



Backup Computing
PO Box 666
Marysville WA 98270
425.268.8019

BACKUP SERVICE AGREEMENT

This Backup agreement is between _____ (both the individual requesting backup services and any other individual or entity on behalf of which such individual is acting) ("You" or "Your") and Templin Computing LLC d.b.a. Backup Computing.

IT IS IMPORTANT THAT YOU READ CAREFULLY AND UNDERSTAND THIS AGREEMENT. BY SIGNING YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE WITH ALL THE TERMS OF THIS AGREEMENT, PLEASE DO NOT SIGN. IF YOU DO NOT ACCEPT THIS AGREEMENT, BACKUP COMPUTING WILL NOT PROVIDE YOU WITH THIS SERVICE.

You agree to the following terms and conditions (the "Agreement") governing Your use of the Backup Computing Datto Backup Device and Service (the "Service"). If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "You" or "Your" shall refer to such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you may not use the Service.

Backup Computing agrees to provide You the Service for any computers You choose to enroll (each "Server"), as described in the Service Agreement in accordance with the following Terms and Conditions.

Terms and Conditions

- Term:** This Agreement is effective upon the date signed, and shall remain in force for a period of one year from the date of delivery of the backup device. The Agreement automatically renews for a subsequent one year term beginning on the day immediately following the end of the Initial Term unless either party gives the other sixty days' prior written notice of its intent not to renew this Agreement.
- Fees:** The client shall pay Backup Computing a monthly fee as detailed in quote or pricing list provided. Fees are payable with 20 days or the end of the month when invoiced. Any adjustments for additional storage or changes will be prorated in the next billing cycle. You shall be liable for all expenses incurred in collecting charges that are in arrears, including reasonable attorneys' fees.
- Taxes.** Client shall be solely responsible for any taxes or similar charges arising out of this Agreement, including all applicable Federal, State or local sales taxes, customs, duties, use taxes, value-added taxes, excise charges or brokerage fees. Client shall also be solely responsible for assessing and remitting payment for any such items to the appropriate authorities.
- Services Provided:** Each customer is provided with an on-site Backup Device (NAS) that acts as a local backup or storage device AND as stand-by server in the event of protected server and/or workstation failure. This server provides:
 - Incremental backups on a continuous basis 24/7/365
 - Redundant Geo-diverse Secure Remote (Off-site) Storage (Geo-diverse not available with Alto backup devices)
 - Ability to locally restore files, file folders, emails or email stores, SQL databases, and SharePoint Servers. Device also can act as a remote file sync and share server.
 - Remote data recovery with the most recent information stored offsite. Includes cloud

virtualization and remote access

(e) Full management, monitoring, and testing of the NAS and remote storage.

(f) Smart Data Transport to best use available internet bandwidth

(g) Data deduplication and compression prior to data storage and transmit using state-of-the-art technology.

(h) Roundtrip Data upload for initial seed drive, available 4 times a year.

(i) One Year Time-Based Retention is used except by specific agreement with the customer.

Time-Based Retention (TBR) is a cloud billing policy where the monthly rate pays for unlimited cloud retention of incremental backups for one (1) year. Under this plan, retention is applied on a rolling basis, with the oldest cloud backups being deleted first. All recovery points are subject to an automatic consolidation of intradaily, daily, weekly and monthly backups. Backup Computing reserves the right to limit or restrict unlimited off-site retention if, as determined by Us or our suppliers, a customer engages in any activity or uses the unlimited off-site retention in a manner that: (i) adversely impacts the supplier; (ii) results in excessive bandwidth or storage usage; or (iii) harms, disrupts, or otherwise diminishes the brands, services, network, or computer systems. Any such use shall be at all times subject to all of the use restrictions and rights set forth in Reseller and End User terms and conditions.

(j) Customer not using TBR are allocated a specific amount of off-site storage. If more storage is required than the customer will be billed for the next incremental increase in storage.

(k) Hardware upgrades will be provided as needed if the clients local data set continues to grow. Clients will be billed a prorated amount to reflect the increased cost of the upgraded hardware.

5. **Leased Equipment:** The Client agrees that the NAS unit utilized by Backup Computing, in the execution of this service shall remain the property of Backup Computing, and must be returned if requested. Client further agrees to cease the use of any technology that remains the property of Backup Computing upon termination of this agreement. If the NAS unit is stolen, damaged or destroyed, the client must pay current market prices at the time of the loss for a replacement unit.

The Hardware and Software provided by Backup Computing and its supplier are the valuable trade secrets and are protected by United States Copyright and other laws, international treaty provisions and applicable laws, including intellectual property, of the country in which it is being used. The Hardware, Software, and Documentation are licensed and not sold to you. Except as licensed in this Agreement, Backup Computing and Datto Inc. retains all right, title and interest in and to the Hardware, Software, and Documentation worldwide.

6. **Ownership of the Data:** The backup data being stored on the Hardware and at the Data Center remains the sole property of the Client. If the Client chooses to terminate services, Backup Computing will assist Client in the orderly termination of services. The Client agrees to pay Backup Computing the actual costs of rendering such assistance.

You warrant that You are the owner or legal custodian of the data transmitted to Datto Cloud Storage pursuant to the terms of this Agreement and that You have full authority to transmit said data and direct its disposition in accordance with the terms of this Agreement.

7. **Data Security:** All data is fully encrypted during transmit off-site and while stored off-site using:

(a) files encrypted with 256-bit AES

(b) Transmittal to off-site remote servers using SSL (Secure Socket Layers) technology

(c) Data stored off-site remains encrypted at all times

8. **Recovery Time Objective (RTO):** Backup Computing will provide all data retrieval activities.

(a) Backup Computing will attempt to resolve access, backup, or retrieval problems over the phone on first call within 24 hours of the first request. We can restore a file, file folder, email or an entire mailbox as needed.

(b) In a disaster, where all equipment is lost, we will have a new NAS imaged, with the most

current backup information and shipped out via next-business day air transportation to a location of your choice. When the NAS arrives, it is ready to be used as a virtual server. There is an additional cost for this service.

(c) The Hardware can also be used to perform a bare metal restore to dissimilar hardware when a new server arrives.

(d) Off-Site Virtualization may be used for up to 30 days per year to virtualize your physical servers and/or workstations.

9. **Catastrophe Service:** In the event of a catastrophe, fees for the "Disaster Recovery Service" will be \$500 plus all applicable freight and shipment costs to deliver new hardware containing the most current data. The monthly fees remain in effect and cover the costs associated with the new Hardware. Customers are allowed to use up to 30 days per year for Off-site virtualization support. After 30 days customers agrees to pay the prevailing costs of continuing this service.
10. **Interference:** The Client shall not, directly or indirectly, during the term of this Agreement and for twelve (12) months following its termination, induce or influence any employee of Backup Computing or any other person or entity to terminate their relationship with Backup Computing.
11. **Equipment and Facilities** The Client agrees that Backup Computing may utilize certain items of The Client's equipment and may gain access to certain parts of The Client's facilities. The Client retains title and ownership in all of The Client's equipment owned by The Client and utilized by Backup Computing, and must grant authority for Backup Computing to access The Client's facility. Facility access may be denied for any reason at any time, however if access to facilities is denied, The Client understands that Backup Computing may be unable to perform their duties adequately and if such a situation should exist, Backup Computing will be held harmless.
12. **Passwords** Backup Computing acknowledges that it must have access to any and all systems and resources to perform their duties under this agreement. As such, it must have access to any and all passwords. Bear in mind that the backup data will always be encrypted and not accessible to anyone who does not have the password. If the encryption password is lost, the backup data will be inaccessible.
13. **Warranty** Backup Computing warrants that the work will be performed to the best of its ability and in accordance with reasonable and customary practices prevailing at the time for its business.
 - (a) As long as the monthly fees are current, the NAS unit is fully warranted and no additional charges will be incurred for hardware failure. Firmware and software updates are also included.
 - (b) The NAS units cannot be modified in any way or the warranty and the management agreements are voided. This includes adding software applications to the NAS itself, adding memory and/or hard drives, etc.
 - (c) NAS replacement parts will be shipped next business day air transportation and prepaid by Backup Computing.
 - (d) ALL WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF QUALITY, DURABILITY, FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY, CONTINUOUS USE, DESIGN, COMPLIANCE WITH APPLICABLE LAW, PERFORMANCE OR ERROR-FREE OPERATION ARE DISCLAIMED IN THEIR ENTIRETY.

This limited warranty gives You specific legal rights, and You may also have other rights, which vary from jurisdiction to jurisdiction. If You believe that the Service does not conform to the warranty described above, contact Customer Service. Backup Computing's exclusive liability and Your sole remedy for breach of this limited warranty shall be either re-performance of the specific service component which failed free of charge or, at Your sole discretion, refund of any

fees paid by You for the period in which the specific service component failed to conform to this limited warranty. Some jurisdictions do not allow the exclusion or limitation of relief, incidental or consequential damages, so the above limitation or exclusion may not apply to You.

14. **LIMITATION OF LIABILITY:** Backup Computing AND ITS LICENSOR'S CUMULATIVE LIABILITY TO YOU AND ALL OTHER PARTIES FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE USE OF THE SERVICE OR ANY FAILURE OR DELAY IN DELIVERING THE SERVICE SHALL NOT EXCEED THE TOTAL FEES PAID BY YOU DURING THE PERIOD OF THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED. Backup Computing AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES, OR FOR LOST PROFITS OR LOST DATA ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICE OR ANY DATA SUPPLIED THEREWITH OR ANY FAILURE OR DELAY IN DELIVERING THE SERVICE, EVEN IF Backup Computing HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

For the purposes of calculating availability, Backup Computing shall not be responsible for failures to provide service for any if the following exclusions exist: (a) Problems caused by resources on the clients network that interfere with the service. (b) Changes made to the client network not communicated to Backup Computing. (c) Loss of internet connectivity to the client site for any reason. (d) Service failures that result from any actions or inactions of the Client contrary to IT Service's recommendations.

Some jurisdictions do not allow the exclusion or limitation of special, incidental, consequential, indirect or exemplary damages, or the limitation of liability to specified amounts, so the above limitation or exclusion may not apply to You.

15. **Acts Beyond Backup Computing's Control:** Backup Computing shall not be deemed to be in breach of this Agreement if its obligations are delayed or prevented by any reason of any act of God, war, fire, natural disaster, accident, riots, acts of government, shortage of materials or supplies, failure of any transportation or communication system, non-performance of any of Your agents or Your third party providers (including, without limitation, the failure or performance of common carriers, interchange carriers, local exchange carriers, internet service providers, suppliers, subcontractors) or any other cause beyond its reasonable control.

16. **Notice of Claim and Filing of Suit:** You must present any claim in writing to Backup Computing within a reasonable time, and in no event longer than sixty (60) days after the event for which the claim is presented. No action may be maintained against Backup Computing for loss, damage or destruction of data transmitted, unless timely written claim has been given as provided above, and unless such action is commenced within nine (9) months after the date on which such written claim delivered in accordance with the foregoing, has been received by Backup Computing.

17. **Confidentiality** Each party shall treat the information received from the other party (without regard to the medium on which such information may be recorded, whether written, visual, audio, graphic, computerized or otherwise) that is designated as confidential ("Confidential Information") as a trade secret and strictly confidential. Backup Computing designates the Deliverables, all information relating to the Deliverables and the financial terms of this Agreement as confidential. Both parties shall: (i) restrict disclosure of Confidential Information to employees and agents solely on a "need to know" basis; (ii) advise employees and agents of their confidentiality obligations; (iii) use commercially reasonable means to comply with the confidentiality obligations of this Agreement; and (iv) notify the other of any unauthorized possession or use of that party's Confidential Information as soon as practicable after receiving notice of same. Notwithstanding the foregoing, neither party shall be obligated to preserve the confidentiality of any information which: (i) was previously known; (ii) is a matter of public

knowledge; (iii) was or is independently developed; (iv) is released for disclosure with written consent; or (v) is received from a third party to whom the information was disclosed without restriction.

Backup Computing may comply with any subpoena or similar order related to data on the server located within a Backup Computing authorized facility, provided that Backup Computing notifies You promptly upon receipt thereof, unless such notice is prohibited by law. You shall pay Backup Computing' reasonable charges for such compliance.

18. **Termination and Additional Remedies** This Agreement may be terminated by The Client upon sixty (60) days' written notice if Backup Computing: (a) Fails to fulfill in any material respect its obligations under this Agreement and does not cure such failure within thirty (30) days' of receipt of such written notice. (b) Breaches any material term or condition of this Agreement and fails to remedy such breach within thirty (30) days' of receipt of such written notice. (c) Terminates or suspends its business operations, unless it is succeeded by a permitted assignee under this Agreement. Backup Computing reserves the right to terminate this agreement with The Client for any reason. If either party terminates this Agreement, Backup Computing will assist Client in the orderly termination of services, including timely transfer of the services to another designated provider. Client agrees to pay Backup Computing the actual costs of rendering such assistance.
19. **No Third Party Beneficiary** Client shall not subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from Backup Computing, and any such attempt shall be null and void. Any dissolution, merger, consolidation, reorganization or transfer of a majority of the assets or stock of Client shall constitute an attempted assignment of this Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
20. **Indemnification** You agree to fully indemnify and hold harmless Backup Computing and its employees and agents for any liability, cost or expense (including litigation expenses and reasonable attorneys' fees) arising out of (i) Backup Computing possession of Your data, or (ii) Your breach of the terms and conditions of this Agreement.
21. **Modification:** Backup Computing may modify any aspect of this Agreement upon 30 days prior notice. Should You wish to terminate the Service as a result of such modification, you may do so by sending a Termination Notice any time prior to the effective date of such modification; no Early Termination Fees will apply. Otherwise such modification will remain in effect for the remaining Term. You acknowledge that you have the authority to enter in to this Agreement on behalf of your company and that you may authorize other individuals to purchase additional services. This Agreement binds any of Your authorized users, as well as your heirs, executors, successors, and assigns and cannot be changed orally.
22. **Jurisdiction:** This Agreement is governed by the laws of the State of Washington, excluding its conflicts of laws principles. You hereby submit to the exclusive jurisdiction of the federal and state courts of the State of Washington; provided, however, that Backup Computing shall have the right to institute judicial proceedings against You or anyone acting by, through or under You, in other jurisdictions in order to enforce Backup Computing's rights hereunder through reformation of contract, specific performance, injunction or similar equitable relief. Each party hereby irrevocably waives any and all rights to a jury trial and any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding relating to this Agreement in Everett, Washington and further irrevocably waives any claim that Everett, Washington not a convenient forum for any such suit, action or proceeding.
23. **Mediation:** Any dispute, claim, or controversy arising out of or relating to the subject matter of this Agreement shall be settled by mediation. The parties will select a mediator in a mutually agreed on manner. At all times during the mediation process, including the selection

of the mediator, the parties will act in good faith to attempt to settle their dispute. At all times during the mediation process, the mediator will maintain impartial, though he/she may give his/her views, opinions or settlement proposals as a means to move the dispute toward resolution. However, the mediator's views, opinions, proposals, etc. shall not be deemed to be legal advice. The parties agree that any settlement agreement that they may enter into during the mediation process is fully binding and enforceable by any Court with jurisdiction of the dispute thereof.

24. **Wholeness:** This Agreement and any supplemental agreements with respect to the Service constitute the entire understanding between Backup Computing and You with respect to subject matter hereof. Terms and conditions as set forth in any purchase order which differ from, conflict with, or are not included in this Agreement, shall not become part of this Agreement unless specifically accepted by Backup Computing in writing.

Signatures of Authorized Representatives

By signing this Agreement, the Parties hereto agree to all terms, conditions and covenants contained herein and that they are authorized to make such decisions for their respective organizations. The Parties acknowledge that this is a legally binding Agreement and the Parties fully acknowledge that they each have accepted this Agreement of their own free will and that the signing of this document was not the result of coercion or duress and that both Parties sought and received, or had the opportunity to seek and receive, the advice of legal counsel, of their choice, prior to signing this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Service Agreement to be signed by their duly authorized representatives as of the date set forth below.

Backup Computing

By: _____

Signature: *M. Paris Templin*

Signature: _____

Name: M Paris Templin

Name: _____

Title: Owner, CEO

Title: _____

Date: _____

Date: _____

Additional Terms Required by Supplier and Associated EULA Agreement

DATTO BCDR Product Content Owner Terms

These Content Owner Terms (“Terms”), including any Exhibits, apply to you as the person or entity that owns, licenses, or lawfully controls the data, files or other content (“Content”) with which a Datto backup and disaster recovery product (“Product”) will be used. Datto does not provide the Product directly to you. The Product is sold and provided by Datto, Inc. or one of its subsidiaries or affiliates (“Datto”) directly to the reseller/managed service provider (“Administrator”) that will use and manage the Product on your behalf with your Content. These Terms apply only if the Product is used and managed by an Administrator other than you. If you access, use or manage the Product yourself, including for support, you must register with Datto as an Administrator of the Product and accept and agree directly with Datto to the Product Terms of Use.

1. RIGHTS TO THE PRODUCT

- A. You acknowledge that Datto and its licensors own all intellectual property rights in and to the Product. You will not engage in or authorize any activity that is inconsistent with such ownership.
- B. The Product may involve the use of third party technology licensed by Datto, the use of which is subject to such third parties’ license or other customer terms. These terms are attached hereto as Exhibit A.

2. DATTO’S RIGHTS AND RESPONSIBILITIES REGARDING CONTENT

- A. Datto’s Use of Content. Datto will use Content only as necessary to provide and support the Product and will not otherwise access Content other than as permitted under the applicable Terms of Use, as described in the Datto Privacy Policy, or as authorized by an Administrator for support. You and any Administrator you appoint are responsible for your Content and the consequences of its use in connection with the Product.
- B. Datto’s Rights. In the event that Datto reasonably believes Content or related Product use violates the Product Terms of Use, may disrupt or threaten the operation or security of any computer, network, system or the Product, or may otherwise subject Datto to liability, Datto reserves the right to refuse or disable access to the Product or Content. Datto may also take such action pursuant to the Digital Millennium Copyright Act and/or as required to comply with law or any judicial, regulatory or other governmental order or request. Datto will use reasonable efforts to contact the Administrator prior to taking such action. Notwithstanding the foregoing, Datto may restrict access to any Product or Content without prior notice as required to comply with law or any judicial, regulatory or other governmental order or request. In the event that Datto takes any such action without prior notice, Datto will provide notice to the Administrator, unless prohibited by law.
- C. Use of Aggregate Data. Notwithstanding anything else in these Terms or otherwise, Datto may evaluate and process use of the Product and Content in an aggregate and anonymous manner, and compile statistical and performance information related thereto (referred to as “Aggregate

Data”). Datto may use and share such Aggregate Data to improve the Products, develop new products, understand and/or analyze usage, demand, and general industry trends, develop and publish white papers, reports, and databases summarizing the foregoing, and generally for any purpose related to Datto’s business. Datto retains all intellectual property rights in Aggregate Data. For clarity, Aggregate Data does not include any personally identifiable information nor identify any Content Owner or individual.

3. ADMINISTRATOR

- A. Datto will interact with the Administrator(s) you authorize to operate and manage use of the Product with your Content. You are not a third party beneficiary of any agreement between Datto and an Administrator.
- B. An Administrator is not an agent of Datto and is not authorized to make any representations or warranties on behalf of Datto regarding the Product or its use.
- C. You are responsible for instructing and authorizing the Administrator with respect to use of the Product including backup settings, management of Content, deletion of Content, and transition of Product or Content to a different Administrator, and transition assistance and cooperation upon termination or expiration of any relationship between or among Administrator, you and/or Datto.
- D. You expressly agree that Datto may rely on the instructions and authorization of the Administrator with respect to use and support of the Product and access and control of your Content.

4. SECURITY

- A. Datto has implemented and maintains physical, technical and administrative measures designed to help secure Content under Datto’s control against accidental or unlawful loss, access or disclosure. However, no password-protected system of data storage and retrieval can be made entirely impenetrable and you acknowledge and agree that despite the reasonable measures employed, the Products and Content are not guaranteed against all security threats or other vulnerabilities.
- B. You acknowledge and agree that the Administrator you authorize to manage use of the Product with your Content has access to and manages your Content. You and/or the Administrator are responsible, and in no event will Datto be responsible, for any physical, administrative, or technical controls related to Products or Content not under the exclusive control of Datto, including but not limited to local Product access, LAN or internet connectivity. You and/or the Administrator are responsible for the proper configuration and maintenance of security measures and for determining the security measures appropriate for the Content, including local encryption of sensitive Content.

5. INDEMNIFICATION

- A. You will defend, indemnify and hold harmless Datto from and against any loss, cost, liability or damage, including attorneys’ fees, for which Datto becomes liable arising from any claim relating to your Content, including if it a) infringes or misappropriates the intellectual property rights or other rights of a third party; b) violates any applicable law; or c) otherwise is in violation of these Terms or the Product Terms of Use.

6. LIMITATIONS OF LIABILITY

- A. THE DATTO PRODUCT, INCLUDING ANY THIRD PARTY COMPONENTS OR TECHNOLOGY, ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DATTO DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY, DATA SECURITY, QUIET ENJOYMENT, TITLE, AND/OR NON-INFRINGEMENT OR ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. DATTO DOES NOT WARRANT THAT THE PRODUCT WILL MEET ANY SPECIFIC REQUIREMENTS OR THAT THE OPERATION OF ANY PRODUCT WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED.
- B. DATTO MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE PRODUCT'S COMPLIANCE WITH LAWS AND REGULATIONS SPECIFICALLY APPLICABLE TO ANY USER OR INDUSTRY AND DISCLAIMS ALL LIABILITY ASSOCIATED THEREWITH.
- C. THE PRODUCT MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER RISKS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. DATTO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.
- D. DATTO DISCLAIMS ANY DUTIES OF A BAILEE, AND YOU HEREBY WAIVE ALL RIGHTS AND REMEDIES OF A BAILOR (ARISING UNDER COMMON LAW OR STATUTE), RELATED TO OR ARISING OUT OF ANY POSSESSION, STORAGE, TRANSMISSION OR SHIPMENT OF CONTENT BY OR ON BEHALF OF DATTO.
- E. TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT WILL DATTO OR ANY DATTO LICENSOR OR SUPPLIER BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR COSTS, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, COSTS OF DELAY, FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR THE COST OF RECREATING THE SAME, EVEN IF DATTO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL DATTO BE LIABLE FOR THE PROCUREMENT OF SUBSTITUTE SERVICES OR PRODUCTS.
- F. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DATTO, ANY RESELLER, ADMINISTRATOR OR OTHER PARTY WILL CREATE ANY ADDITIONAL DATTO WARRANTIES, ABROGATE THE DISCLAIMERS SET FORTH ABOVE OR IN ANY WAY INCREASE THE SCOPE OF DATTO'S OBLIGATIONS HEREUNDER.

StorageCraft MSP SERVICES AGREEMENT MINIMUM CUSTOMER TERMS

TERMS AND CONDITIONS REGARDING USE OF STORAGECRAFT SOFTWARE: This document concerns your use of StorageCraft Technology ("StorageCraft") software provide to you by Datto and Backup Computing (hereinafter referred to as "Company"). Company will provide software services to you as described below, which may include associated media, printed materials, and "online" or electronic documentation, including certain StorageCraft software products that it offers on an MSP basis, including without limitation ShadowSnap® (individually and collectively, the "Licensed Software"). Company does not own the Licensed Software and its use is subject to certain rights and limitations of which Company needs to inform you. Your right to use the Licensed Software is subject to your customer service agreement ("agreement") with Company and your compliance with and consent to the following terms and conditions, which Company does not have authority to alter or amend.

1. **OWNERSHIP OF LICENSED SOFTWARE.** The Licensed Software is licensed to Company by StorageCraft. All title and intellectual property rights in and to the Licensed Software are owned by StorageCraft or its licensors. The Licensed Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Licensed Software does not transfer to you any ownership right to the Licensed Software.
2. **COPIES.** You may not make any copies of the Licensed Software. You must uninstall, erase or destroy all Licensed Software installed on your computer(s) upon termination or cancellation of your agreement with Company, notice from Company, or transfer of your computer(s) to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Licensed Software.
3. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPIATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Licensed Software, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.
4. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Licensed Software to any third party, and you may not permit any third party to have access to and/or use the functionality of the Licensed Software.
5. **TERMINATION.** Without prejudice to any other rights, Company may suspend or terminate your rights to use the Licensed Software if you fail to comply with these terms and conditions. Further, your rights to use the Licensed Software may be suspended or terminated in the event that Company violates its agreement with StorageCraft or that Agreement is otherwise terminated. In the event of suspension, termination or cancellation, the functionality of the Licensed Software may cease, the Licensed Software may deactivate, and/or you may be required to stop using the Licensed Software and destroy all copies of the Licensed Software and all of its component parts.
6. **COOPERATION.** Upon termination of your rights to use the Licensed Software, you will cooperate in: (a) removing or deactivating all copies of the Licensed Software from your computers on which it is installed; and (b) returning or destroying all media containing the Licensed Software.
7. **NO WARRANTIES, LIABILITIES, OR REMEDIES BY STORAGECRAFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES, AND REMEDIES ARE PROVIDED SOLELY BY COMPANY AND NOT BY STORAGECRAFT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU DISCLAIM ALL WARRANTIES BY STORAGECRAFT AND ANY LIABILITY BY STORAGECRAFT OR ITS SUPPLIERS FOR ANY DAMAGES, WHETHER

DIRECT, INDIRECT, OR CONSEQUENTIAL, ARISING FROM THE USE OF THE LICENSED SOFTWARE OR YOUR AGREEMENT OR RELATIONSHIP WITH THE COMPANY.

8. **PRODUCT SUPPORT.** Any product support for the Licensed Software is provided to you by Company and not by StorageCraft.
9. **NO-FAULT TOLERANT.** THE LICENSED SOFTWARE CONTAINS TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE LICENSED SOFTWARE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.
10. **EXPORT RESTRICTIONS.** The Licensed Software is of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the Licensed Software, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.
11. **UNITED STATES GOVERNMENT RESTRICTED RIGHTS RESTRICTED RIGHTS LEGEND.** All StorageCraft products and documentation are commercial in nature. The Licensed Software and associated documentation are "Commercial Items", as that term is defined in 48 C.F.R. section 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as defined in 48 C.F.R. section 252.227-7014(a)(5) and 48 C.F.R. section 252.227-7014(a)(1), and used in 48 C.F.R. section 12.212 and 48 C.F.R. section 227.7202, as applicable. Consistent with 48 C.F.R. section 12.212, 48 C.F.R. section 252.227-7015, 48 C.F.R. section 227.7202 through 227.7202-4, 48 C.F.R. section 52.227-14, and other relevant sections of the Code of Federal Regulations, as applicable, the Licensed Software and documentation are licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained In the end user license agreement.

KROLL EULA

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