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Document: Global Terms and Conditions of the Vertiv Partner Program (“VPP T&C’s”)

Date: July 31, 2020

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## **Terms and Conditions of the Vertiv Partner Program** (“VPP T&Cs”)

1. Reseller has read, understands and agrees to be bound by these Terms and Conditions of the Vertiv Partner Program (“Program”) as well as Program policies and procedures, which may be implemented or modified by Vertiv and communicated to Reseller from time to time. Reseller understands that the participation in the Program is open only to approved companies (“Reseller”) that resell Vertiv products (“Products”) to end- users.
2. Certain information related to these VPP T&Cs and the Program, including but not limited to pricing, is confidential. All confidential information (i) shall be used solely for the purpose of the Program, (ii) shall not be used for any other reason or purpose, and (iii) shall not be distributed, disclosed or disseminated by Reseller to anyone except its employees and agents with a need to know, who have direct involvement with the Program, that have been informed of the confidential nature of the information, and are bound by a non- disclosure agreement with obligations not less restrictive than those specified herein. Reseller shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the confidential information. Reseller shall not disclose any confidential information while participating in the Program and for a period of five (5) years thereafter. Reseller shall cease use of confidential information and return any confidential information it has in its possession, upon termination of its participation in the Program.
3. Program includes training programs for Resellers. Reseller should encourage its employees who are involved in the resale of Products, to use training material and complete training programs.
4. Reseller understands that the term of Reseller’s participation in the Program is one (1) year, which may be automatically renewed without written prior notification by Vertiv in Vertiv’s discretion.
5. Reseller enters the Program as a reseller and shall purchase Products through Authorized Distributors only. The most current list of Authorized Distributors is located on the Partner Portal accessible at [www.vertiv.com](http://www.vertiv.com). Reseller expressly acknowledges and agrees that Reseller is not authorized to purchase any products directly from Vertiv for the purpose of reselling such products.
6. Reseller may be eligible for rebate incentives or other programs, if any, then in effect, as agreed by Vertiv in Vertiv’s sole and complete discretion.
7. Vertiv reserves the right to amend, modify, or terminate these VPP T&Cs, the Program, or any part thereof, including modifying price or rebate incentives or other programs at any time and for any reason or no reason upon thirty (30) days written notification to Reseller. Reseller may terminate its participation in the Program upon thirty (30) days written notice to Vertiv. In the event Reseller breaches these VPP T&Cs, Vertiv may terminate its participation in the Program immediately upon written notice. If Reseller bids or attempts to bid any service project or Products directly, rather than as a Vertiv reseller, such act will constitute a breach of these VPP T&Cs.
8. Nothing in these VPP T&Cs shall preclude Vertiv from directly marketing, selling, leasing or maintaining any Products with any customer.
9. Reseller acknowledges the validity of all trade names and trademarks of Vertiv (the “Trademarks”) and that it shall NOT have any right to or interest in any Trademarks owned. Reseller agrees to identify Vertiv as the owner of its trade names and trade/service marks in all promotional materials. Vertiv reserves the right to

pre-approve and/or reject all promotional material.

10. These VPP T&Cs, including any price list or schedule, quotation, acknowledgment, and all other documents incorporated by specific reference herein or therein, constitute the complete and exclusive statement of the terms of the agreement governing the Program.
11. Reseller:
- a. shall not represent Vertiv or the Products in a negative, misleading or deceptive manner, which will be determined by Vertiv in its sole and complete discretion;
  - b. shall conduct its business in accordance with the highest business standards;
  - c. shall comply with all applicable laws and regulations, and shall not engage in any activity that would expose Vertiv or any of its affiliates to a risk of penalties under laws and regulations applicable to them, including without limitation the United States Foreign Corrupt Practices Act, laws under the OECD Anti-Bribery Convention, the UK Bribery Act, the Brazil Anticorruption Law, and any other anti-corruption law in any jurisdiction;
  - d. shall not sell Products for use, or act in any manner according to which such Products could be used, in connection with any nuclear, chemical or biological weapons, missile or military activity;
  - e. shall not sell Products for use, or act in any manner according to which such Products could be used in connection with any medical, life-support and related applications. In any case Reseller agrees to communicate Vertiv of any subsequent purchasers or users and to defend, indemnify and hold harmless Vertiv from any claim, losses, suits, judgment and damages, including incidental and consequential damages, arising from such use, whether the cause of action be based in tort, contract otherwise, including allegation that Vertiv's liability is based on negligence or strict liability.
  - f. shall not use the Products in any nuclear and related applications unless it has obtained in favor of Vertiv an indemnity, in the form approved in writing by Vertiv, against any nuclear liability from the owner of the nuclear facility concerned. This requirement applies regardless of whether the Products are for use in the "containment" area of a nuclear facility or the conventional area. If Reseller fails to comply with this clause Reseller indemnifies, holds harmless and defends Vertiv from any claims, losses, suits, judgements and damages, including incidental damages, arising from the use of the Products in the particular nuclear or related application, whether the cause of action be based in tort, contract or otherwise, including allegations that Vertiv's liability is based on negligence or strict liability;
  - g. shall not, and shall take steps to ensure that its principals, shareholders, directors, officers, employees, agents and other persons working on its behalf in connection with these VPP T&Cs ("Related Persons") do not, take any actions pursuant to these VPP T&Cs that might result in:
    - i. the diversion of any Products from the stated destination, end use or end user;
    - ii. the modification or transformation of the Products for uses other than the end use notified to Vertiv;
    - iii. the use, transfer, release, export or re-export of any Products, technology or information in violation of applicable export control and sanctions laws, regulations, or orders, including those of the United States, the United Kingdom and the country of export, as they may be amended from time to time, or the requirements of any licenses, authorizations or license exceptions relating thereto;
    - iv. preparing false documents or making false statements; and
  - h. shall review and comply with all Program policies applicable to Reseller, including but not necessarily limited to the Vertiv Co-branding Guidelines, which are available on the Partner Portal accessible at [www.vertiv.com](http://www.vertiv.com), and all other policies available on such Partner Portal.
12. In contemplation of the warranties and the indemnities set out in clause 11, the Reseller hereby:
- a. agrees that it shall not engage in any activity that would expose Vertiv to a risk of penalties under the laws and regulations of any relevant jurisdiction prohibiting improper payments, including but not limited

- to bribes, to officials of any government or of any agency, instrumentality or political subdivision thereof, to political parties or political party officials or candidates for public office, or to any employee of any customer or supplier; and
- b. represents and warrants that neither it nor any Related Person is now acting or during the term hereof will act in an official capacity for or on behalf of, or is now or during the term hereof will become an officer or employee of, any public international organization or government or of any department, agency, instrumentality or political subdivision thereof, or an official of any political party or a candidate for political office.
13. The relationship of Reseller and Vertiv is that of independent contractors, and not one of principal and agent, or joint venture, or partnership, and neither Reseller nor Vertiv shall have authority to create or assume, on behalf of the other party, any obligation, express or implied, nor to act or purport to act as the agent or legal representative of the other party for any purpose whatsoever.
14. Choice of law is as follows:
- a. For transactions with Resellers located in country where Vertiv has an entity established, these VPP T&Cs shall be governed by the laws of the Country where Vertiv has an entity established by a court with lawful venue and jurisdiction.
- b. For transactions in countries where Vertiv does not have an entity established and with Resellers located in:
- i. South America, these VPP T&Cs shall be governed by the laws of Chile by a court with lawful venue and jurisdiction.
- ii. Central America, these VPP T&Cs shall be governed by the laws of Mexico by a court with lawful venue and jurisdiction.
- iii. North America, these VPP T&Cs shall be governed by the laws of the United States by a court with lawful venue and jurisdiction.
- iv. Europe, Middle East, and Africa, these VPP T&Cs shall be governed by the laws of the United Kingdom by a court with lawful venue and jurisdiction.
- v. Asia, Australia, and New Zealand, these VPP T&Cs shall be governed by the laws of Singapore by a court with lawful venue and jurisdiction.
14. The rights granted to Reseller by these VPP T&Cs are personal to Reseller, unless otherwise specifically indicated herein, and none of Reseller's rights or obligations hereunder may be sublicensed, assigned or otherwise transferred without the prior written agreement of Vertiv, which may be granted or denied in Vertiv's sole and complete discretion. All provisions that by their nature are intended to survive, including but not limited to confidentiality obligations, shall survive the termination of the Agreement.
15. Other incentive or support programs and policies may be introduced, administered, conducted, and enforced separately, in the sole discretion of Vertiv. Vertiv reserves the right to modify prices or product support offerings upon notification to Reseller (including online price notification).
16. Compliance with Laws / Conflicts of Interest.
- a. It is understood and agreed that Vertiv will have the right, in its discretion, to disclose these VPP T&Cs (as it may be amended from time to time) including without limitation prices charged, discounts granted, and commissions paid pursuant hereto, to agencies of the United States government or to agencies of other applicable governments, or other person with which Vertiv transacts business the role of Reseller.
- b. Reseller will respond in reasonable detail to any request from Vertiv, its outside auditors, or its counsel regarding Reseller's compliance with these VPP T&Cs, including allowing inspection of its books and records at any reasonable time after a reasonable request by Vertiv or any person it designates.
- c. Should any of the prohibited activities described above occur Reseller will immediately advise Vertiv in writing of such occurrence, and Vertiv may terminate Reseller's participation in the Program and any

pending orders or existing contracts as void ab initio,

17. and Reseller agrees to indemnify, release and forever hold harmless Vertiv from any claims or losses arising from such prohibited activities and for future compensation under these VPP T&Cs. Limitation of Liability. In no event shall either party have any liability for (a) damages caused by delay in performance, (b) damages in excess of the purchase price paid for the goods or services or (c) indirect, special, incidental, punitive, or economic consequential damages of any kind whatsoever including without limitation, loss of use, data, profit, or revenue, business interruption, or loss or damage to property or equipment, or other economic loss incurred by Reseller as a result of Vertiv's performance or cancellation of this agreement, whether any claim is based upon theories of infringement, warranty, contract, negligence, strict liability, tort or otherwise, even if Vertiv has been apprised of the possibility of such damages.
18. Terms of Sale. To the extent these VPP T&Cs do not address or conflict with such terms, Vertiv's Terms and Conditions of Sale at [www.vertiv.com](http://www.vertiv.com) shall apply to all sales.