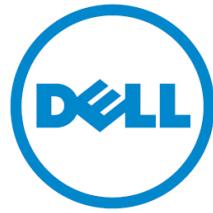


# Quote

Goldsmith's College Univ of



Quote No :  
**91680325**

Customer No :  
**GB2009546**

Date :  
**28/09/2011**

Salesperson :  
**Darren Purdie**  
Darren\_Purdie@dell.com

Phone 0844 338 4248  
Fax 0844 338 2645

Customer :  
**Goldsmith's College Univ of**  
Karen Bishop

Quote valid for :  
14 days

Address :  
Goldsmiths College, Computing  
Lewisham Way, New Cross  
SE14 6NW London  
United Kingdom

Estimated Delivery Date :  
27/10/2011

Payment Terms :  
30 Days Inv.

Dear Karen Bishop,

Further to our earlier discussion, please find attached the Quotation for the Dell system(s) you requested. Please reference the Quotation number when you place your order. You can place and track your order online by visiting your Premier Page or the Dell website on [www.dell.co.uk/help](http://www.dell.co.uk/help).

If I can be of any further assistance please do not hesitate to contact me. I look forward to speaking with you again soon.

Please include reference 91680325 on any correspondence regarding this Quote. If you have received Customer and Order references please use these on future communications.

Yours sincerely

Darren Purdie

**Dell Corporation Ltd**, Dell House, The Boulevard, Cain Road, Bracknell, Berkshire RG12 1LF

VAT Reg. No. GB 635 8235 28. Quotation prepared subject to Dell's Terms and Conditions of Sale and Service and subject to credit approval. All prices shown exclude VAT (unless stated). Registered in England No. 2091369. Registered Office: Dell Corporation Ltd, Dell House, The Boulevard, Cain Road, Bracknell, Berkshire, RG12 1LF. VAT Registration No. 635 8235 28. Dell Financial Services is a trading style of Newcourt Credit Limited, a company of the CIT Group, Inc. Registered office: 66 Buckingham Gate, London SW1E 6AU. Registered in England No. 3235845. Dell is a trademark of Dell Corporation and is licensed to Newcourt Credit Limited, a company of The CIT Group, Inc.

## 1 Price Summary

Description :	Qty :	Unit Price :	Price :
PowerEdge R410 Rack Chassis, Up to 4x 3.5" Cabled HDDs, Quad-Pack LED Diagnostics, C2, TPM	1	GBP 2,270.45	GBP 2,270.45
<b>Subtotal</b>			<b>GBP 2,270.45</b>
20% VAT (GBP 2,270.45)			GBP 454.09
<b>Total</b>			<b>GBP 2,724.54</b>

### Order Information

**Billing Address :**  
 Univ.London-Goldsmiths'College  
 Finance Purchasing  
 University Of London  
 Goldsmiths' College  
 SE14 6NW Lewisham Way  
 United Kingdom

**Shipping Address :**  
 Goldsmith's College Univ of  
 Karen Bishop  
 Goldsmiths College, Computing  
 Lewisham Way, New Cross  
 SE14 6NW London  
 United Kingdom

Dual use goods: Subject to control if exported outside the European Union. These commodities, technology or software were exported in accordance with the US Export Administration Regulations. Diversion contrary to U.S. law prohibited. The purchaser agrees to identify the seller and hold the seller harmless from and against all claims, liability, and obligation whatsoever (including, but not limited to, reasonable attorneys' fees) arising out of the transfer of these commodities across national boundaries without proper government licenses and authorizations. Reexport/retransfer without prior authorization from the US Bureau of Export Administration is prohibited. Export, reexport, sale or retransfer to military end-users or end-uses in prohibited destinations and proliferation end-users and end-uses is strictly prohibited without prior authorisation from the US government.



## 2 Quote Details



**PowerEdge R410 Rack Chassis, Up to 4x 3.5" Cabled HDDs, Quad-Pack  
LED Diagnostics, C2, TPM**

Qty : 1      Unit Price : GBP 2,270.45      Total Price : GBP 2,270.45

### Components

- 1 Intel Xeon E5620 Processor (2.40GHz, 4C, 12M Cache, 5.86 GT/s QPI, 80W TDP, Turbo, HT), DDR3-1066MHz
- 1 1U Rack Bezel
- 1 32GB Memory for 2CPU (8x4GB Dual Rank LV RDIMMs) 1333MHz
- 1 Additional Intel Xeon E5620 Processor (2.40GHz, 4C, 12M Cache, 5.86 GT/s QPI, 80W TDP, Turbo, HT)
- 2 450GB SAS 6Gbps 15k 3.5" HD Cabled
- 1 PERC H200A RAID Controller, For Cabled HDD Chassis
- 1 No Optical Drive
- 1 Redundant Power Supply (2 PSU) 500W
- 1 2x Rack Power Distribution Unit Power Cord
- 1 Embedded BMC
- 1 Sliding Ready Rack Rails
- 1 C2 Cabled ASS No RAID for PERC H200, Min. 1 Max. 4 SAS/SATA Cabled Drives

### Software

- 1 PE R410 Electronic System Documentation and OpenManage DVD

### Service

- 1 Installation of a Dell Server, Storage or Peripheral Device, PE Server LWT
- 1 Base Warranty
- 1 3Yr Basic Warranty - Next Business Day - Minimum Warranty
- 1 3Yr ProSupport and Next Business Day On-Site Service



# 3 Dell's Terms & Conditions for the Sale of Products & Services to Business Customers in the United Kingdom

## 1. Introduction

These terms ("Terms") apply to all Products, Software and/or Services purchased by or on behalf of customer (the legal person who agrees to buy the Products, Software and/or Services from Dell) ("Customer") direct from Dell Corporation Limited ("Dell") **for its internal use only** and to the exclusion of all other terms and conditions. These Terms together with Dell's Order Documents and Service Documents (as defined below) form a legally binding contract between Customer and Dell for the purchase of Products, Software and Services ("the Agreement"). These documents will apply in following order of priority: (1) Order Documents; (2) Service Documents and (3) these Terms.

If Customer and Dell have a separate agreement in place for the purchase of Products, Software or Services, that agreement shall apply instead of these Terms. The terms set out on Dell's website at: <http://www.dell.co.uk/partner> shall apply to Products, Software and Services purchased for **resale** by Customer.

## 2. Definitions

**'Confidential Information'** means collectively information of the disclosing party that is not generally known to the public, such as software, product plans, pricing, marketing and sales information, customer lists, "know-how," or trade secrets, which may be designated as confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential.

**'Deliverables'** means tangible and intangible materials including reports, studies, base cases, drawings, findings, manuals, procedures and recommendations prepared by Dell or its suppliers, licensors in the course of providing the Services.

**'Dell-branded'** means IT hardware, software and related products and services which are marked with the Dell logo or sold under the Dell brand and components thereof, excluding (1) Third Party Products and (2) any parts or components added after delivery of the Products or through Dell's custom factory integration service.

**'Intellectual Property Rights'** means any patent, copyright, database right, moral right, design right, registered design, trade mark, service mark, domain name, metatag, utility model, unregistered design or, where relevant, any application for any such right, or other industrial or intellectual property right subsisting anywhere in the world and any intellectual property rights in know-how, documentation, and techniques associated with the Deliverables or Materials.

**'Materials'** means all content and other items included with or as part of the Products, Services, Software, or Deliverables, such as text, graphics, logos, button icons, images, audio clips, information, data, photographs, graphs, videos, typefaces, music, sounds and software.

**'Order Documents'** means the quotation and/or the order confirmation and/or the invoice sent by Dell to Customer which describes the Products, Software and Services purchased by Customer under the Agreement as well as Prices, payment terms and other provisions.

**'Prices'** means the gross price payable for the Products, Software and/or Services including the charges set out in clause 3.2.

**'Products'** means computer hardware and related products supplied by Dell under the Agreement.

**'Services'** means the services provided by Dell as described in any Service Documents.

**'Service Descriptions'** means descriptions of services found at <http://www.euro.dell.com/service-descriptions>.

**'Service Documents'** means the Service Descriptions available at <http://www.euro.dell.com/service-descriptions>, Statements of Work and any other mutually agreed documents describing Services, Software or Deliverables.

**'Software'** means any software, library, utility, tool, or other computer or program code, in object (binary) or source-code form, as well as related documentation, provided by Dell to Customer. Software includes software (1) provided by Dell and locally installed on Customer's hardware and/or equipment or (2) made available by Dell and accessed by Customer through the internet or other remote means (such as websites, portals, and "cloud-based" solutions).

**'Statement of Work'** means any mutually agreed statement of work describing specific Services and/or Deliverables as agreed between Customer and Dell.

**'Third Party Products'** means any non Dell-branded products, software, or services.

## 3. Ordering, Prices, Payment

3.1 Any quotes issued by Dell shall be valid for 15 days unless stated otherwise in the quote.

3.2 Prices for the Products, Software and Services shall be stated in the Order Documents or Service Documents issued by Dell. Where deliveries occur in instalments or phases Dell may need to adjust Prices for Products, Software or Services due to changes in exchange rates, taxes, duties, freight, levies and purchase costs. Quotes provided by Dell exclude value added tax and any other taxes, levies, and shipping charges unless expressly set out in the quote. Such charges are payable by Customer in addition to the prices quoted and may appear as separate items on the Order Documents.

3.3 Payment for Products, Software or Services must be received by Dell prior to Dell shipping the Products or providing the Software or Services to Customer or, if agreed in writing, within the time period noted on the Order Documents, or if not noted, within 30 days from the date of the invoice. Payment shall be made to the account indicated by Dell (as may be amended from time to time). Time for payment shall be of the essence. Customer's payment terms are subject to credit checking by Dell. Dell shall be entitled to charge interest on overdue amounts at a rate of 3 per cent above the Bank of England base rate calculated on a daily basis (both before and after judgement) until actual payment is made in full. If any sum due from the Customer to Dell under the Agreement is not paid by the due date for payment then (without prejudice to any other right or remedy available to Dell), Dell shall be entitled to cancel or suspend its performance of the Agreement or any order including suspending deliveries of the Products and/or Software and suspending provision of the Services until arrangements as to payment or credit have been established which are satisfactory to Dell. Dell may invoice parts of an order separately.

3.4 All payments made or to be made by Customer to Dell under this Agreement shall be made free of any restriction or condition and without any deduction or withholding (except to the extent required by law) on account of any other amount, whether by way of set-off or otherwise.

## 4. Changes to Products, Software or Services

Changes in a Product, Software, or Service may occur after a Customer places an order but before Dell ships the Product or Software or performs the Service, and Products and Software or Services Customer receives might display minor differences from the Products, Software, or Services Customer orders but they will meet or exceed all material functionality and performance of the Products, Software or Services that were originally ordered.

## 5. Products

5.1 Dell shall deliver the Products to Customer's location as set out in the Order Documents. Delivery dates are non-binding and time for delivery shall not be of the essence. If no delivery dates are specified, delivery shall be within a reasonable time. Delivery of Products may be made in instalments. Dell shall not be liable for any loss (including loss of profits), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Products (even if caused by Dell's negligence), nor will any delay entitle Customer to terminate or rescind the Agreement. Dell shall only be liable for any non-delivery of Products if Customer gives written notice to Dell within 7 days of the date when the Products would, in the ordinary course of events, have been delivered.

5.2 The Products shall be at the risk of Customer or its representative from the time of delivery. Dell retains legal, beneficial and equitable ownership of the Products until full payment for such Products and all other money payable by Customer to Dell on any other account or under the Agreement or any other agreement is received by Dell from Customer. Therefore, until full payment is received, Customer will (1) hold the Products on a fiduciary basis as Dell's bailee (2) store the Products (at no cost to Dell) separately from all other goods of Customer or any third party in such a way that they remain readily identifiable as Dell's property (3) not destroy, deface or obscure any identifying mark or packaging on or relating to the Products (4) maintain the Products in satisfactory condition and keep them insured on Dell's behalf for their full price against all risks to the reasonable satisfaction of Dell. On request Customer shall produce the policy of insurance to Dell. Customer grants Dell, its agents and employees an irrevocable licence at any time to enter without restriction any premises where the Products are or may be stored without prior notice in order to inspect them, or, where Customer's right to possession has terminated, to recover them. Dell shall be entitled to maintain an action against Customer for the price of the Products notwithstanding that legal, equitable and beneficial title to and property in the Products has not passed to Customer.

5.3 Customer shall inspect the Products to identify any missing, wrong or damaged Products or packaging, and notify Dell of any such issues which would be apparent on reasonable inspection and testing of the Products within 7 days of the date of delivery of the Products. Where the defect or failure would not be so apparent within 7 days of the date of delivery, Customer shall notify Dell in writing of any defects or other failure of the Products within a reasonable time. If Customer does not comply with the notification requirements in this clause, Customer shall not be entitled to reject the Products. Dell shall have no liability for such defect or failure, and Customer shall be bound to pay for the Products as if they had been delivered in accordance with the Agreement. Dell shall, at its discretion, repair or replace Products rejected in accordance with this clause.

5.4 If for any reason Customer does not accept delivery of any of the Products when they are ready for delivery, or Dell is unable to deliver the Products on time because Customer has not provided appropriate instructions, documents, licences or authorisations then the Products will be deemed to have been delivered, risk passing to Customer (including for loss or damage caused by Dell's negligence) and Dell may:

5.4.1 store the Products until actual delivery and Customer shall be liable for all related costs and expenses (including without limitation storage and insurance); or

5.4.2 sell the Products at the best price readily obtainable and (after deduction of all reasonable storage and selling expenses) charge Customer for any shortfall below the Price for the Products.

## 6. Services, Software provided by Dell in connection with the provision of the Services & Deliverables

6.1 Dell shall provide Services, Software, or Deliverables to Customer in accordance with the Service Documents. Dell may, at its option, propose to renew the Service and the Software licence by sending Customer an invoice or, subject to prior notification, continuing to perform the Service or make the Software available to Customer. Customer is deemed to have agreed to such renewal of the Service and Software licence by paying such invoice by its due date or by continuing to order Services or use the Software.

6.2 All Intellectual Property Rights embodied in the Materials and Deliverables shall belong solely and exclusively to Dell, its suppliers or its licensors except as expressly granted in this Agreement.

6.3 Subject to payment in full for the applicable Services, Dell grants Customer a non-exclusive, non-transferable, royalty-free right to use the Materials and Deliverables solely (1) in the country or countries in which Dell delivers the Services, (2) for its internal use, and (3) as necessary for Customer to enjoy the benefit of the Services as stated in the applicable Service Documents.

6.4 Dell may cancel or suspend its performance of the Services or Customer's access or any user access to the Software provided by Dell in connection with the provision of the Services where Dell is required to do so (1) by law, (2) by order of a court of competent jurisdiction, or (3) when Dell has reasonable grounds to believe that Customer (or Customer's users) are involved in any fraudulent or other illegal activities in connection with the Agreement.

6.5 It may be necessary for Dell to carry out scheduled or unscheduled repairs or maintenance, or remote patching or upgrading of the Software provided by Dell in connection with the provision of the Services and which is installed on Customer's computer system(s) ("Maintenance"), which may temporarily degrade the quality of the Services or result in a partial or complete outage of the Software. Any degradation or interruption in the Software or Services during such Maintenance shall not give rise to a refund or credit of any fees paid by Customer.

6.6 Customer agrees that the operation and availability of the systems used for accessing and interacting with the Software provided by Dell in connection with the provision of the Services (including telephone, computer networks and the internet) or to transmit information can be unpredictable and may from time to time interfere with or prevent access to, use or operation of the Software. Dell shall not be liable for any such interference with or prevention of Customer's access to, or the lack of operation of the Software.

6.7 During the performance of the Services or in connection with Customer's use of the Software provided by Dell in connection with the provision of the Services, it may be necessary for Dell to obtain, receive, or collect data or information, including system specific data (collectively, the "Data"). Customer grants to Dell a non-exclusive, worldwide, royalty-free, perpetual, irrevocable licence to:

6.7.1 use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely for the purposes set out in clause 6.7;

6.7.2 a licence to aggregate the Data with other data for use in an anonymous manner for Dell's marketing and sales activities; and

6.7.3 a right to copy and maintain such Data on Dell's servers (or the servers of its suppliers) during the term of this Agreement.

6.8 Customer represents and warrants that it has obtained all rights, permissions, and consents necessary to use and transfer the Data within and outside of the country in which Customer is located in connection with Dell's performance of the Services or Customer's use of the Software.

## 7. Services

7.1 Where the Services purchased consist of repair of Dell-branded Products, such Services shall be those repair services that are necessary to fix a defect in materials or construction of any Products covered by this Agreement. Preventive maintenance is not included and Dell shall not be responsible for repairs of Dell-branded Products caused by problems with Software or Customer provided Third Party Products. Unless expressly stated in a Service Document, Services do not include repair of any Products or Product component that has been damaged as a result of (1) work carried out by anyone other than Dell or its representatives (2) accident, misuse, or abuse of the Product or Product component (such as, without limitation, use of incorrect line voltages or fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions) by anyone other than Dell or its representatives; (3) the moving of the Product from one geographic location or entity to another; or (4) an act of nature, including without limitation, lightning, flooding, tornado, earthquake, or hurricane. Parts used in repairing or servicing Products may be new, equivalent-to-new, or reconditioned.

7.2 Customer authorises Dell to use or access any Customer provided Third Party Products as necessary or as requested by Customer in Dell's performance of the Services, including without limitation, copying, storing, and reinstalling a backup system or data. Customer shall defend, indemnify, and hold Dell harmless from any third party claim or action arising out of Customer's failure to provide such authorisation (including without limitation, obtaining appropriate licenses, Intellectual Property Rights, or any other permissions, regulatory certifications, or approvals associated with technology, software, or other components).

## 8. Software

8.1 Software is subject to separate software licence agreements accompanying the software media and any product guides, operating manuals, or other documentation presented to Customer during the installation or use of the Software.

8.2 In the absence of licence terms accompanying the Software, Dell grants Customer a non-exclusive licence to access and use the Software provided by Dell. Software provided or made available to Customer by Dell in connection with the provision of the Services may be used only during the term of the Services and solely as necessary for Customer to enjoy the benefit of the Services.

8.3 For Software provided by Dell in connection with the provision of the Services, the following clauses shall apply:

8.3.1 Customer may not: (1) copy (save for making a back up copy), adapt, licence, sell, assign, sublicense, or otherwise transfer or encumber the Software; (2) use the Software in a managed services arrangement; or (3) use the Software in excess of the authorised number of licensed seats for concurrent users, sites, or other criteria specified in the applicable Service Documents.

8.3.2 Customer is prohibited from (1) attempting to use or gain unauthorised access to Dell or to any third party's networks or equipment; (2) attempting to probe, scan, or test the vulnerability of Software or a system, account, or network of Dell or any of its customers or suppliers; (3) interfering or attempting to interfere with service to any user, host, or network; (4) transmitting unsolicited bulk or commercial messages; (5) restricting, inhibiting, or otherwise interfering with the ability of any other person, regardless of intent, purpose, or knowledge, to use or enjoy the Software (except for tools with safety and security functions); or (6) restricting, inhibiting, interfering with, or otherwise disrupting or causing a performance degradation to any Dell (or Dell's suppliers) facilities used to deliver the Services.

8.4 Customer grants Dell, or an agent designated by Dell, the right to perform an audit of its use of the Software during normal business hours. Customer agrees to cooperate with Dell in such audit and to provide reasonable access to all records related to the use of the Software. The audit will be limited to verification of Customer's compliance with the terms of usage relating to such Software under this Agreement.

## 9. Warranty

9.1 Subject to clause 9.3, Dell warrants that Dell-branded Products shall (1) conform to their product specification and (2) be free from material defects for a period of 12 months from the date of the invoice ("Warranty Period") and (3) that Dell-branded spare parts shall be free from defects for 90 days from the date of delivery or for the remainder of the Warranty Period, if longer. Performance of any one of the options set out at clause 9.3 below shall constitute an entire discharge of Dell's liability under the warranties given in this clause 9.1.

9.2 All warranties, conditions and other terms implied by law are to the fullest extent permitted by law, excluded from this Agreement.

9.3 Dell shall at its own discretion, repair or replace Dell-branded Products that do not comply with the warranties set out in clause 9.1 provided Dell is notified in writing of the alleged defect within 7 days of the time when Customer discovers or ought to have discovered the defect and in any event within the Warranty Period. If Dell elects to replace Dell-branded Products or parts pursuant to the warranties set out in clause 9.1, Dell shall



deliver the replacement Products or parts to Customer at Dell's own expense at the address to which the defective Dell-branded Products were delivered and the legal, equitable and beneficial title to the defective Products or parts which are being replaced shall (if it has vested in Customer) re vest in Dell. Customer shall make any arrangements as may be reasonably necessary to deliver up to Dell the defective Products which are being replaced and Dell shall be entitled to charge Customer if such defective Product or parts are not returned on request.

9.4 Dell warrants that (1) the Services and Deliverables shall conform to the Service Documents and (2) the Services shall be performed with reasonable skill and care during the applicable service period.

9.5 Dell warrants that for a period of 90 days from the date of delivery Dell-branded Software will be capable of functioning in all material respects in accordance with the relevant specifications provided (1) Customer notifies Dell of any error or defects in the Software within 14 days of the time when Customer discovers or ought to have discovered the error or defect and (2) Customer provides Dell with documented examples of such error or defect. Dell provides no assurance or warranty that the Software will be free from minor errors. Dell's sole responsibility in respect of the warranty given in this clause 9.5 and Customer's sole remedy shall be the correction of any failure of the Dell-branded Software so that it functions in material respects in accordance with the relevant specifications.

9.6 Dell shall not be liable under the warranties given in this clause 9 in respect of:

9.6.1 any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Dell's instructions (whether oral or in writing), misuse or alteration, modification, adjustment or repair of the Products and/or Software without Dell's approval;

9.6.2 if the total Price for the Products and/or Software has not been paid by the due date for payment;

9.6.3 for any Products, Software, Deliverables parts, materials or equipment not manufactured or produced by Dell, in respect of which Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer or supplier to Dell to the extent that they are assignable by Dell to Customer;

9.6.4 any Software, Deliverables and Products manufactured, produced or provided by Dell pursuant to the Agreement in accordance with any design, specification, instruction or recommendation made to Dell by Customer;

9.6.5 any type of defect, damage or wear specifically excluded by Dell by notice in writing; and/or

9.6.6 if Customer makes any further use of the Products and/or Software after giving notice pursuant to clause 9.3.

9.7 Dell does not warrant that the Products, Software, Deliverables or Services will function (1) with any specific configuration not provided by Dell or (2) to produce a specific result even if the configuration or result has been discussed with Dell.

#### 10. Liability

10.1 Neither party excludes or limits liability to the other party for (1) death or personal injury resulting from negligence, (2) fraud or (3) fraudulent misrepresentation or (4) any other liability that cannot be excluded by law.

10.2 Neither party shall be liable for:

10.2.1 special, indirect or consequential loss or damages;

10.2.2 loss of profit, income or revenue;

10.2.3 loss of use of Customer's system(s) or networks;

10.2.4 loss of goodwill or reputation;

10.2.5 loss of, corruption of or damage to data or software; or

10.2.6 recovery of data or programs.

10.3 Dell's total liability to Customer howsoever arising out of or in connection with the Agreement whether for negligence or breach of contract or otherwise shall not exceed 125% of the Price payable by Customer under the Agreement for Products, Software, Deliverables and/or Services.

#### 11. High Risk Activities

Customer acknowledges that the Products, Software, Deliverables and Services are not designed or intended for use in hazardous environments requiring fail safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, life support machines, or any other application in which the failure of the Products, Software, Deliverables or Services could lead directly to death, personal injury, or severe physical or property damage ('High Risk Activities'). Dell expressly disclaims any express or implied warranty or fitness for High Risk Activities.

#### 12. Confidentiality

Each party must treat all Confidential Information received from the other party as it would treat its own confidential information generally, but with no less than a reasonable degree of care.

#### 13. Indemnities

13.1 Dell shall defend and indemnify Customer against any third-party claim or action that Dell-branded Products, Software, Deliverables or Services prepared or produced by Dell and delivered pursuant to this Agreement infringe or misappropriate that third party's Intellectual Property Rights enforceable in the country in which Dell delivers and the Customer is authorised to receive such Products, Software, or Services ('IPR Claim'). If Dell receives prompt notice of an IPR claim that, in Dell's reasonable opinion, is likely to result in an adverse ruling, then Dell shall at its option, (1) obtain a right for Customer to continue using such Products, Deliverables or Software or allow Dell to continue performing the Services; (2) modify such Products, Deliverables, Software, or Services to make them non-infringing; (3) replace such Products, Deliverables, Software, or Services with a non-infringing equivalent; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product, Deliverable or Software.

13.2 Notwithstanding clause 13.1, Dell shall have no obligation under clause 13.1 for any IPR Claim arising from (1) modifications of Dell-branded Products, Deliverables, Software, or Services that were not performed by or on behalf of Dell; (2) the combination, operation, or use of such Products, Deliverables, Software, or Services in connection with a third party product, software, or service (the combination of which causes the claimed infringement); or (3) Dell's compliance with Customer's written specifications or directions, including the incorporation of any software or other materials or processes provided by or requested by Customer.

13.3 Clauses 13.1 and 13.2 set out Customer's sole and exclusive remedies for any IPR Claim.

13.4 Customer shall defend and indemnify Dell against any third party claim or action arising out of (1) Customer's failure to obtain any appropriate licence, Intellectual Property Rights, or other permissions, regulatory certifications, or approvals associated with technology or data provided by Customer, or (2) associated with software or other components directed or requested by Customer to be installed or integrated as part of the Products, Deliverables, Software or Services; (3) Customer's breach of Dell's proprietary rights as stated in this Agreement; or (4) any inaccurate representation regarding the existence of an export licence; or (5) any allegation made against Dell due to Customer's breach or alleged breach of applicable export laws, regulations, or orders.

#### 14. Termination

14.1 Either party may (without prejudice to any other rights or remedies it may have against the other party) terminate this Agreement by notice in writing immediately if the other party:

14.1.1 commits a material breach of the Agreement and fails to remedy such breach within 30 days of written notice; or

14.1.2 ceases, or threatens to cease, to carry on business or, becomes insolvent.

14.2 Dell may terminate this Agreement with immediate written notice if Customer:

14.2.1 fails to pay undisputed sums properly due to Dell in accordance with the Agreement;

14.2.2 Customer breaches or Dell reasonably suspects Customer has breached export control laws;

14.2.3 Customer breaches any IPR obligations, warranties and indemnities set out in the Agreement.

14.3 On termination of this Agreement, all rights and obligations of the parties relating to the Products, Services and/or Software relevant to the specific Order Documents under the Agreement will automatically terminate except for rights of action accruing prior to its termination.

14.4 The following clauses shall survive termination of the Agreement and continue to bind the parties, their successors and assigns: 1 (Introduction); 2 (Definitions); 3.3 (Payment); 5 (Products); 6 (Services, Software & Deliverables); 7 (Services); 9 (Warranties); 10 (Liability); 11 (High Risk Disclaimer); 12 (Confidentiality); 13 (Indemnities); 14 (Termination); 15 (Force Majeure); 16 (Export Compliance); 17 (Data Privacy); 18 (WEEE Compliance); and 19 (General).

#### 15. Force Majeure

Neither party shall be liable to the other for any failure to perform any of its obligations (except payment obligations) under this Agreement during any period in which such performance is delayed by any circumstances beyond a party's reasonable control including, without limitation, fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority ('Force Majeure Event') provided that the delayed party shall provide the other party with prompt written notice of the Force Majeure Event. The delayed party's time for performance shall be excused for the duration of the Force Majeure Event, but if the Force Majeure Event lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement by giving written notice to the delayed party.

#### 16. Export Compliance

16.1 Customer acknowledges that the Products, Deliverables, Software, and Services provided under this Agreement, (which may include technology and encryption), (1) are subject to U.S. and European customs and export control laws, (2) may be rendered or performed in countries outside the U.S. or Europe, or outside of the borders of the country in which Customer or Customer's Products are located, and (3) may also be subject to the customs and export laws and regulations of the country in which the Products, Deliverables, Software, or Services are rendered or received. Under these laws and regulations, Products, Deliverables, Software, and Services purchased under this Agreement may not be sold, leased, or otherwise transferred to restricted end-users or to restricted countries. In addition, the Products, Deliverables, Software, and Services may not be sold, leased or otherwise transferred to, or utilized by, an end-user engaged in activities related to weapons of mass destruction, including but not necessarily limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities, or nuclear weapons, missiles or support of missile projects, or chemical or biological weapons. Customer agrees to abide by those laws and regulations.

16.2 Customer represents that any software provided by it and used as part of the Products, Deliverables, Software, or Services contains no encryption or, to the extent that it contains encryption, such software is approved for export without a licence. If Customer cannot make the preceding representation, Customer agrees to provide Dell with all of the information needed for Dell to obtain export licences from the U.S. government or any other applicable national government and to provide Dell with such additional assistance as may be necessary to obtain such licences. Notwithstanding the foregoing, Customer is solely responsible for obtaining any necessary licences relating to the export of software. Dell also may require export certifications from Customer for Software.

16.3 Dell's acceptance of any order for Products, Deliverables, Software, or Services is contingent on the issuance of any applicable export license required by the U.S. Government or any other applicable national government. Dell shall not be liable for delays or failure to deliver Products, Deliverables, Software, or Services resulting from Customer's failure to obtain such licence or to provide such certification.

16.4 Customer agrees to indemnify, defend and hold Dell harmless from any third party claims, demands, or causes of action against Customer's breach or alleged breach of the applicable export laws

#### 17. Data Privacy

In this section 17, the terms "data controller", "data processor", "personal data" and "processing" shall be as defined in the European Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data ('Directive') as amended or superseded from time to time.

17.1 To the extent Customer and Dell are data controllers for the purpose of any personal data processed under or in connection with this Agreement, each party shall comply with the provisions and obligations imposed by the Directive to the extent required by that legislation of each party. As data controller, Customer confirms that it has obtained all necessary authorisations for lawful processing, prior to passing personal data to Dell.

17.2 To the extent Dell processes personal data as a data processor for Customer under or in connection with this Agreement, Dell shall ensure appropriate protection is in place to safeguard such personal data. Dell shall use its reasonable efforts to assist Customer to comply with its obligations, as data controller, to respond to requests for access to Customer records made by individuals to whom the personal data relates, subject to the payment by Customer of Dell's reasonable professional charges for the time engaged by Dell staff in so doing.

17.3 Customer authorises Dell to collect, use, store and transfer the personal data Customer provides to Dell for the purpose of performing Dell's obligations under this Agreement and for any additional purposes described, pursuant to the Agreement.

17.4 Dell may, in the normal course of business, make worldwide transfers of personal data on its corporate systems, to other entities, agents or subcontractors in the same group of companies, or to other relevant business partners who may have incidental access to personal data. When making such transfers, Dell shall ensure appropriate protection is in place to safeguard personal data transferred under or in connection with this Agreement.

17.5 Dell shall not be liable for any claim brought by Customer or a data subject arising from any action or omission by Dell to the extent that such action or omission resulted from compliance by Dell with Customer's instructions.

#### 18. WEEE Compliance

Dell takes responsibility for compliance with the Waste Electrical and Electronic Equipment Directive 2002/96/EC ('WEEE'), including without limitation: reporting of equipment placed on the market, payment of ECO-fees to the appropriate authority where required and take back of product at Dell provided collection facilities in accordance with WEEE as transposed in national legislation. Products deposited at collection facilities will be recycled by Dell in accordance with WEEE. Customer shall be responsible for returning products at its cost to Dell's designated collection facilities as per Dell's WEEE recycling programme - [www.euro.dell.com/recycling](http://www.euro.dell.com/recycling).

#### 19. General

19.1 Notices given under the Agreement must be in writing and shall be effective when delivered to the other party's legal officer at the address stated on Dell's invoice.

19.2 Neither party may assign or transfer this Agreement without the prior written consent of the other party except that (1) no consent is required by Dell to assign to its affiliated companies and (2) Dell may subcontract its obligations under the Agreement but shall remain liable and responsible to Customer for such obligations.

19.3 This Agreement constitutes the entire agreement between the parties and each party acknowledges that in entering into this Agreement it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement. Nothing in the Agreement shall limit or exclude any liability for fraud or fraudulent misrepresentation.

19.4 Any changes to this Agreement or to any order placed pursuant to it shall not be valid or binding unless it is in writing and agreed by parties. If any provision of this Agreement should be found to be void or unenforceable, such provision will be struck out or modified to the extent necessary to comply with the law, and the remainder of this Agreement shall remain in full force and effect.

19.5 A waiver by either party of a breach of the Agreement or delay or failure to enforce a right under the Agreement shall not constitute a waiver of any subsequent breach of the Agreement.

19.6 A person who is not a party to the Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

19.7 The Agreement and any non contractual obligations shall be interpreted according to English law and the English courts shall have exclusive jurisdiction.

19.8 The parties agree that the United Nations Convention on Contracts for the International Sale of Goods 1980 (Vienna Convention) shall not apply to the Agreement.

