

Boomi Services Master Services Agreement – Federal Sales

This Master Services Agreement (the “Agreement”) is made between you, the Customer (“Customer”) and Dell Federal Systems LP with its principal place of business at 2300 Greenlawn Blvd., MS RR3-63, Round Rock, TX 78664-7090 (“Dell”) specifically for the sale of Boomi Services, as defined below. Customer’s address shall be the address stated in Dell Order into which this Agreement is incorporated by reference.

1. **Definitions.** Capitalized terms not defined in context will have the meanings assigned to them below:

(a) “**Affiliate**” means any legal entity controlling, controlled by, or under common control with a party to this Agreement, for so long as such control relationship exists.

(b) “**Boomi Services**” means one or more of the software services provided by Dell under this Agreement (such as the Boomi AtomSphere Service) and the Software to which Customer is given access in connection with such service (the “**Software**”).

(c) “**Documentation**” means the user manuals and documentation that Dell makes available for the Boomi Services.

(d) “**Support Services**” means Dell’s maintenance and support for the Boomi Services as stated at www.boomi.com/legal/service.

(e) “**Order**” means the document by which Customer orders Boomi Services. Orders that are signed by both Customer and Dell will be governed solely by the terms of this Agreement and the applicable Order. Any conflicting or additional terms in or accompanying an Order will not be binding on Dell unless Dell accepts such terms in writing. Each Order will be subject to approval and acceptance by Dell and will represent the Customer’s

irrevocable commitment to purchase and pay for the Boomi Services stated in the Order.

(f) “**Services Order**” or “**SO**” means the document by which Customer orders consulting and/or training services, such as a Services Order Form or Statement of Work, which will be governed by the Professional Service Addendum below. Dell, through its employees, agents and contractors, will perform the consulting and/or training services described in the Services Order. Any conflicting or additional terms in or accompanying a Services Order will not be binding on Dell unless Dell accepts such terms in writing. Each Services Order will be subject to approval by Dell.

(g) “**Professional Services**” means the Activities or Project Deliverables identified in a Services Order and defined in the Professional Service Addendum (the “Addendum” or “Professional Service Addendum”), attached below. Customer’s purchase of Professional Services, if any, is governed by this Agreement and the Addendum.

2. **License.**

(a) **General.** Subject to the terms of this Agreement, Dell grants to Customer, and Customer accepts a non-exclusive, non-transferable (except as otherwise set forth herein) and non-sublicensable license to access and use the quantities of the Boomi Services identified in the applicable Order to support the internal business operations of itself and its Affiliates for the term stated on the applicable Order. If any Software delivered to Customer for Customer’s installation and use on its own equipment is provided in connection with the Boomi Services, the license duration for such Software will be for the term stated on the applicable Order. All rights not specifically granted by Dell hereunder are hereby reserved by Dell.

(b) **Evaluation Use.** If an Order indicates that the Boomi Services are to be used by Customer for evaluation purposes, or if access to the Boomi Services is otherwise obtained from Dell for evaluation purposes, such as a free trial or a proof of concept, Customer will be granted a right to use the Boomi Services solely for Customer’s own non-production, internal evaluation purposes (an “**Evaluation Right**”). Each Evaluation Right shall be for a period of up to thirty (30) days (subject to Dell’s right to terminate the Evaluation Right in Dell’s sole discretion at any time) from the date of delivery of the credentials needed to access the applicable Boomi Services, plus any extensions granted by Dell in writing (the “**Evaluation Period**”). There is no fee for an Evaluation

Right during the Evaluation Period, but Customer is responsible for any fees associated with usage beyond the scope permitted herein. Notwithstanding anything otherwise set forth in this Agreement, Customer understands and agrees that Evaluation Rights are provided “AS IS” and that Dell does not provide warranties or Support Services for Evaluation Rights.

(c) **Use by Third Parties.** Customer may allow its services vendors and contractors (each, a “**Third-Party User**”) to access and use the Boomi Services made available to Customer hereunder solely for purposes of providing services to support the internal business operations of Customer, provided that Customer ensures that (i) the Third-Party User’s access to or use of the Boomi Services is subject to the restrictions and limitations contained in this Agreement, and the applicable Order(s), (ii) the Third-Party User cooperates with Dell during any compliance review, and (iii) the Third-Party User promptly removes any Software installed on its computer equipment, environment, and the integrated system(s) upon the completion of the Third-Party User’s need for access or use as permitted by this Section. Customer agrees that it will be liable to Dell for those acts and omissions of its Third-Party Users as if they were done or omitted by Customer itself.

3. **Proprietary Rights.** Customer understands and agrees that (a) the Boomi Services are protected by copyright and other intellectual property laws and treaties, (b) Dell, its Affiliates and/or its licensors own the copyright, and other intellectual property rights in the Boomi Services, (c) this Agreement does not grant Customer any rights to Dell’s trademarks or service marks, and (d) Dell reserves any and all rights, implied or otherwise, which are not expressly granted to Customer in this Agreement.

4. **Payment.** Customer agrees to pay to Dell the fees specified in each Order or Services Order. Customer will be invoiced promptly following execution of the Order or Services Order and Customer will make all payments due to Dell in full within thirty (30) days from the date of each invoice or such other period (if any) stated in an Order or Services Order. Customer will provide a Purchase Order (“PO”) to Dell prior to or at the time of execution, except if otherwise stated in the Order or Service Order. If Customer fails to provide the PO to Dell, then Dell will not be obligated to provide the Dell and/or Professional Services until the PO has been received. All fees not subject to a good faith dispute and not paid when due shall accrue interest of 1.5% per month (or the maximum rate permitted by law, if lower).

5. **Taxes.** The fees stated in an Order are exclusive of taxes. If Dell is required to pay sales, use, property, value-added or other taxes based on a Boomi Service provided under this Agreement or on Customer's use of a Boomi Service, then such taxes will be billed to and paid by Customer. This Section does not apply to taxes based on Dell's income. All applicable state and local taxes and travel and living expenses, if any, will be billed as separate line items. *In the event Dell is to invoice Customer outside of the United States*, then if Customer is required by law to make a withholding or deduction in respect of the price payable to Dell, Customer will pay Dell the amount necessary to ensure that the actual amount Dell receives after deduction or withholding (and after payment of any additional taxes due because of such additional amount) equals the amount that would have been payable to Dell if such deduction or withholding were not required.

6. **Termination.** The term of this Agreement will begin on the last or only date of the signatures of the Order or Services Order into which it is incorporated below, or if executed by the parties, the last or only date of the signatures on this Agreement (the "Effective Date") and will continue for the term stated therein.

Upon termination or expiration of this Agreement or an Order or Service Order for any reason, all rights granted to Customer for the applicable Boomi Services or Professional Services, respectively, shall immediately cease and Customer shall immediately: (i) cease using such services, and (ii) remove all copies, installations, and instances of any Software from all Customer computers and any other devices on which the Software was installed, and ensure that all applicable Third Party Users do the same.

Notwithstanding such termination or expiration, including, without limitation, the Conduct, Payment, Proprietary Rights, Taxes, Termination, Warranty Disclaimer, Infringement Indemnity, Limitation of Liability, Confidential Information, and General Sections of this Agreement. Termination of this Agreement or a license shall be without prejudice to any other remedies that the terminating party may have under law, subject to the limitations and exclusions set forth in this Agreement.

If so required by law enforcement or legal process, or in the event of an imminent security risk to Dell or its customers, Dell may suspend Customer's use of the Boomi Services. Dell will make commercially reasonable efforts under the circumstances to provide prior notice of any such suspension.

7. **Export.** Customer's purchase of Boomi Services and access to related technology (the "Materials") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except as in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria, and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions.

8. **Warranties and Remedies.**

(a) **Warranties & Remedies.** Dell warrants that, during the term of an Order, the applicable Boomi Services will (i) substantially conform to the applicable Documentation (the "**Operational Warranty**"); and (ii) be available twenty-four hours a day, seven days a week except for scheduled maintenance, the installation of updates, and factors beyond the reasonable control of Dell as described in the Boomi SLA at www.boomi.com/sla (the "**Availability Warranty**"). Customer's sole and exclusive remedy and Dell's sole obligation for any breach of the Operational Warranty or Availability Warranty will be for Dell to provide a fix or reasonably accepted workaround for the Boomi Services and for Dell to provide Service Level Credits as defined at www.boomi.com/sla.

(b) **Warranty Disclaimer.** THE EXPRESS WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES AND REMEDIES RECOVERABLE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. DELL DOES NOT

WARRANT THAT BOOMI SERVICES WILL BE UNINTERRUPTED, MALWARE FREE, OR ERROR-FREE.

(c) **High-Risk Disclaimer.** customer understands and agrees that The BOOMI SERVICES are not fault-tolerant and are not designed or intended for use in any high-risk or hazardous environment, including without limitation, the operation of nuclear facilities, aircraft OPERATION OR air traffic control, life support, weapons, or any other application where failure or malfunction can reasonably be expected to result in death, personal injury, severe property damage or severe environmental harm (A **“High Risk Environment”**). accordingly, (i) customer should not use the BOOMI SERVICES in a HIGH-RISK Environment, (ii) any use of the BOOMI SERVICES by customer in a HIGH-RISK environment is at customer’s own risk, (iii) Dell, its affiliates and suppliers will not be liable to Customer in any way for use of the BOOMI SERVICES in a HIGH-RISK Environment, and (iv) Dell makes no warranties or assurances, express or implied, regarding use of THE BOOMI SERVICES in a HIGH-RISK Environment.

9. **Infringement Indemnity.** Dell will defend Customer from and against any claim, suit, action, or proceeding brought against Customer by a third-party to the extent it is based on an allegation that the Boomi Services directly infringe any patent, copyright, trademark, or other proprietary right enforceable in the country in which Dell has authorized Customer to use the Boomi Services, including, but not limited to the country to which the Boomi Services is delivered to Customer, or misappropriates a trade secret in such country (a **“Claim”**). Dell will pay (a) the resulting costs and damages finally awarded against Customer by a court of competent jurisdiction to the extent that such are the result of the third-party Claim. Dell’s obligations under this *Infringement Indemnity* Section are conditioned upon Customer giving prompt written notice of the Claim to Dell, and (ii) using all reasonable efforts to mitigate any actual or anticipated claims and providing Dell with cooperation and assistance as Dell may reasonably request in connection with the Claim.

Dell will have no obligation hereunder to defend Customer against any Claim (a) resulting from use of the Boomi Services other than as authorized by this Agreement, (b) resulting from a modification of the Boomi Services other than by Dell, (c) to the extent the Claim arises from or is based on the use of the Boomi Services with other products, services, or data not supplied by Dell if the infringement would not have occurred but for such use, (d) based on Customer’s use of a superseded or altered release of any code, document,

service, product, or deliverable after Dell has recommended discontinuation, if the infringement would have been avoided by use of a current or unaltered release made available to Customer, (e) if Customer is in material breach of this Agreement, or (f) based on any Dell modifications made pursuant to instructions, designs, specifications or any other information provided by or on behalf of Customer, if any. If, as a result of a Claim or an injunction, Customer must stop using any portion of the Boomi Services (***"Infringing Services"***), Dell may at its expense and option either (i) obtain for Customer the right to continue using the Infringing Services, (ii) replace the Infringing Services with a functionally equivalent non-infringing Boomi Services, (iii) modify the Infringing Services so that they are non-infringing, or (iv) terminate the availability of the Infringing Services and refund the unused pro-rated portion of any fees pre-paid by Customer allocable to such Infringing Services.

To the extent that Dell delivers any documentation, training materials, or other written materials or software to Customer for a fee under the Professional Services Addendum, such items will be treated as Boomi Services and will be within the scope of, and subject to the limits of, this Section. This Section states Dell's entire liability and its sole and exclusive obligations for a Claim.

10. **Limitation of Liability.** IN NO EVENT WILL CUSTOMER OR DELL OR ITS AFFILIATES BE LIABLE FOR (X) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, OR (Y) LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE EXCEPT FOR:
11. ANY BREACH OF THE CUSTOMER CONDUCT SECTION OF THIS AGREEMENT AND ANY AMOUNT WHICH DELL IS LIABLE TO PAY TO A THIRD PARTY UNDER THE *INFRINGEMENT INDEMNITY* SECTION OF THIS AGREEMENT, OR
12. ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW.

THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF CUSTOMER AND DELL AND EACH OF THEIR AFFILIATES, FOR

DAMAGES UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, WILL NOT EXCEED THE GREATER OF THE AMOUNT PAID AND/OR OWED FOR THE BOOMI SERVICES OR PROFESSIONAL SERVICES DURING THE TWELVE (12) MONTHS PRECEDING THE BREACH OR FIVE HUNDRED DOLLARS (\$500.00), EXCEPT FOR:

1. DELL'S EXPRESS OBLIGATIONS UNDER THE *INFRINGEMENT INDEMNITY* SECTION OF THIS AGREEMENT,
2. CUSTOMER'S BREACHES OF THE *CONDUCT, AND USE BY THIRD PARTIES* SECTIONS OF THIS AGREEMENT,
3. DELL'S COSTS OF COLLECTING DELINQUENT AMOUNTS THAT ARE NOT SUBJECT TO A GOOD FAITH DISPUTE, OR
4. ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW.

NOTHING HEREIN WAIVES OR LIMITS ANY CLAIM OF EITHER PARTY FOR VIOLATING THE INTELLECTUAL PROPERTY RIGHTS OF THE OTHER, INCLUDING BY USE OF INTELLECTUAL PROPERTY OUTSIDE OF APPLICABLE LICENSE SCOPE.

THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL PROVIDING PRODUCTS AND SERVICES TO CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.

In no event may Customer bring any claim against a contractor, licensor, or supplier to Dell for a matter associated with performance of this contract, beyond the amounts and theories of liabilities permitted if such claim were asserted against Dell itself hereunder.

11. **Confidential Information.**

(a) **Definition.** "**Confidential Information**" means information or materials disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") that are not generally available to the public and which, due to their character and nature, a reasonable person under like circumstances would treat as confidential, including, without limitation,

financial, marketing, and pricing information, trade secrets, know-how, proprietary tools, knowledge and methodologies, the Boomi Services, the Software (in source code and/or object code form), information or benchmark test results regarding the functionality and performance of the Software, any Software license keys provided to Customer, and the terms and conditions of this Agreement.

Confidential Information will not include information or materials that (i) are generally known to the public, other than as a result of an unpermitted disclosure by the Receiving Party after the Effective Date (ii) were known to the Receiving Party without an obligation of confidentiality prior to receipt from the Disclosing Party; (iii) the Receiving Party lawfully received from a third-party without that third-party's breach of agreement or obligation of trust; (iv) are or were independently developed by the Receiving Party without access to or use of the Disclosing Party's Confidential Information; or (v) is transmitted or processed by Customer using Boomi Services and not sent by Customer for specific review by or discussion with personnel of Dell.

(b) **Obligations.** The Receiving Party will (i) not disclose the Disclosing Party's Confidential Information to any third-party, except as permitted in subsection (c) below and (ii) protect the Disclosing Party's Confidential Information from unauthorized use or disclosure by exercising at least the same degree of care it uses to protect its own similar information, but in no event less than a reasonable degree of care. The Receiving Party will promptly notify the Disclosing Party of any known unauthorized use or disclosure of the Disclosing Party's Confidential Information and will cooperate with the Disclosing Party in any litigation brought by the Disclosing Party against third parties to protect its proprietary rights. For the avoidance of doubt, this Section will apply to all disclosures of the parties' Confidential Information as of the Effective Date, whether or not specifically arising from a party's performance under this Agreement.

(c) **Permitted Disclosures.** Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent to any of its Affiliates, directors, officers, employees, consultants, contractors or representatives (collectively, the **"Representatives"**), if they (i) have a "need to know" in order to carry out the purposes of this Agreement or to provide professional advice in connection with this Agreement, (ii) are legally bound to the Receiving Party to protect information such as the Confidential Information under terms at least as restrictive as those provided herein, and (iii) have been informed by the

Receiving Party of the confidential nature of the Confidential Information and the requirements regarding restrictions on disclosure and use as set forth in this Section. The Receiving Party will be liable to the Disclosing Party for the acts or omissions of any Representatives to which it discloses Confidential Information which, if done by the Receiving Party, would breach this Agreement. It shall not breach this Section for the Receiving Party to disclose the Disclosing Party's Confidential Information as may be required by law, by tax or government authorities, or by legal process, provided that the Receiving Party provides prior notice of such disclosure to the Disclosing Party unless expressly prohibited from doing so by a court, arbitration panel or other legal authority of competent jurisdiction.

12. **Personal Data.**

(a) **Definitions.** For purposes of this Section, ***“Personal Data”*** means any information relating to an identified or identifiable natural person that is submitted by Customer to the Boomi Services during this Agreement or which is received, accessed and/or processed by Dell in the capacity of “processor” acting on behalf of Customer, as “controller”, in connection with the performance of the Boomi Services under this Agreement. ***“Privacy Laws”*** means any applicable law regarding privacy, data protection, and/or the processing of Personal Data to which Dell and/or the Customer are subject and which is applicable to the parties' data protection obligations under this Agreement, including if applicable the General Data Protection Regulation (EU) 2016/679.

(b) **Instructions.** Customer hereby (a) represents that it has the right to transfer the Personal Data to Dell, and (b) instructs Dell to process the Personal Data for the purposes of performing its obligations and complying with its rights under this Agreement and any applicable Orders. Dell will process the Personal Data only in accordance with Customer's instructions detailed in this Section 12 and Customer's configurations and administrative settings, which shall comprise Customer's complete instructions regarding the processing of the Personal Data. Customer retains responsibility for all data that Customer integrates through the Boomi Services, and is responsible for complying with applicable Privacy Law regarding the lawfulness of the Processing of Personal Data including all activities requested hereunder by Customer, and, in particular, for ensuring that the data subjects (who the data pertains to) of any data transmitted by Customer have consented to the processing of the Personal Data by Dell. Dell will have no liability to Customer

for any breach of this Agreement resulting from Dell's compliance with Customer's system configurations or instructions.

Customer acknowledges that Dell does not sell a data storage service, the Boomi Services generally include a number of controls including security features and functionality such as purge data settings, user role settings and support access settings. Customer is responsible for reviewing the default settings and onboarding materials, and for properly configuring the Boomi Services to fit Customer's security and operational needs and should the Boomi Services be configured to move data from one point to another Customer is responsible for ensuring that Customer is rightfully integrating among connected systems, whether Customer transmits data outside of a particular cloud or system, outside of a particular geography, or otherwise.

(c) **Compliance.** Each party will comply with their respective obligations under the Privacy Laws in relation to the processing of Personal Data under this Agreement. Except as permitted herein or to the extent required by Privacy Laws or legal process, Dell will implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including to prevent unauthorized disclosure of or access to Personal Data by third parties, and will only store and process Personal Data as required to fulfill its obligations under this Agreement and any applicable SO's or Orders and/or as required by the Privacy Laws. Dell will notify Customer without undue delay after becoming aware of any disclosure of or access to the Personal Data by a third-party in breach of this Section and will reasonably cooperate with Customer to reasonably remediate the effects of such disclosure or access. Customer's exclusive remedy and Dell's sole obligation for any breach of this Section 12 will be for Dell to pay or reimburse Customer for the reasonable costs of notification, credit monitoring, and call center support, each to the extent made necessary by the breach and required by applicable law.

(d) **International Transfers & Subprocessors.** Customer authorizes Dell, in connection with the provision of the Boomi Services, or in the normal course of business, to make worldwide transfers of Personal Data to its "**Subprocessors**" (meaning any processor engaged by Dell, who agrees to receive from Dell, or from another Dell Subprocessor, Personal Data intended for processing activities to be carried out on behalf of the Customer under the terms of this Agreement and the written subcontract). When making such transfers, Dell will ensure appropriate agreements are in place with such Subprocessors to seek to safeguard the Personal Data transferred under or in

connection with this Agreement. Where the provision of the Boomi Services involves the transfer of Personal Data from the EEA to countries outside the EEA (which are not subject to an adequacy decision under Privacy Laws), Dell further affirms to Customer that it has adequate agreements in place (both intra-group agreements with any Affiliates as well as with its Subprocessors which may have access to the Personal Data) incorporating the Standard Contractual Clauses. Customer agrees that Personal Data may be sent to Subprocessors as part of Dell's Support Services and therefore authorizes Dell, by means of general consent, to appoint and use Subprocessors to process the Personal Data in connection with the Services. Where Dell or its Boomi subsidiary, Boomi, appoints Subprocessors, there will be a contract with each Subprocessor that imposes appropriate obligations that are (i) relevant to the Services to be provided by that Subprocessor and (ii) materially equivalent to the obligations imposed under this Section 12. Subprocessors may include third parties or any Dell Affiliate. Dell will provide a list of Subprocessors that it engages to support the provision of the Services upon written request by the Customer or Dell will list such Subprocessors at a web site linked by Boomi's URL.

13. **Conduct.** Customer may not reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Software, or any part thereof unless and to the extent such restrictions are prohibited by applicable law. Customer may not (i) modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Boomi Services, or any part thereof, (ii) resell, provide, make available to, or permit use of or access to the Boomi Service or associated access credentials, in whole or in part, by any third party, (iii) use the Boomi Services to create or enhance a competitive offering or for any purpose which is competitive to Dell, (iv) perform or fail to perform any other act which would result in a misappropriation or infringement of Dell's intellectual property rights in the Boomi Services. Each permitted copy of the Software made by Customer hereunder must contain all titles, trademarks, copyrights and restricted rights notices as in the original. In connection with the use of Boomi Services, Customer may not (v) attempt to use or gain unauthorized access to Dell's or to any third-party's networks or equipment; (vi) attempt to probe, scan or test the vulnerability of the Boomi Services, or a system, account or network of Dell or any Dell customers or suppliers; (vii) engage in fraudulent, offensive or illegal activity or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third party or transmit through the Boomi Service any data or information without the legal right to do so; (viii) transmit unsolicited bulk or

commercial messages or intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (ix) restrict, inhibit, interfere or attempt to interfere with the ability of any other person, regardless of purpose or intent, to use or enjoy the Boomi Services or a user's network, or cause a performance degradation to any facilities used to provide the Boomi Services. If Customer purchases any managed services from Dell, Customer will not cause Dell to use anything for which Dell would need to obtain a license from such third-party in order to provide those managed services. Customer will cooperate with Dell's reasonable investigation of Boomi Services outages, security issues, and any suspected breach of this Section, and shall, at its expense, defend Dell and its Affiliates from any claim, suit, or action by a third party (a "**Third-Party Claim**") alleging harm caused by Customer's breach of this Section. Customer shall pay any judgments or settlements reached in connection with the Third-Party Claim and Dell's costs of responding to it.

14. **Boomi Flow Terms.** If Customer uses a Boomi Service in connection with creation and hosting of external-facing websites, Customer will comply with applicable law in any use of cookies or other tracking technologies on such websites. If Dell is required to take any action because of Customer or its Third-Party Users violating applicable law or third-party rights, Customer will fully cooperate with any legal duties or related instructions of Dell and will promptly remove any illegal or offensive content from Customer systems. Dell may also disable the applicable content, or the Boomi Flow service (howsoever named) or any application interacting therewith, until the potential violation is resolved. A "**Non-Boomi Flow Application**" means a web-based or offline software application that is provided by Customer or a third-party and interoperates with the Boomi Flow service sold hereunder, including, for example, an application that is developed by or for Customer or is listed on a Marketplace, i.e., an online directory, catalog or marketplace of applications that interoperate with the Boomi Flow Services. Any acquisition by Customer of a Non-Boomi Flow Application, and any exchange of data between Customer and any non-Boomi Flow provider, is solely between Customer and the applicable non-Boomi Flow provider. Dell does not warrant or support Non-Boomi Flow Applications, nor is it responsible for any results or effects of Customer's use of such applications. If Customer installs or enables a Non-Boomi Flow Application for use with a Boomi Flow Service, Customer grants Dell permission to allow the provider of that Non-Boomi Flow Application to access Customer data as required for the interoperation of that Non-Boomi Flow Application with the Boomi Flow Service. Boomi Flow Services may contain features designed to interoperate with Non-Boomi Flow Applications,

for which Customer may be required to grant Dell access. If the provider of a Non-Boomi Flow Application ceases to make the Non-Boomi Flow Application available for interoperability with the corresponding Boomi Flow Service features on terms acceptable to Dell, Dell may cease providing those features without entitling Customer to any refund, credit, or other compensation.

15. **General.**

(a) **Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas (with regard to state law contract or tort matters) and Federal law with regard to US government procurement matters, without giving effect to any conflict of laws principles that would require the application of laws of a different state. The parties agree that neither the United Nations Convention on Contracts for the International Sale of Goods, nor the Uniform Computer Information Transaction Act (UCITA) will apply to this Agreement, regardless of the states in which the parties do business or are incorporated.

(b) **Assignment.** Except as otherwise set forth herein, Customer will not, in whole or part, assign or transfer any part of this Agreement, whether licenses or any other rights, interests or obligations, whether voluntarily, by contract, by operation of law or by merger (whether that party is the surviving or disappearing entity), stock or asset sale, consolidation, dissolution, through government action or order, or otherwise without the prior written consent of Dell. Any attempted transfer or assignment by Customer that is not permitted by this Agreement will be null and void.

(c) **Severability.** If any provision of this Agreement, including but not limited to those that limit, disclaim or exclude warranties, remedies, or damages, will be held by a court of competent jurisdiction to be contrary to law, such provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement will remain in full force and effect. The parties agree: (1) they have relied on the damage and warranty limitations and exclusions set forth in this Agreement; (2) they acknowledge the terms represent the allocation of risk as set forth in the Agreement; and (3) they would not enter into this Agreement without such terms.

(d) **Use by U.S. Government.** The Software is a “commercial item” under FAR 12.201. Consistent with FAR section 12.212 and DFARS section 227.7202, any use, modification, reproduction, release, performance, display, disclosure or distribution of the Software or Documentation by the U.S.

government is prohibited except as expressly permitted by the terms of this Agreement. In addition, when Customer is a U.S. government entity, the language in Subsection (ii) of the *Infringement Indemnity* Section of this Agreement will not be applicable.

(e) **Notices.** All notices provided hereunder will be in writing and addressed to the legal department of the respective party or to such other address as may be specified in an Order or in writing by either of the parties to the other in accordance with this Section. Except as may be expressly permitted herein, notices may be delivered personally, and sent via a nationally recognized courier or overnight delivery service. Any legal notice to Dell must be sent simultaneously to Boomi Legal by email to boomilegal@dell.com and mailed by first class mail, postage prepaid. All notices, requests, demands or communications will be deemed effective upon personal delivery or, if sent by mail, four (4) days following deposit in the mail in accordance with this paragraph, or if sent by email, the following business day.

(f) **Waiver.** Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver will be effective only with respect to the specific obligation described therein. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

(g) **Counterparts.** This Agreement and the applicable Order(s) may be executed in one or more counterparts, including by facsimile, electronically, or via scanned copies, each of which will be deemed an original and will constitute one and the same instrument.

(h) **Force Majeure.** Each party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service as a result of causes beyond its reasonable control, including without limitation, acts of God, terrorism, strikes, lockouts, riots, acts of war, epidemics, communication line failures, and power failures, third-party created malware. For added certainty, this Section will not operate to change, delete, or modify any of the parties' obligations under this Agreement (e.g., payment), but rather only to excuse a delay in the performance of such obligations.

(i) **Equal Opportunity.** Dell is a federal contractor and Affirmative Action employer (M/F/D/V) as required by the Equal Opportunity clause C.F.R. § 60-741.5(a).

(j) **Headings.** Headings in this Agreement are for convenience only and do not affect the meaning or interpretation of this Agreement. This Agreement will not be construed either in favor of or against one party or the other, but rather in accordance with its fair meaning. When the term “including” is used in this Agreement it will be construed in each case to mean “including, but not limited to.”

(k) **Entire Agreement.** This Agreement is intended by the parties as a final expression of their agreement with respect to the subject matter thereof and may not be contradicted by evidence of any prior or contemporaneous agreement unless such agreement is signed by both parties. This Agreement and the applicable Order and/or Service Order will constitute the complete and exclusive statement of the terms and conditions and no extrinsic evidence whatsoever may be introduced in any proceeding that may involve the Agreement. Each party acknowledges that in entering into the Agreement it has not relied on and will have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in the Agreement. In those jurisdictions where an original (non-faxed, non-electronic, or non-scanned) copy of an agreement or an original (non-electronic) signature on agreements is required by law or regulation, the parties hereby agree that, notwithstanding any such law or regulation, a faxed, electronic, or scanned copy of and a certified electronic signature on this Agreement or any Order or Service Order will be sufficient to create an enforceable and valid agreement. The terms of this Agreement will control over any conflicting terms and conditions contained in an Order or Service Order, except where this Agreement specifically allows for an Order or Service Order to supersede. Neither this Agreement, nor an Order or Service Order, may be modified or amended except by a writing executed by a duly authorized representative of each party.

Professional Services Addendum

The following Professional Services Addendum (“Addendum”) is only applicable to purchases of Professional Services from Dell Federal Systems L.P. (“Dell”), as defined in the Parties’ Boomi Services Master Services Agreement – Federal Sales (“Agreement”); it does not apply to Customers

who are purchasing only Boomi Services (as defined in the Agreement) – such as the Boomi AtomSphere service.

1. Definitions. Unless otherwise herein defined, capitalized terms used herein shall have the same meaning as in the Agreement.

“Activities” are consulting and/or training services to be performed by Dell pursuant to a Service Order. A “Day” is eight (8) hours. For a “Fixed Price SO,” Project Deliverables are provided for a set fee, regardless of the Time required to perform or create them. A “Project Deliverable” is a discrete task to be completed or item to be created as part of a Fixed Price SO. “Time” is the quantity of Days or hours stated in a T&M SO. A “Time and Materials SO” or “T&M SO” is the SO in which Activities are provided on a per-hour or per-Day basis. A “Workday” is a calendar day during which Dell performs Professional Services.

2. Process. (a) Purchase Orders. Except as otherwise stated in the SO, Customer’s PO for the Professional Services shall also include estimated travel and living expenses, as stated in the fees table of the SO, which shall be included as a separate line item on the PO. Additional Professional Services, however purchased (e.g. PO), are subject to the terms of this Agreement.

(b) Resources. The project team shall be assigned following Dell’s receipt of the SO executed by Customer and Customer’s PO (if required). The Professional Services shall start upon mutual agreement of the parties. Dell shall be responsible to Customer for the acts and omissions of its contractors (if any) in the course of their performance of Professional Services under the SO.

(c) Termination. This section shall supplement Section 6 of the Agreement, on Termination, with regard to Professional Services. In the event that a Service Order is terminated, such termination shall not affect any other pending Orders under the Agreement.

(d) Assumptions and Customer Obligations. Customer will:

- Commit a technical resource, as may be required, to provide Dell with the assistance required to perform the Activities or complete the Project Deliverables.
- Provide Dell consultants with adequate and appropriate accommodations at Customer’s site, as well as access to Customer’s servers, systems and data, as may be required, to perform the Activities or complete the Project Deliverables.
- Provide project team members with suitable business expertise, technical expertise and decision-making authority to ensure efficient project progress.
- On request, provide the Dell project manager with

applicable documentation of Customer's current business practices applicable to the Professional Services to be performed under the SO.

(e) Completion of Project Deliverables. This Section 2(e) applies only to Fixed Price SO's. Following the completion and delivery of the Project Deliverable(s), Dell will notify Customer in writing that the Project Deliverable(s) have been performed or created and delivered. Within 10 calendar days of the delivery of the Project Deliverable(s) to Customer (the "Completion Acknowledgement Period"), if Customer determines that the Project Deliverable(s) have not been completed in substantial conformance with their descriptions in the SO, it will so notify Dell in writing and describe each non-conformance ("Notice of Non-Conformance"). Upon Dell's receipt of a Notice of Non-Conformance, Dell will re-perform or re-create the non-conforming Deliverables and a new Completion Acknowledgment Period will begin upon delivery of the revised Deliverables. If Customer does not provide a Notice of Non-Conformance by the end of the Completion Acknowledgement Period, the Project Deliverables will be deemed completed. Nothing in this Section 2(e) will affect Customer's rights under Section 5 (Warranty).

3. Time. A T&M SO will contain the Time that Dell has estimated in good faith to be required to perform the Activities described in the T&M SO ("Estimated Time"). Dell shall use commercially reasonable efforts to complete the Activities within the Estimated Time; however, Dell does not represent or warrant that it can or shall do so. Dell shall promptly notify Customer if it determines that more Time shall be required to complete the planned Activities and shall not perform Activities beyond the Time without an executed amendment to the T&M SO. Following Customer's modification to the SO, Dell may reallocate the Time stated in a T&M SO among the various resources stated in the fees table of the SO, provided such reallocation does not exceed the Estimated Time set forth therein.

4. Fees and Expenses.

(a) Unless the SO indicates that Travel Expenses are included in the rate or otherwise not chargeable, Customer agrees to reimburse Dell for the travel and living expenses reasonably incurred in the performance of each SO ("Travel Expenses"). Travel Expenses are estimated in the fees table of the SO and, unless stated otherwise in the SO, will be subject to the requirements of the U.S. Government Federal Travel Regulations.

Customer's execution of a SO that includes Travel Expenses constitutes approval for Dell to incur and be reimbursed for Travel Expenses up to the

amount of the estimated Travel Expenses in the SO. No Travel Expenses shall be charged for Time designated as "Remote" in the SO.

(b) Dates Valid. The prices in a SO are valid for Activities performed within one (1) year of the date of Customer's execution of the SO.

(c) Normal Business Hours, Weekends, and Holidays. Unless otherwise agreed by the parties, Professional Services shall be performed Monday through Friday between the hours of 7:00 a.m. to 8:00 p.m. local time ("Normal Business Hours"), excluding weekends and holidays. Under a T&M SO, a Workday is eight (8) hours and equivalent to a Day; however, upon mutual agreement by the parties, Dell may work more than eight (8) hours in a Workday and may work four (4) ten-hour Workdays in a calendar week. For billing purposes under a T&M SO, a Workday on which Dell works ten (10) hours is equal to, and billable as, one and one quarter (1.25) Days; a week in which Dell works four (4) ten-hour Workdays is equal to, and billable as, five (5) Days.

Dell shall only perform Professional Services after Normal Business Hours or on weekend and holiday Workdays if authorized to do so by Customer in writing. Customer requests for Weekend and holiday Workdays must be scheduled at least fifteen (15) days in advance and be for a minimum of one (1) Day. Under a T&M SO, if Activities are performed after Normal Business Hours or on a weekend or Dell holiday Workday, one and one half (1.5) hours shall be charged for each hour outside of Normal Business Hours, one and one half (1.5) Days shall be charged for each weekend Workday on which Activities are performed and two (2) Days shall be charged for each holiday Workday on which Activities are performed.

5. Warranty.

(a) Performance. Dell warrants that the Professional Services shall be performed in a workmanlike, manner and with professional diligence and skill and that the Project Deliverables shall substantially conform to their descriptions in the Fixed Price SO and shall be consistent with applicable Dell product manuals or Documentation. As Customer's exclusive remedy and Dell's sole obligation for any and all breaches of the foregoing warranty, Dell shall, at its option and expense, either re-perform any nonconforming Professional Services reported to Dell, in writing, by Customer within thirty (30) days of the performance of the Professional Services or refund the fees paid for such nonconforming Professional Services.

(b) Right to Perform. Dell warrants that it has all necessary licenses and permits required to perform the Professional Services, Customer's sole and exclusive remedy, and Dell's entire liability for any breach of the warranty in

the preceding sentence, shall be for Dell to perform its obligations under the INFRINGEMENT INDEMNITY Section of the Agreement.

THE EXPRESS WARRANTIES AND REMEDIES IN THIS SECTION 5 ARE THE ONLY WARRANTIES AND REMEDIES PROVIDED IN CONNECTION WITH THE SERVICES, DELIVERABLES AND ACTIVITIES COVERED BY THIS ADDENDUM. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, OR ANY WARRANTY ARISING FROM TRADE USAGE OR COURSE OF DEALING OR PERFORMANCE.

6. License to Service Materials. During Dell's performance of the Professional Services, if Dell creates any documentation, training materials, software scripts or advisory information (the "Materials"), such Materials are solely for use in connection with implementing the Boomi Services during the term of the Agreement and as paid for under Orders and SO's. Dell does not agree to create any intellectual property to be assigned to Customer, and Dell retains ownership of all know-how, ideas, techniques, documentation, and software scripts employed by Dell to help customer as provided in the SO. Upon Dell's receipt of payment for the Professional Services, Customer is granted a non-exclusive, non-sublicensable license to use the Materials, solely for internal business purposes in connection with the use of the Boomi Service during the Customer's paid subscription to it (for example, the AtomSphere service). Each party shall retain ownership of its own Confidential Information. No Customer intellectual property ownership rights are assigned to Dell hereunder and no Dell intellectual property ownership rights are assigned to Customer.