through Reseller and Reseller, directly or through Distributor, notify Dell of any failure to so perform as soon as reasonably possible, and in no event more than ten (10) days after the date on which such failure first occurs. A replacement part receives the remainder of the warranty or Support Services coverage applicable to the Infrastructure Product containing the replacement part. End-User's exclusive remedy and Dell's entire liability to Reseller, and End-User for Infrastructure Product Support Services shall be for Dell to, at its option, (1) use reasonable efforts to (a) re-perform the deficient labor services within a reasonable time, or (b) replace any replacement parts which become defective during the remainder of the warranty or Support Services coverage applicable to the Product containing the replacement part, or sixty (60) days after installation

thereof, whichever occurs later; and (2) if, after reasonable efforts, Dell is not able to correct such deficiencies, then End-User has the right to terminate for breach in accordance with section 7.4 above.

- 8.4 **Warranty Exclusions.** The warranties in this section 8 do not cover problems that arise from (a) accident or neglect by Reseller, or any third party including End-User; (b) any third party items or services with which the Infrastructure Product is used or other causes beyond Dell's control; (c) installation, operation or use not in accordance with Dell's instructions or the applicable Documentation; (d) use in an environment, in a manner or for a purpose for which the Infrastructure Product was not designed; (e) modification, alteration or repair by anyone other than Dell or its authorized representatives; or (f) in case of Equipment only, causes attributable to normal wear and tear. Dell has no obligation whatsoever for (1) Software or Independent Software installed or used beyond the licensed use, (2) Equipment which was moved from the Installation Site without Dell's consent, (3) Infrastructure Product whose original identification marks have been altered or removed, or (4) any Software or Independent Software for which payment has not been received. Infrastructure Products and Dell Services are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, such as any application in which the failure of the Infrastructure Products or Dell Services could lead directly to death, personal injury, or physical or property damage (collectively, "High-Risk Activities"). Dell expressly disclaims any express or implied warranty of fitness for High-Risk Activities.
- 8.5 **Warranty Disclaimer.** Other than the warranties set forth in this section 8, and to the maximum extent permitted by applicable law, Dell and its affiliates, and their providers/suppliers: (a) make no other express warranties; (b) disclaim all implied warranties, including merchantability, fitness for a particular purpose, title and non-infringement; and (c) disclaim any warranty arising by statute, operation of law, course of dealing or performance or usage of trade.