

# **Dell Technologies<sup>1</sup> Partner Program** **Incentive Terms and Conditions** **North America (NA)**

As a member in good standing in the Dell Technologies Partner Program certain Dell Technologies Solution Provider, OEM and Cloud Service Provider partners (“Partner” or “Partners”) may be eligible to participate in incentive programs (“Program” or Incentive Program”) including but not limited to, special discounts, rebates, sales spiffs, promotions or contests, and marketing development funds (MDF) programs (“Incentive” or collectively “Incentives”). The following Dell Technologies Partner Program Incentive Terms and Conditions (“Incentive Terms”), unless otherwise agreed to in writing by Dell Technologies, apply to a Partner’s participation in any and all Dell Technologies Partner Program Incentives. Unless otherwise specified in these Incentive Terms, any terms and definitions used herein have the meanings ascribed to them in the Dell Technologies Partner Program Agreement.

These Incentive Terms are supplemental and subject to the Dell Technologies Partner Program Agreement, and together with the Benefits and Requirements documents for the applicable Partner Track, set forth the terms and conditions governing Partner eligibility, type, structure, and amount of any Incentive and constitute the entire agreement (“Agreement”) between Dell Technologies and Partner with respect to all Incentives. The Benefits and Requirements document may be found on the Dell Technologies Partner Portal located here:

<https://www.delltechnologies.com/partner/en-us/auth/benefits-requirements.htm> (US) or  
<https://www.delltechnologies.com/partner/en-ca/auth/benefits-requirements.htm> (Canada).

This Agreement supersedes any and all prior agreements and understandings regarding any Incentives, whether established by custom, practice, procedure or precedent, including without limitation all prior incentive program terms and conditions or business rules offered to a certain class of Partner in the current Dell Technologies Partner Program, the former Dell PartnerDirect Program, or EMC Business Partner Program.

**By accepting these Incentive terms or the Dell Technologies Partner Program Agreement, you agree to be bound by all terms, conditions, and restrictions contained in the Agreement. Please print a copy of these Incentive Terms for your records.**

**1. Defined Terms:** The following terms have the meaning defined below unless otherwise specified in writing by Dell Technologies. Additional defined terms may be found in the Benefits and Requirements document glossary.

**“Fiscal Year”** The Dell Technologies Fiscal Year begins on February 4th 2023 and ends on February 2nd 2024 of the following year.

**“Quarter”** Dell Technologies fiscal quarters end on 5 May, 4 August, 3 November 2023, and 2 February 2024.

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<sup>1</sup> “Dell Technologies” refers to the business unit previously referred to as “Dell” and “Dell EMC” and excludes SecureWorks and Virtustream business units.

“**Product Portfolio**” means the Dell Technologies categorization of lines of business for rebate & MDF eligibility, as follows:

<b>Product Portfolio</b>	<b>Line of Business (LOB)</b>
<b>APEX+</b>	Dell APEX offers (outcome and Custom Solutions)
<b>Storage+</b>	Storage, Data Protection, CI/HCI
<b>Server+</b>	Server, Networking & Enterprise Infrastructure (EI)
<b>Client+</b>	Client and Displays & Client Peripherals (D&CP)
<b>VMware</b>	VMware On Dell Paper: Enterprise Licensing Agreements, Special Pricing Forms, Transactional (Price Book)

“**Eligible Product(s)**” collectively means certain Dell hardware, software product(s) and services related to the respective Product Portfolio (each an “Eligible Product Portfolio”). A detailed list of eligible lines of business in each Eligible Product Portfolio may be found at: <https://www.delltechnologies.com/asset/en-us/solutions/business-solutions/briefs-summaries/requirements-benefits-productcategories.pdf> (the “Eligible Products List”). Only Product Portfolio found on the Eligible Products List that Partner is authorized to resell and/or host, shall be eligible for the incentives described herein. Dell Technologies may modify the Eligible Products List or any Program or Incentives Program at any time and in its sole discretion-and Dell Technologies reserves the right to exclude certain products from the Program at any time in its sole discretion.

“**Total Purchases**” means the total amount of Eligible Products that (a) a Solution Provider or OEM partner purchased from Dell Technologies or an Authorized Distributor for resale, and/or (b) a Cloud Service Provider purchased for the purpose of building or expanding a cloud services platform or other outsource services and used to host Dell Technologies Powered Services that will be marketed and sold to end-user customers. Unless otherwise stated in the Benefits and Requirements Document, Total Purchases shall be determined using (a) the shipped amount or the booked order amount for Eligible Products, as applicable, or (b) the committed contract value for eligible APEX+ purchases. APEX+ Eligible Products qualify for Incentives only after the Dell APEX service is activated or after the shipment of license key or APEX Flex on Demand hardware, as applicable. Total Purchases exclude all taxes, freight/delivery and handling charges associated with, and all returns and cancellations of such purchases, as well as sales of refurbished products (collectively, “Exclusions”). Any such Exclusions, if not excluded from Total Purchases made in a particular Quarter, may be excluded from Total Purchases in a later

Quarter.

**“Authorized Distributor”** means a distributor that is awarded Authorized status in the Dell Technologies Partner Program, holds a valid Dell Technologies Distribution Agreement and is contractually authorized to sell Eligible Products in the country that Partner is contracted with Dell Technologies to conduct business.

**“Territory or Territories”** means, the country or countries where Partner has been authorized to purchase Eligible Products (directly or indirectly) as set forth in the separate Ordering Agreement between Dell Technologies and Partner as applicable.

**“Portfolio Competency”** means a Dell Technologies-awarded credential or certification, for training or other actions completed by a Partner, across Dell branded products, solutions, software and services.

2. **Program Period:** Partner’s participation in any Incentive Program will begin on the first day of the Quarter in which Partner accepts these Incentive Terms and continues until a.) the end date as set forth in the Benefits and Requirements document or b.) the last day of the Dell Technologies Fiscal Year as applicable (such period, the “Program Period”) unless Partner participation is earlier terminated by Dell Technologies or Partner.
3. **Product Purchases:** Partner must purchase Dell hardware and software products or services from a Dell Technologies Global Commercial Channels segment or an Authorized Distributor as identified and permitted by Dell Technologies. Such purchases shall be governed by the terms provided in the applicable Ordering Agreement. Dell Technologies reserves the right to exclude certain products from any Incentives at any time in its sole discretion.
4. **Deal Registration:** All opportunities must be registered through the Dell Technologies’ Deal Registration Program; as applicable and to the extent the opportunities meet relevant product thresholds. The Dell Technologies Deal Registration Program Terms and Conditions may be found at:

<https://www.delltechnologies.com/partner/en-us/asset/quick-reference-guides/partner/Deal-Registration-Terms.pdf>

Following such registration, Dell Technologies will review each opportunity to determine whether it qualifies for any Incentives under the Program.

5. **Eligibility of Sales:** Dell Technologies reserves the right to determine the eligibility of any opportunity for Incentives and to adjust or reduce Incentives for any Opportunity under this Program in its sole discretion. Only those opportunities that Dell Technologies determines are eligible shall qualify for Incentives and all decisions made by Dell Technologies are final. Purchase orders must be received by Dell Technologies, and the Eligible Product must be shipped, booked, or activated no later than the last day of the Quarter to qualify for Incentives. Notwithstanding the foregoing, if an incentive program has a different cutoff date specified in its written program terms and conditions, then the specified cutoff date will apply for Incentive qualification under that program.
  - a. The following -do not qualify for Incentives: Any orders shipped or booked and any services activated (i) prior to the start of the Program Period or Partner’s participation in the Program (including prior orders that are cancelled or rebooked) or (ii) after the Program Period ends. APEX+ Eligible Products qualify for Incentives only after the Dell APEX service is

activated or after the shipment of license key or APEX Flex on Demand hardware, as applicable.

- b. Except as permitted by Dell Technologies in writing, purchases for Partner's own internal use or sales made to a Dell Technologies' affiliate or subsidiary do not qualify for incentives.
- c. Purchases of refurbished products are excluded from the calculations of minimum revenue thresholds for Partner participation in this Program and are excluded from any rebate, incentive, and marketing development fund calculations available through this Program.
- d. **Federal End-Users the United States:** In the United States sales of Eligible Products to Federal end-user customers shall not qualify for any Incentives, revenue or growth goal calculations. Any existing Marketing Incentive Fund agreement that Partner may have with the Dell Federal Sales Segment shall remain in place notwithstanding this Agreement.
- e. Only the Partner that submits the purchase order or books the revenue will receive the incentive.

**For example:**

- i. If two Partners collaborate and each Partner submits a separate purchase order the collaborating Partners would receive Incentives and/or tier credit based on the amounts submitted.
  - ii. Alternatively, if two Partners collaborate and only one submits the purchase order then only the Partner that submitted the purchase order will receive Incentives. Both partners may receive tier credit subject to meeting requirements defined by Dell Technologies.
- f. Special priced opportunities (which includes deal registered opportunities) are only eligible for full order quantity with a single end-user customer designated. Any unused special priced units not utilized by the single end-user customer as designated may not be resold to another partner or end-user customer without prior written approval by Dell Technologies. Dell Technologies may grant an exception to this policy in certain situations, such as;
- End-user customer partial or full order cancellation after Dell Technologies invoicing; or
  - Partner returns as permitted by Dell Technologies.

If Partner fails to obtain Dell Technologies prior approval to sell special priced product units to any other party different from the single designated end-user customer, Dell Technologies reserves the right to (as Dell Technologies becomes aware of the sale) revise Dell quote and charge the Partner the standard list price in place at the time of the order in place of any special pricing originally received, or may invoice Partner and Partner will pay the difference between the special priced amount and the standard list price for those products. In addition, any failure by Partner to abide by these Incentive Terms may result in Partner's forfeiture of any and all rebates or incentives that are associated to the opportunity.

- 6. Incentive Calculations:** Dell Technologies may provide Partner with estimated revenue and incentive amounts throughout a Quarter. These estimated revenue and incentive amounts may not include final adjustments or revenue calculations and are provided to Partner for informational purposes only without implied warranties or guarantees of any kind regarding the payment of Incentives. Dell Technologies is not obligated provide estimated revenue or incentive amounts and

such notices are not a condition that must be met prior to finalizing revenue and incentive amounts. Unless otherwise specified, all Incentive calculations will be calculated in Partner's trading currency using Dell Technologies' applicable currency hedge rate.

- 7. Incentive Payments:** For qualifying sales of Dell products, purchased and shipped, quoted and ordered or purchased and service activated as applicable during a Quarter, Dell Technologies shall pay Incentives on sales and orders attributable to the country in which they are placed and in which the Partner has contracted with Dell Technologies to conduct business. Unless otherwise specified, all Incentive Payments will be calculated and paid in Partner's trading currency using Dell Technologies' applicable currency hedge rate. All Incentive Payments are in Dell Technologies' sole discretion and only those products resold by Partner to end-users or used to host Dell Technologies Powered Services that will be marketed and sold to end-user customers approved by Dell Technologies will be eligible for Incentives. Products resold to end-users in contradiction with the Dell Technologies Partner Program Agreement, the Dell Reseller Terms of Sale, Partner's existing EMC Channel Purchase Agreement, or any reseller terms applicable to Product Portfolio will not be eligible for Incentives. In those cases where payment of Incentives depends on information that each Authorized Distributor must provide, Dell Technologies will have no responsibility to pay Incentives to Partners if the Authorized Distributor does not provide this complete information in time.
- a. Dell Technologies will make commercially practicable efforts to pay Partner the applicable Incentive Payments in the applicable trading currency within sixty (60) days of the close of a Quarter.
  - b. DELL TECHNOLOGIES RESERVES THE RIGHT TO PAY A REDUCED INCENTIVE AMOUNT OR NOT PAY INCENTIVES IN CERTAIN CIRCUMSTANCES, INCLUDING, WITHOUT LIMITATION, WHERE (A) PARTNER IS MERELY ACTING AS AN AGENT, ORDER FULFILLER, OR FULFILLMENT VEHICLE FOR ANOTHER ENTITY OR (B) PARTNER HAS PURCHASED PRODUCTS FROM DELL TECHNOLOGIES AT PRICING OR DISCOUNTS THAT ARE BELOW DELL TECHNOLOGIES' STANDARD PRICING OR THAT ARE NOT ELEGIBLE FOR INCENTIVE PAYMENTS, WHETHER OR NOT SUCH INELGIBILITY HAS BEEN COMMUNICATED OR (C) PARTNER HAS PURCHASED PURSUANT TO SPECIAL CONTRACT PRICING BETWEEN PARTNER AND DELL TECHNOLOGIES OR (D) PARTNER HAS SOLD PRODUCTS TO SPECIFIC END USERS DEFINED BY DELL TECHNOLOGIES OR E) PARTNER HAS FAILED TO RAISE A CLAIM OR FILE A DISPUTE WITH DELL TECHNOLOGIES WITHIN THRTY (30) DAYS OF THE DATE THAT THE INCENTIVE WAS PAID OR PAYABLE PURSUANT TO SECTION 8, OR (F) AN INCENTIVE PAYMENT AMOUNT LESS THAN \$100.00 (USD). DELL TECHNOLOGIES ASSUMES NO RESPONSIBILITY FOR ANY ERRORS OR INACCURACIES, AND RESERVES THE RIGHT TO NOT PAY INCENTIVES RELATED TO ERRORS OR INACCURACIES.
  - c. **Overpayment:** If Dell Technologies makes an Incentive Payment to Partner (a) in excess of the Incentive amounts Partner should have earned (b) based on committed contract value of a software or service subscription for which Dell does not receive full payment; or (c) for Incentives to which Partner is otherwise ineligible to receive (collectively "Overpayments"), Dell Technologies may require Partner to promptly return the Overpayment amount to Dell Technologies. If Partner fails to return an Overpayment in a timely manner, Dell Technologies reserves the right to assess additional fees including but not limited to late fees or related attorney's fees for recoupment of any Overpayment from Partner. Alternatively, Dell

Technologies may withhold any Overpayment amounts from Partner's future Incentive Payments.

- d. Partner's Account:** Partner must upload the required banking information into the Dell Technologies Incentive Center and Partner's Account must be up to date and in good payment standing at all times throughout a Quarter as determined by Dell Technologies. If at any time during a Quarter either condition is not met, as determined by Dell Technologies, Partner will be placed on accounts receivable hold ("AR Hold") and any rebate or incentive payments including Quarterly MDF Payments (collectively "Incentives" or "Incentive Payments") earned by Partner will be withheld (and, as applicable, forfeited) as set forth below.

  - i. Past Due Invoices:** If Partner is placed on AR Hold at any time during a Quarter then any Incentive Payment earned by Partner for that Quarter will be withheld. If Partner brings its account up to date and in good standing and continues to remain in good standing, then Dell Technologies will remove Partner from AR Hold and any withheld Incentive Payments will be released with the Partner's next regularly scheduled Incentive Payment. If Partner continues to have past due invoices following the AR Hold determination, Dell Technologies is not liable or obligated to make and Partner forfeits receipt of, any and all Incentive Payments due for the prior Quarter under any existing Dell Technologies Incentive Program and the Incentive Payments from the current Quarter will be withheld.
  - ii. Banking Information:** If Partner has not uploaded the required banking information, Partner has seventy (70) days after the end of payment notification in the Incentive Center to update the required Payment Information in the Dell Technologies Incentive Center. If Partner uploads required Payment Information within seventy (70) days of payment notification in the Incentive Center, then Dell Technologies shall pay to Partner the withheld Incentive Payments. If Partner has not provided required Payment Information within seventy (70) days after the Incentive Center payment notification, then Dell Technologies is not liable or obligated to make, and Partner forfeits receipt of, any and all Incentive Payments due under any existing Dell Technologies Incentive Program.
- 8. Incentive Disputes:** In the event of a dispute regarding calculation of Incentives, revenue, key performance indicators ("KPIs") or whether data has been correctly recorded on Dell Technologies' order management systems and/or whether a delivery was made within the relevant Quarter, the Partner may request an email or phone dialogue or meeting with Partner's Dell Technologies Account Manager to discuss the issue and to provide evidence to support the Partner's dispute, within thirty (30) days following payment of any Dell Technologies rebate or Incentive. If Partner does not file a dispute with Dell Technologies within thirty (30) days of payment by Dell Technologies then Dell Technologies is not liable or obligated to make, and Partner forfeits receipt of, any and all disputed Incentive amounts under the applicable Dell Technologies Incentive Program. Any decisions made by Dell Technologies are final. This dispute period is not applicable to Dell Technologies and does not place any restrictions on Dell Technologies' right to enforce Overpayments as stated herein.
- 9. Records:** Dell Technologies records and systems shall be conclusive for purposes of determining compliance under the Agreement and performing any calculation regarding any and all Incentives. Eligibility of sales of products in connection with any Incentive Program shall be in Dell Technologies' sole discretion. All decisions made by Dell Technologies are final.
- 10. Taxes:** All applicable taxes (including, but not limited to, Value Added Tax and Withholding Taxes) on Incentives are the sole responsibility of Partner. Partner is required to provide relevant tax

information to Dell Technologies for tax reporting purposes. Failure to provide requested tax information, where applicable, to Dell Technologies within thirty (30) days after Partner's enrollment in an Incentive Program may result in Partner's forfeiture of the Incentives. In certain countries or circumstances, Dell Technologies may elect to pay applicable Value Added Tax and Withholding Taxes on the amount of Incentives ("Tax Payment"). In order to receive a Tax Payment Partner must provide a tax invoice in the amount of tax due within seventy (70) days after the Incentive Center payment notification. If Partner has not provided required tax invoice within seventy (70) days after the Incentive Center payment notification, then Dell Technologies is not liable or obligated to make, and Partner forfeits receipt of, any and all Tax Payments due under any existing Dell Technologies Incentive Program.

**11. Additional Obligations:** Dell Technologies may issue notices of Quarterly sales goals that Partners may be required to meet or exceed in order to remain active in an Incentive Program or receive Incentive Payments detailed in the Incentive Terms. Dell Technologies is not obligated to issue such notices, nor is it a condition that must be met prior to terminating Partner participation in an Incentive Program. These notices also do not guarantee payment of Incentives.

**12. Termination; Withdrawal; Disqualification:** Dell Technologies may terminate this Agreement or any Incentive Program, in whole or in part, and/or Partner's participation therein at any time. Partner may terminate this Agreement or withdraw from an Incentive Program at any time for any reason by providing five (5) days written notice to Dell Technologies.

If Partner (a) is disqualified or otherwise terminated by Dell Technologies or (b) withdraws prior to the end of a Quarter, then Dell Technologies is not liable to make any Incentive payments to the Partner for such Quarter. Dell Technologies may offset any and all amounts the Partner owes Dell Technologies against any and all Incentives due under any existing or future Incentive Program offered by Dell Technologies.

**13. Modifications:** Dell Technologies reserves the right to modify or discontinue the Agreement, any Incentive Program, or any Partner's participation therein, in whole or in part, at any time without prior notice. If any modification to the Agreement is unacceptable to the Partner, then Partner's sole recourse is to terminate its participation in the Incentive Program. If any provision of this Agreement is void or unenforceable, the parties agree to delete it and agree that the remainder will continue to be in effect. Dell Technologies' failure to enforce the Partner's strict performance of any term in the Agreement will not constitute a waiver of Dell Technologies' right to subsequently enforce such term or any other term. Partner's continued participation in the Incentive Program will constitute Partner's binding acceptance of the modification.

**14. Indemnification.** To the fullest extent permitted by law, Partner shall indemnify, defend, and hold harmless Dell Technologies and its subsidiaries, affiliates, parents, successors, and assigns, from and against any claim, demand, cause of action, debt, or liability (including reasonable attorney or legal fees, expenses and court costs) based upon, arising from, or related to Partner's failure to comply with its obligations under this Agreement.

**15. Confidentiality.** This Agreement and the terms hereof are Dell Technologies confidential information, and Partner shall maintain such information as confidential and shall not disclose such information to any third party, even after termination of this Agreement, unless required by law.

**16. Assignment:** Partner may not assign this Agreement or any amount due under this Agreement, to any third party without the express written consent of Dell Technologies.

**17. BUSINESS CONDUCT AND COMPLIANCE WITH ANTI-CORRUPTION LAWS:** You represent and warrant that you understand and agree to comply with your obligations under the Dell Technologies Partner Code of Conduct, including compliance with the Anti-Corruption Laws, as defined therein, in connection with this Agreement. You will not, in connection with this Agreement, take or allow any third party to take, any action or engage in any practice that would violate the Anti-Corruption Laws.

You represent and warrant that: (i) neither you nor any of your directors or officers or employees, who have decision-making authority with respect to this Agreement, have been convicted of any offense involving bribery, corruption, fraud or dishonesty, or to the best of your knowledge, have been or are the subject of any investigation, inquiry or enforcement proceeding by any governmental, administrative or regulatory body regarding any offense or alleged offense under the Anti-Corruption Laws and (ii) neither you nor any of your directors or officers or employees, who have decision-making authority with respect to this Agreement, are government officials. Dell Technologies may immediately terminate this Agreement or suspend its performance hereunder if Dell Technologies has reason to believe that you have breached this Section 17 or the Dell Technologies Partner Code of Conduct.

**18. Miscellaneous:** THE PARTIES AGREE THAT THIS AGREEMENT, OR ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, AND EQUITABLE CLAIMS) BETWEEN PARTNER AND DELL TECHNOLOGIES BASED UPON, ARISING FROM, OR RELATING TO THIS AGREEMENT, ITS INTERPRETATION, OR THE BREACH, TERMINATION OR VALIDITY THEREOF, THE RELATIONSHIPS THAT RESULT FROM THIS AGREEMENT, DELL TECHNOLOGIES' ADVERTISING, OR ANY RELATED PURCHASE SHALL BE SUBJECT TO AND GOVERNED EXCLUSIVELY BY THE APPLICABLE LAW (WITHOUT REGARD TO ITS CONFLICTS OF LAWS RULES) OF THE JURISDICTION WHERE THE DELL TECHNOLOGIES ENTITY WITH WHICH THE PARTNER TRANSACTS BUSINESS, IS LOCATED AND REGISTERED.

**Program Administrator:** The administration and calculation of Incentives may be conducted by a third-party vendor acting as a program administrator on behalf of Dell Technologies (“**Program Administrator**”). Partner expressly authorizes Dell Technologies and the Program Administrator to act on its behalf for the purpose of managing and conducting Incentive Program operations to enable the Partner and Partner’s employees to receive Program Incentives, as set forth in the Dell Technologies Partner Program Agreement. Notwithstanding any separate confidentiality agreement you may have with Dell Technologies and to the extent permitted by the applicable law, you authorize and agree that information regarding your business with Dell Technologies and any information, including Personal Information you provide to Dell Technologies in connection with the Program may be accessed and used by Dell Technologies and Dell Affiliates and their employees and contractors for sales and marketing purpose and for any purpose related to the Program or the relationship between you and Dell Technologies (collectively, “Purpose”) and may be disclosed to relevant Distributors or resellers, governing body, or your customers or end-users for the Purpose or to fulfill Dell Technologies obligations to you and/or your customers or end-users.