

Datto End User Terms

BCDR PRODUCT TERMS OF USE

Updated as of June 2020

BCDR End User Terms

These End User 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 business continuity 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") who will (a) use and manage the Product on your behalf with your Content; and who may also (b) authorize you to access, use or manage the Product yourself, either through the Product interface or through a portal account, in which case you will be considered an additional authorized administrator of the Product.

RIGHTS TO THE PRODUCT

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.

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 end user customer terms.

DATTO'S RIGHTS AND RESPONSIBILITIES REGARDING CONTENT

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 herein, as described in the Datto Privacy Policy, or as authorized by an Administrator for support.

Datto's Rights. In the event that Datto reasonably believes Content or related Product use violates these terms, 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.

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, meaning in such a way that the individual is not or no longer identified or identifiable and compile statistical and performance information related thereto (referred to as "Aggregate Data"). Datto may use, process and share such Aggregate Data with third parties 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 End User or individual.

Right to Change Products. Datto may make changes to its Products through updates and upgrades that offer new features, functionality, and efficiencies ("Enhancements"). Datto reserves the right to add new Products and Enhancements and to replace or discontinue Products or Enhancements at any time.

Right to Interact with Products. You agree that Datto may and you hereby authorize Datto to interact remotely with any deployed Product in order to test, troubleshoot, update, analyze use of or modify the Product or the environment in which it operates.

ADMINISTRATOR

Datto will interact with the Administrator(s) you appoint 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.

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.

You are responsible for instructing and authorizing the Administrator with respect to use of the Product including backup settings, management, retention and 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.

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.

YOUR DIRECT USE OF A PRODUCT

If the Administrator authorizes you to access or use a Product directly, though the Product interface or through a portal account, you are responsible for all actions you take with respect to use of the Product including backup settings and management, retention and deletion of Content and Datto may rely on your instructions as an authorized administrator of the Product.

Any support for the Product is provided to you by the Administrator and not directly by Datto.

SECURITY

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.

You acknowledge and agree that the Administrator you authorize to manage use of the Product on your behalf 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, passwords or other access credentials, 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.

INDEMNIFICATION

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 End User Terms or the applicable Product Terms of Use.

LIMITATIONS OF LIABILITY

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.

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.

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.

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.

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.

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.

SCHEDULE I to BCDR End User Terms - Applicable only to Products using StorageCraft Technology

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 OGL Computer (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.

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.

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.

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.

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.

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.

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.

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.

PRODUCT SUPPORT.Any product support for the Licensed Software is provided to you by Company and not by StorageCraft.

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.

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.

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.

DATTO SAAS PROTECTION TERMS OF USE

Updated as of July 1, 2020

SaaS Protection Client Terms

These Client Terms ("Terms"), apply to you as the entity that owns, licenses, or lawfully controls the content ("Content") in a Datto SaaS Protection product account ("Product"). 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") who will (a) use and manage the Product on your behalf with your Content; or who may (b) authorize you to access, use or manage the Product yourself, in which case you will be considered Client Administrator of the Product.

RIGHTS TO THE PRODUCT

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.

DATTO'S RIGHTS AND RESPONSIBILITIES REGARDING CONTENT

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 herein, as described in the Product Specifications or as authorized by an Administrator for support.

Datto's Rights. In the event that Datto reasonably believes Content or related Product use violates these terms, including any Fair Use policies in the Product Specifications, 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.

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, meaning in such a way that the individual is not or no longer identified or identifiable and compile statistical and performance information related thereto (referred to as "Aggregate Data"). Datto may use, process and share such Aggregate Data with third parties 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 Client or individual.

Right to Change Products. Datto may make changes to its Products through updates and upgrades that offer new features, functionality, and efficiencies ("Enhancements"). Datto reserves the right to add new Products and Enhancements and to replace or discontinue Products or Enhancements at any time.

Right to Interact with Products. You agree that Datto may and you hereby authorize Datto to interact remotely with any deployed Product in order to test, troubleshoot, update, analyze use of or modify the Product or the environment in which it operates.

ADMINISTRATOR

Datto will interact with the Administrator(s) you appoint 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.

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.

You are responsible for instructing and authorizing the Administrator with respect to use of the Product including backup settings, management, retention and 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.

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.

YOUR DIRECT USE OF A PRODUCT

If the Administrator authorizes you to access or use a Product directly, you are responsible for all actions you take with respect to use of the Product including backup settings and management, retention and deletion of Content and Datto may rely on your instructions as an authorized administrator of the Product.

Any support for the Product is provided to you by the Administrator and not directly by Datto.

SECURITY

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.

You acknowledge and agree that the Administrator you authorize to manage use of the Product on your behalf 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 , passwords or other access credentials, 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.

INDEMNIFICATION

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 Client Terms or the applicable Product Terms of Use.

LIMITATIONS OF LIABILITY

THE DATTO PRODUCT, 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.

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.

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.

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.

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.

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.

EUROPEAN DATA PROCESSING ADDENDUM

This European Data Processing Addendum ("DPA") amends the applicable Product Terms of Use for a Datto Product only to the extent the Product is used to Process Personal Data covered under the GDPR.

Definitions

Capitalized words are defined in this section or when first used throughout this DPA or the applicable Product Terms of Use.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity, where "control" refers to the power to direct or cause the direction of the subject entity, whether through ownership of voting securities, by contract or otherwise.

"Controller", "Data Subject", "Processor", "Processing" will have the meaning set forth in Article 4 of the GDPR.

“Data Subject Request” means a request made by or on behalf of a Data Subject to exercise a right for access to, rectification, objection, erasure or other applicable right recognized by the GDPR of that Data Subject’s Personal Data.

“GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and, from the date the United Kingdom may no longer be a member of the European Union, the corresponding data privacy and protection legislation of the United Kingdom.

“Personal Data” means information relating to an identified or identifiable natural person (Data Subject) covered under the GDPR that is directly or indirectly submitted, stored or Processed via use of the Product by Customer, its Affiliates, clients or end users.

“Product” means a Product and all related services provided by Datto that Processes Personal Data covered by this DPA.

“Subprocessor” means a third party that, by reason of its role in performing services on behalf of Datto with respect to Datto’s provision of a Product, may have logical access to Personal Data covered by this DPA.

Effectiveness

This DPA will be effective from the later of the date on which Customer clicks to accept the Product Terms of Use and this DPA or Datto and Customer otherwise agree to this DPA.

In the event of a conflict between this DPA and the Product Terms of Use concerning the subject matter hereof, the terms of this DPA will govern.

Duration of Processing/Term of DPA

This DPA and Datto’s Processing of Personal Data will terminate automatically upon termination of the Product Terms of Use and of any post termination period during which Datto makes Personal Data available for export by Customer, until its final deletion.

Controller/Processor Roles

For purposes of this DPA, the parties agree that Datto is a Processor of Personal Data. This DPA does not apply where Datto is a Controller of Personal Data.

Customer may act either as a Controller or Processor, as applicable, of Personal Data. If Customer is not the Controller of Personal Data, Customer represents and warrants to Datto that Customer has the right and authority to appoint Datto as a Processor and provide instructions to Datto, and such actions have been authorized by the appropriate Controller of the Personal Data.

Customer has sole responsibility for the quality, ongoing accuracy, legality and scope of Personal Data and the means by which Customer acquired Personal Data. Customer represents and warrants that it has sufficient rights and all third party consents as may be necessary and appropriate for the use of the Personal Data with the Product and that its submission of Personal Data to Datto will comply with the GDPR and all applicable laws.

Processing of Personal Data

Datto will Process the Personal Data only on the instructions of Customer, including through Customer’s use and configuration of the features within the Product. Customer instructs Datto to Process the Customer Personal Data (a) to provide the applicable Product and related technical and administrative support consistent with the Product Terms of Use and this DPA; (b) as further instructed via Customer’s use of the Product; and (c) to comply with other reasonable instructions provided by Customer (via email or support tickets) that are consistent with the nature and scope of the Product.

Datto will inform Customer if, in its opinion, an instruction violates the terms of the GDPR.

Subject Matter and Nature of Processing

The subject matter and scope of Processing is Datto’s provision of the Product, including related technical and administrative support (through management portals or otherwise) that is the subject of the Product Terms of Use. Datto will Process Personal Data that is provided directly or indirectly by Customer, its clients or end users to Datto for the purpose of providing the Product that is the subject of the Product Terms of Use.

Data Subject Requests

If Datto receives a Data Subject Request related to the Product, to the extent it is able to do so, and it is legally permitted, Datto will notify Customer and/or direct the Data Subject to make the request directly to Customer.

Customer is responsible for responding to any Data Subject Requests. Taking into account the nature of the Processing, Datto will provide Customer with commercially reasonable assistance in responding to a Data Subject Request, to the extent legally permitted, if such Data Subject Request is reasonably possible consistent with the functionality of the Product and is

required under applicable law. To the extent legally permitted, Customer will be responsible for any costs arising from Datto's assistance.

Duty of Confidentiality

Datto ensures that its personnel engaged in the processing Personal Data have committed to maintain the confidentiality of Personal Data by requiring such personnel to execute written confidentiality agreements.

Data Deletion

Within a reasonable amount of time following expiration or termination of the applicable Product Terms of Use plus any post termination period during which Customer has the ability to export Personal Data, Datto will delete Personal Data. Customer hereby instructs Datto to delete all Personal Data after such period. It is Customer's responsibility to export any Personal Data prior to its deletion.

Personal Data Breach

If Datto becomes aware of and confirms a breach of Datto's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data covered by the GDPR in Datto's custody or control, Datto will, without undue delay, notify Customer and exercise best efforts to mitigate the effects and to minimize any damage resulting from such a security incident.

Customer agrees that an unsuccessful security incident will not be subject to this section. An unsuccessful security incident includes but is not limited to things such as attempts at unauthorized access to Personal Data or to any of Datto's equipment or facilities storing Personal Data, pings and other broadcast attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, denial of service attacks, packet sniffing (or other unauthorized access to traffic data that does not result in access beyond IP addresses or headers).

Datto's obligation to report or respond to a security incident will not be construed as an acknowledgement of any fault or liability of Datto with respect to the security incident. Datto will have no obligation to respond to any incidents caused by Customer or anyone acting with Customer's authorization.

Subprocessing

Customer acknowledges and agrees that Datto Affiliates may be retained as Subprocessors and that Datto and its Affiliates respectively may engage third party Subprocessors as needed to provide a Product. Customer hereby consents to the use of Subprocessors as described in this section.

A current list of Subprocessors for the Product will be available at www.datto.com/subprocessors. Datto will provide prior notification of a new Subprocessor, depending on the Product, by either updating the list of Subprocessors at www.datto.com/subprocessors, providing notice in the applicable Product management portal, and/or offering an email subscription notification option, before authorizing such new Subprocessor to have access to Customer's Personal Data in connection with the provision of the applicable Product.

Customer may reasonably object to Datto's use of a new Subprocessor by notifying Datto promptly in writing, explaining the reasonable grounds for objection, within ten (10) business days following Datto's notice described above. Datto will use commercially reasonable efforts to make available to Customer a change to Customer's configuration or use of the Product to avoid use of the objected to new Subprocessor. If Datto is unable to make available such change within a reasonable period of time, not to exceed thirty (30) days, either party as its sole remedy may terminate the applicable Product Terms of Use with respect only to those services which cannot be provided by Datto without the use of the objected-to new Subprocessor. In such case, Datto will refund any prepaid fees covering the remainder of the term applicable to such Product.

Datto will use only Subprocessors that have executed written contracts with Datto containing obligations that are substantially similar to those of Datto under this DPA. Datto will be liable for the acts and omissions of its Subprocessors to the same extent Datto would be liable if performing the services of each Subprocessor directly under the terms of this DPA.

A Product or Product management portal may provide links or integrations or an API which may be used to facilitate integrations to or from third party products or services ("Third Party Applications"). If Customer elects to integrate with, enable, access or use an API to interact with such Third Party Applications it does so at its own risk and Datto has no responsibility or liability for any Personal Data processed by or through such Third Party Applications. Customer expressly acknowledges and agrees that all enabled Third Party Applications are expressly authorized by Customer and Datto is not a co-processor, subprocessor or controller with respect to any Personal Data processed by or on behalf of Customer through a Third Party Application.

Audit

Datto will cooperate with any Customer audit to verify Datto's compliance with its obligations under this DPA by making available, subject to non-disclosure obligations, third party audit reports, where available, descriptions of security controls and other information reasonably requested by Customer regarding Datto's security practices and policies.

Taking into account the nature of the Processing and the information available to Datto, Datto will provide, at Customer's cost if legally allowed, commercially reasonable cooperation and assistance to Customer regarding Customer's compliance obligations described in Articles 32-36 of the GDPR.

Limitation of Liability

To the maximum extent allowed by applicable law, the total combined liability for both Datto and Customer and any of their Affiliates arising out of or related to this DPA is subject to the exclusions and limitations of liability set forth in the applicable Product Terms of Use. Any regulatory penalties imposed on either party resulting from this DPA will count toward such liability cap.

Security

Datto maintains commercially reasonable technical and organizational measures to protect against accidental or unlawful access, destruction, loss or alteration of Personal Data under its control. Datto may modify such measures, provided that any changes will not result in a material degradation of the security measures.

A Product or Product management portal may make available certain Customer controlled security features, which may include multi-factor authentication, administrative access controls and local encryption. Datto makes available best practices for Customer to adopt to help protect against accidental or unlawful access, destruction, loss or alteration of Personal Data. Customer is responsible for securing Personal Data under its control, including but not limited to properly configuring and using available Customer controlled security features.

Data Center Location of Personal Data

Most Products allow Customer the ability to use a data center located in the European Economic Area ("EEA") or the United Kingdom for Processing of Personal Data. For all such Products, Customer is responsible for using an appropriate data center location in the EEA or the UK. Certain data related to technical and administrative support for a Product or its management portal, for which Datto is generally considered a controller, may be hosted in the U.S. even if Customer uses a data center located in the EEA or the UK.

Governing Law

If Customer is a resident of the United Kingdom, this DPA is governed by the law of England and Wales and is subject to the exclusive jurisdiction of the courts of England and Wales.

If Customer is a resident of the EEA or Switzerland, this DPA is governed by the law of the Netherlands and is subject to the exclusive jurisdiction of the Netherlands.

Notices

Notice to Datto under this DPA should be sent to Datto, Inc., 101 Merritt 7, 7th floor, Norwalk, CT 06851 Attn: Legal Department.

If Customer is not the primary administrator for a Product (for example, a client who purchases a Product from a managed service provider) Customer acknowledges and agrees that Datto will communicate all notices related to this DPA via email or through the Product management portal with the party that is the primary administrator for the Product.

If Customer is the primary administrator for a Product (for example, a managed service provider that manages a Product for its client) Customer acknowledges and agrees that it is responsible for receiving and promptly relaying all notices related to this DPA received via email or through the Product management portal to the appropriate parties, including those notices required by applicable law.

It is Customer's responsibility to maintain current, accurate contact information within the applicable administrative portal for the Product for purposes of facilitating all notices.

General

The terms of this DPA are confidential information of Datto covered by the confidentiality provisions of the applicable Product Terms of Use. Customer agrees not to disclose the terms of this DPA.

Datto reserves the right to modify this DPA, including if different GDPR recognized compliance standards become available, or as needed to maintain compliance with the GDPR or other applicable law, or as needed to maintain compliance with the GDPR or other applicable law.

AUTOTASK® TERMS OF USE FOR DATTO FILE PROTECTION

Last Modified: March 2, 2016

These Terms of Use contain the terms and conditions that govern your access to and use of the Autotask Services and is an agreement between Autotask Corporation (“Autotask” “we,” “us,” or “our”) and you or the entity you represent (“you”). If you are entering into this Agreement for an entity, such as the company you work for, you represent to us that you have legal authority to bind that entity.

1. Definitions.

“**Agreement**” means these Terms of Use, together with Order Forms and such other exhibits as you and Autotask may agree to under the provisions of these Terms of Use from time to time.

“**Ancillary Software**” means any software agent or tool that we make available to you for download for purposes of facilitating your access to, operation of, and/or use with, the Web Services.

“**Autotask Technology**” means: (a) the Autotask and its suppliers’ name, logo, and domain name; the product and service names associated with the Services, including without limitation, Third Party Products; and other related trademarks and service marks; (b) the Content; and (c) other technology, software, APIs, integration solutions and work flows, hardware, websites and infrastructure, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information owned by Autotask or its suppliers.

“**your Champions**” means those individual that are authorized to submit Support Services requests.

“**your Clients**” means a third party organization for whom you provide Managed Services in accordance with this Agreement for such organization’s own internal business use.

“**Confidential Information**” is defined in Section 7.1.

“**Consulting Services**” means implementation, configuration, integration and deployment of the Web Services, custom development, customizations, training, project management and other consulting services.

“**Content**” means the audio and visual information, documents, software, products, and services contained or made available by us to you through the Web Services.

“**Customer Data**” means any data, information, or material you or any User or Client provides or submits through the Web Services.

“**including,**” “**include,**” and their variants means including without limitation.

“**Independent Customer Activity**” means: (i) use of equipment by you not provided or previously approved by us; or (ii) negligent acts or omissions or willful misconduct by you, your Users, or your Clients.

“**Internet Unavailability**” means your inability to access, or our inability to provide, the Web Services through the Internet due to causes outside of our direct control, including, but not limited to: (i) failure or unavailability of Internet access; (ii) unauthorized use, theft or operator errors relating to your telephone, cable or Internet service provider; (iii) bugs, errors, configuration problems or incompatibility of equipment or services relating to your computer or network; or (iv) failure of communications networks or data transmission facilities.

“**IPRs**” means ideas and inventions (patentable or not), patent applications, patents, rights in inventions, design rights, database rights, copyrights, trademarks, service marks, trade names, domain names, know-how, show how, trade secrets, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

“**Licenses**” means the limitation on the usage of the Web Services as designated and/or defined in the applicable Order Form by a term such as the number of named users, managed devices or endpoints and the like.

“**Managed Services**” means the managed services provided by you to Clients through your use of the Web Services.

“**Order Form(s)**” means the form executed by the parties under these Terms of Use, specifying, among other things, the Services purchased, , number of Licenses and other services contracted for, the applicable fees, the billing period, and

other charges as agreed to between the parties. The Order Form may be referred to as a "Statement of Work" if you are purchasing only Consulting Services.

"Services" means collectively Web Services, Support Services and Consulting Services.

"Service Level Agreement" means the service levels that we offer with respect to the Web Services and associated Support and post on our website, as they may be updated by us from time to time.

"Support Services" means (i) the technical support and workarounds so that the Web Services operate in material conformance with the User Guide, and (ii) the provision of updates thereto, if and when available, all of which are provided under Autotask Support policies (as may be amended by us from time to time) in effect at the time the Support Services are provided. For the avoidance of doubt, updates include bug fixes, patches, error corrections, minor and major releases, non-new platform changes, or modifications or revisions that enhance existing performance. Updates exclude new products, modules or functionality for which Autotask generally charges a separate fee.

"Term", "Initial Term" and "Renewal Term" are defined in Section 11.1.

"Third Party Products" means extensions of and add-ons to the Web Services which you purchase from us but that are not owned by us, such as integrations to third party applications, web-based integration platforms, third party software, or links made available through the Web Services.

"User Guide" means the online documentation for the Web Services, as we provide and update it from time to time.

"Users" means a natural person that is authorized by you to use the Web Services who has been supplied User IDs and passwords by you (or by us at your request) and who is (a) your employee, or (b) your individual contractor.

"Web Service(s)" means the online, web-based application(s), including Third Party Products if any, and Content accessible via Autotask's website, and/or other websites designated by Autotask, that are ordered by you under an Order Form, including associated Ancillary Software and other offline components and Support Services.

"Wireless Network Interruption Factors" means any wireless network outages or constraints that may occur due to the availability of the wireless network being temporarily refused, interrupted, curtailed or otherwise limited by factors including but not limited to atmospheric, environmental or topographical conditions, physical features such as buildings, tunnels or landmass features, satellite or transponder failure, coverage limitations, outages, gaps or other service interruptions attributable to the wireless network carrier or its network, including the wireless network carrier's scheduled maintenance, capacity constraints, hostile network attacks by a third party that are directly attributable to the network's vulnerabilities or wireless network provider facilities changes, modifications, updates, relocations, repairs, maintenance or other similar activities necessary for the proper or improved operation of the wireless network.

2. Services.

2.1 Web Services Trials. We may offer free trials for all or parts of the Web Services on a limited basis for a limited period ("**Trial Services**"), commencing on the date that your application for a free trial is accepted by us ("**Trial Period**"). Notwithstanding any provision in the Agreement to the contrary, your right to use the Trial Service on a trial basis is solely for your internal evaluation purposes and not for production use. We provide no implementation services or other Consulting Services, Service Level Agreement, or Support Services with respect to Trial Services. The Trial Service is provided "AS IS" and "AS AVAILABLE" during the Trial Period without warranty of any kind and Sections 2.5, 2.6, 2.7, 2.8, 5, 8, and 9.1 below do not apply to such Trials. Before your free Trial Period expires, we may contact you and invite you to purchase Services and submit an Order Form. If you do not purchase Web Services, your access to the Trial Service shall be terminated by us, without notification, any liability or other obligation on our part. If you do not purchase Web Services, the Agreement will terminate upon expiry of the Trial Period.

2.2 Services Generally. Subject to your compliance with the Agreement and timely payment of the applicable fees, we shall provide the implementation services and other Consulting Services and make the Web Services and associated Support Services available to you and your Users in accordance with the Service Level Agreement and pursuant to these Terms of Use and the applicable Order Form during the Term.

2.3 Environment. We will provide you and your Users online access to and use of the Web Services via the Internet by use of an Autotask-approved customer-provided browser. The Web Services will be hosted on a server that is maintained by Autotask or its designated third party supplier or data center.

2.4 Changes. Access is limited to the version of the Web Services in our production environment. We regularly update the Web Services and reserve the right to discontinue, add and/or substitute functionally equivalent features in the event of product unavailability, end-of-life, or changes to software requirements. We will notify you of any material change to or discontinuance of the Web Services. To the extent not automatically implemented by us, you are required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, "Updates") necessary for the proper function and security of the Web Services, including for the Ancillary Software, as they are generally released by us. We are not responsible for performance or security issues encountered with the Web Services that result from your failure to accept the application of Updates that are necessary for the proper function and security of the Web Services. The Web Services may include Third Party Products. You understand that we have no control over the Third Party Products and that your ability to access and use the Third Party Products may be suspended or terminated at any time, for any reason, at the third party service provider's discretion.

2.5 Security; Back-Ups. We will implement reasonable and appropriate measures designed to help you secure Customer Data against accidental or unlawful loss, access or disclosure.

2.6 Storage Space. We shall provide storage space for your use of the Service up to the amount set forth on the applicable Order Form. Additional storage space, if required, is subject to additional charges at our then prevailing rates.

2.7 Service Availability. We shall use commercially reasonable efforts to make the Web Services generally available 99.9% of each calendar year ("**Service Availability**"). Service Availability does not include interruption of Web Services as a result of (i) planned downtime for maintenance (ii) Internet Unavailability, (iii) Wireless Network Interruption Factors, (iv) Independent Customer Activity or (v) force majeure events or other events that are not under our control, such as down periods resulting from misuse by Users (e.g., an unapproved hack or denial of service attack initiated by a User); and/or illegal third-party activity (e.g., virus attack or network intrusion attempts). Service Availability and the Service Level Agreement do not apply to Third Party Products.

2.8 Support Services. We shall provide the level of Support specified in the Order Form for the Web Services. Support is provided solely to the number of named Champions set forth on the Order Form. We will provide such Support under Autotask's support policies in effect at the time the Support Services are rendered, as described in the Service Level Agreement. We are under no obligation to provide Support with respect to: (i) Web Services that have been altered or modified by anyone other than Autotask or its licensors; (ii) Web Services used other than in accordance with the User Guide; (iii) discrepancies that do not significantly impair or affect the operation of the Web Services; (iv) errors or malfunction caused by your or your Client's failure to comply with the minimum system requirement documentation as provided by us or by your or your Client's use of non-conforming data, or (vi) errors and malfunction caused by any systems or programs not supplied by us. With respect to Third Party Products, our Support obligations are limited to using commercially reasonable efforts to obtain Support from the third party provider.

2.9 Support Incident. Autotask defines a support incident as a specific and documented request for assistance regarding the proper operation of the Web Services submitted to our Product Support. An incident may be submitted via phone, Client Access Portal, or e-mail. Autotask provides unlimited support incidents for all customers for a minimum 45 days from the start of the Initial Term of the Web Service. Some Support packages allow for greater periods of access to unlimited support incidents and are described on the applicable Order Form. After this initial period of unlimited support incidents, your account is allotted a pre-determined amount of support incidents annually, based on your package. These incidents are decremented as you utilize our Support services. If it is determined that your support incident is related to a bug in our software, your bank of incidents will not be decremented. Autotask Support has the sole discretion of what constitutes a support incident.

2.10 Consulting Services. We will perform the mutually agreed upon Consulting Services described in one or more Order Forms, as we may mutually agree to in writing from time to time. Either party may propose a change order to add to or change the work ordered in the Order Form. Each change order shall specify the change(s) to the Consulting Services or deliverables, and the effect on the time of performance and on the fees owed to Autotask, due to the change. Once executed by both parties, a change order shall become a part of the Order Form.

3. Using the Web Services.

3.1 Order process. During the ordering process, you will be required to confirm acceptance of Order Form(s). At any time after execution of the initial Order Form, you may purchase additional Services or otherwise expand the scope of Services granted under the original Order Form, upon our receipt and acceptance of a new Order Form specifying the foregoing. The Web Services may allow you to add Licenses without submitting an additional Order Form. Such additional Licenses are subject to payment of applicable fees in accordance with section 3.3 below.

3.2 Authorized Use. Access to and use of the Web Services is restricted to your Users, who must be your employees or contractors. Your right to use the Services is limited to managing and monitoring your own internal business operations,

and/or, providing Managed Services to your Clients with respect to their managed devices. For the avoidance of doubt, and except for those components of the Web Services that are designed to be accessible to your Clients, your Clients obtain no right to use the Web Services, only the services you provide.

3.3 Additional Licenses. Any Licenses added beyond the quantity provided in the original Order Form shall continue, and associated fees are due, for the remainder the then current Term. The Licenses, including those added after the original Order Form, may not be decreased during the relevant Term. Additional Licenses, if any, are prorated for the remainder of the then-current Term of the applicable Order Form and shall be at our then prevailing rates, unless otherwise provided in the Order Form.

3.4 Application Guidelines. You shall not and you shall cause your Users and Clients to not: (a) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (b) send or store any material which is infringing, obscene, threatening, libelous, unlawful, tortious, harmful, violates third party rights, or which we otherwise reasonably deem objectionable; (c) send or store material with any virus, worm, or other harmful computer code; (d) interfere with or disrupt the integrity or performance of the Services in whole or in part; (e) attempt to gain unauthorized access to the Web Services or Support Services or any other system or network; or (f) take any steps to avoid or defeat the purpose of security measures associated with the Services, such as sharing of login and password information, or attempt to circumvent any use restrictions. You may not use the Web Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes, and may not disclose any information related to such prohibited activities.

4. Your Responsibilities

4.1 Cooperation. You shall provide us with all reasonable cooperation and necessary access to such information as may be required by us in order to render the Services, including without limitation Customer Data, security access information and configuration services.

4.2 Customer Data. You have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

4.3 Your Equipment and Infrastructure. You are solely responsible for procuring and maintaining network connections and telecommunications links from your systems to our data centers, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

4.4 Other Security. You are solely responsible for (a) issuing appropriate passwords for Users or asking us to do so on your behalf; (b) using commercially reasonable efforts to prevent unauthorized access to or use of the Web Services in whole or in part; (c) notifying us promptly of any actual or suspected unauthorized access/use; (d) not impersonating another User or providing false identity information for any purpose.

4.5 End-Users violations. You shall ensure that all use the Web Services is in accordance with these Terms of Use and be responsible for any breach of the Agreement by users and all activities that occur under User accounts. If you become aware of any violation of your obligations under the Agreement by a User, you will immediately terminate such User access to the Customer Data and/or the Services.

4.6 Your Clients Services. You are solely responsible for all Managed Services you provide and associated expenses. You are responsible for providing customer service (if any) to your Clients. We do not provide any support or services to your Clients unless we have a separate agreement with you or a Client obligating us to provide support or services.

4.7 No Greater Warranty; Business Conduct. If you are using the Web Services to provide Managed Services, you undertake that (i) will not make or publish any false or misleading representations, warranties, or guarantees concerning the Web Services that are inconsistent with any warranties made by Autotask concerning the Web Services and (ii) will at all times conduct business in a manner that reflects favorably on the Web Services, and the good name, goodwill, and reputation of Autotask and its affiliated companies.

4.8 Other obligations. In addition to your other obligations, you are solely responsible for: (a) determining whether the Services shall meet your needs; (b) abiding by all applicable local, state, national, and foreign laws, treaties and regulations, including those related to data privacy, communications, and the transmission of technical or personal data; (c) your Champions and Users completing all required training; (d) complying with your responsibilities under the Service Level Agreement. Further, your use and access to Third Party Products may be subject to terms of use that you will need to agree to prior to use. You are responsible for reviewing and complying with such terms of use.

5. Financial Terms.

5.1 Fees and Charges Generally. You will pay us the applicable fees and charges using one of the payment methods we support. If you are paying by credit card, you authorize us to charge your credit card or bank account for all fees payable during the Term. You further authorize us to use a third party to process payments, and consent to the disclosure of your payment information to such third party. All amounts payable under the Agreement will be made without setoff or counterclaim, and without any deduction or withholding. Except as otherwise expressly specified in the Order Form, all recurring fees payment obligations start from the execution of the Order Form and are payable in advance. All fees are payable in the currency specified in the Order Form, are due upon receipt of invoice and are non-refundable and non-cancelable. With at least 90 days' notice to you, we reserve the right to increase prices no more than once per every twelve months. We may charge you interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all late payments.

5.2 Consulting Services. Consulting Services may be provided on a time and materials ("T&M") basis at our T&M rates in effect at the time the Consulting Services are performed or on a fixed fee basis, as indicated in the Order Form. On a T&M engagement, if an estimated total amount is stated in the applicable Order Form, that amount is solely a good-faith estimate for your budgeting and our resource scheduling purposes and not a guarantee that the work will be completed for that amount. Fees are based on Consulting Services provided during our normal business hours, Monday through Friday, 8:30 a.m. – 5:30 p.m. local time (our holidays excluded), as we may modify upon notice to you. Consulting Services we provide outside of our normal business hours will be subject to a premium service charge. Hours of Consulting Services purchased must be used within and prices quoted are valid for six months from the purchase date, unless otherwise specified on the Order Form. Hours that are not used or have expired are non-refundable.

5.3 Out of Pocket Expenses. You will reimburse us our reasonable cost for all expenses incurred in connection with Services we perform on your site.

5.4 Taxes. All fees and charges payable by you are exclusive of applicable taxes and duties, including sales tax, VAT, GST, and other applicable sales tax, other than tax on Autotask income. You will provide us any information we reasonably request to determine whether we are obligated to collect VAT from you, including your VAT identification number. If you are legally entitled to an exemption from any sales, use, or similar transaction tax, you are responsible for providing us with legally-sufficient tax exemption certificates for each taxing jurisdiction. We will apply the tax exemption certificates to charges under your account occurring after the date we receive the tax exemption certificates. If any deduction or withholding is required by law on Autotask income, you will notify us and you will provide us with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

6. Proprietary Rights.

6.1 Limited License. Your right to use the Web Services is non-exclusive, revocable, personal and non-transferable. With respect to Ancillary Software, we grant you the non-exclusive, non-assignable, limited right to download, install and use the Ancillary Software on the number of computers or multiple mobile devices specified solely to facilitate your access to, operation of, and/or use of the Web Services, subject to the terms of this Agreement and the Order Form. Your right to use such Ancillary Software will terminate upon the end of the Web Services associated with the Ancillary Software.

6.2 Reservation of Rights. We and our licensors own all right, title, and interest, including all related IPRs, in and to the Autotask Technology, the Content, the Services, and any Feedback (as defined in section 6.5), except Customer Data. Except for the express license granted herein, we grant no license or other right to you or any User or Client; all such other rights are expressly reserved to us. The Autotask® name and logo are registered trademarks of ours. The product names associated with the Services are trademarks of ours or our licensors, and you have no right or license to use them without our written permission. You shall not challenge any ownership or other right with respect to the Services or any IPR.

6.3 Restrictions. Other than as expressly set forth herein, you shall not (and you shall not knowingly permit any User or Client to do any of the foregoing):

(a) license, sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make available to any third party the Web Services, Ancillary Software or the Content in any way; (b) use the Web Services for the provision of any services, other than the Managed Services, for the benefit of any third party (c) modify, alter, tamper with, copy or create derivative works based on the Web Services or Autotask Technology in whole or in part; (d) "frame" or "mirror" any Content, other than on your own intranets or otherwise for your own internal business purposes; (e) obliterate, alter, or remove any proprietary or intellectual property notices from the Web Services or Content; (f) disassemble, reverse engineer, or decompile the Services, Third Party Products or any Autotask Technology, or (g) access the Services or Content or Autotask Technology to: (x) build a competitive product or service, (y) build a product or service using any similar idea, feature, function, or graphic of the Service or Third Party Products, or (z) copy any idea, feature, function, or graphic of the Web Services or Third Party Products.

You should assume that everything you see or read on the Service that was not furnished by you (such as images, photographs, illustrations, text and other materials) is copyrighted unless otherwise noted. You may not sell, reproduce, distribute, modify, display, publicly perform, prepare derivative works based on, repost, or otherwise use any of the Content in any way for any public or commercial purpose unless you have the necessary rights to do so as specified herein or you have obtained the prior written consent of Autotask. You may not use the Content on any other website or in a networked computer environment for any purpose except as permitted in writing by Autotask.

6.4 Customer Data. You own all Customer Data. However, you agree that we and our suppliers may access User accounts, including Customer Data, for example, to respond to service or technical problems or at your request. We may monitor use of the Web Services by all of our customers and we and our suppliers may compile, use and disclose without restrictions data so gathered and Customer Data in aggregate and anonymous form only. You further understand and agree that your use of certain Third Party Products may require the storage and processing of the Customer Data by the third party supplier.

6.5 Suggestions. You grant Autotask a paid-up, worldwide, irrevocable license to use or incorporate into the Services any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or your Users during the term of this Agreement relating to the operation of the Services ("Feedback"). Without limiting the generality of the foregoing, if you would like to provide Feedback about the Services, you can use the Autotask Community component of the Service for this purpose. You acknowledge and agree that Feedback is not your Confidential Information.

7. Confidentiality.

7.1 Confidentiality. "Confidential Information" means all information of a party ("**Discloser**") disclosed to the other party ("**Receiver**"), whether orally or in writing, that is designated as confidential. For the avoidance of doubt the terms and conditions of the Order Form, the Services and their components, the Autotask Technology and technology and technical information, product designs, and business processes of Autotask or its licensors are our Confidential Information and the Customer Data is your Confidential Information. However, Confidential Information shall not include any information that: (a) is or becomes generally known to the public without breach of any obligation by Receiver; (b) was known to Receiver prior to its disclosure by Discloser; (c) was independently developed by Receiver without reliance on any Confidential Information of the Discloser; (d) is received from a third party without a known duty of non-disclosure to Discloser; or (e) is required to be disclosed by law or a governmental body or court, but in such case Receiver shall reasonably cooperate with Discloser, at Discloser's expense, to limit such disclosure. Without Discloser's prior written consent or as set forth in this Agreement, Receiver shall not disclose or use any Confidential Information of Discloser except on a "need to know" basis to use the Services. Receiver shall use all reasonable security measures to protect the confidentiality of Discloser's Confidential Information.

7.2 Return. If requested in writing, the Recipient shall return (to the extent technically feasible without undue cost or expense) all of the Discloser's Confidential Information then in the Recipient's possession or control. Notwithstanding the foregoing, the return of Customer Data shall be governed by the terms of Section 11.5.

8. Warranties.

8.1 Warranties.

- (a) Each party represents and warrants that it has the legal power to enter into the Agreement.
- (b) You represent and warrant that all information you provide us is and shall be true and correct and that you have the right to use and share with us and our suppliers the Customer Data.
- (c) We warrant that (i) the Web Services, as updated by us and used in accordance with the User Guide, shall perform substantially in accordance with our User Guide under normal use and circumstances and that (ii) the Support services and Consulting Services shall be performed in a manner consistent with general industry standards reasonably applicable to the provision thereof.

8.2 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1, WE MAKE NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE SERVICES, CONTENT AND ANY RELATED INSTALLATION, CONFIGURATION, MAINTENANCE OR OTHER SUPPORT SERVICES, EXPRESS OR IMPLIED, AT LAW OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE FOREGOING WE MAKE NO PROMISE: (A) AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY, OR COMPLETENESS OF THE SERVICES OR ANY CONTENT, (B) AS TO ANY THIRD-PARTY PRODUCTS, WHICH ARE PROVIDED STRICTLY ON AN "AS IS" AND "AS AVAILABLE" BASIS (C) AS TO ANY THIRD PARTY PROVIDER OR ANY OF ITS PRODUCTS OR SERVICES, WHETHER OR NOT WE MAY HAVE DESIGNATED IT OR ITS PRODUCTS OR SERVICES AS "CERTIFIED," "VALIDATED," OR OTHERWISE; (D) THAT THE USE OF THE SERVICES SHALL BE SECURE, UNINTERRUPTED, OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (E) THAT

THE SERVICES SHALL MEET YOUR REQUIREMENTS OR EXPECTATIONS. THE SERVICES MAY CONTAIN LINKS TO OTHER WEBSITES OR RESOURCES. THE INCLUSION OF ANY LINK ON THE SERVICE DOES NOT IMPLY THAT AUTOTASK ENDORSES THE LINKED WEBSITE. YOU USE THE LINKS AT YOUR OWN RISK. AUTOTASK IS A DISTRIBUTOR (AND NOT A PUBLISHER) OF CONTENT SUPPLIED BY THIRD PARTIES AND USERS OF THE SERVICE. AUTOTASK HAS NO EDITORIAL CONTROL OVER SUCH CONTENT. YOU UNDERSTAND AND ACKNOWLEDGE THAT AUTOTASK DOES NOT MONITOR CONTENT FOR ACCURACY OR RELIABILITY. WE RESERVE THE RIGHT TO UPDATE, REPLACE OR REMOVE CONTENT IN OUR DISCRETION.

9. Indemnification.

9.1 Indemnification by Us. We shall defend, indemnify, and hold you, your affiliates, and each of their officers, directors, employees, and agents (collectively, "**Customer Indemnitees**") harmless from and against all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs, whether incurred as the result of a third party claim or a claim to enforce this provision) (collectively, "**Losses**") made or brought against a Customer Indemnitee by a third party alleging that the Web Services, as updated by us from time to time and used in accordance with the terms of the Agreement infringe a U.S. patent, copyright or trademark, except that we shall have no such obligation for any infringement claim to the extent caused by (i) any modification or alteration of the Web Service not performed by us, (ii) any combination of the Web Service with any product, service, hardware, or business process not supplied by us, including without limitation Managed Services; (iii) Content or (iv) Third Party Products or third party providers products and services, including without limitation any information, design, specification, instruction, software, data, or material not furnished by us, or any material from a third party portal or other external source that is accessible to you within or from the Services (e.g., a third party Web page accessed via a hyperlink). This Section 9.1 shall be Customer Indemnitees exclusive remedy and our sole liability if there is any claim that the Web Services infringe or violate any IPR.

9.2 Indemnification by You. You shall defend, indemnify and hold us, our licensors, and our and their respective parents, subsidiaries, affiliates, officers, directors, employees, and agents (collectively, "**Autotask Indemnitees**") harmless from and against any and all Losses arising out of or in connection with a third party claim concerning (a) the Managed Services or the Customer Data or the combination of the same with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by the Managed Services, the Customer Data or by the use, development, design, production, advertising or marketing of the same; (b) any and all losses, including without limitation, data loss or damage to hardware, software and other property arising from your acts and omissions in your use of the Services; (c) your use of the Services in violation of the terms of this Agreement or applicable law; (d) a dispute between you and any of your Users or Clients or (e) Independent Customer Activity.

9.3 Mutual Obligations. A party's indemnification obligations are subject to the following (a) the indemnified party gives written notice of the claim promptly to the indemnifying party; (b) the indemnified party gives the indemnifying party sole control of the defense and settlement of such third party claim; (c) the indemnified party provides the indemnifying party, at the indemnifying party's expense, all reasonable information and assistance in connection with such third party claim; and (d) the indemnifying party may not settle such third party claim unless such third party unconditionally releases any applicable indemnified party from all liability.

10. Limitation of Liability.

10.1 Limitation of Liability. OTHER THAN FOR OUR INDEMNIFICATION OBLIGATION UNDER SECTION 9.1, IN NO EVENT SHALL OUR AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY EXCEED THE AMOUNTS ACTUALLY PAID BY YOU IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO YOUR CLAIM. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE, COST OF COVER, OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE SERVICES, CONTENT, OR ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, EVEN IF WE HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF THE BASIS OF ANY CLAIM, E.G., WARRANTY, TORT, CONTRACT, OR STRICT LIABILITY.

10.2 Acknowledgement. You acknowledge that: (a) this Section 10 is reasonable given the cost of the Services; (b) this Section 10 applies even if a remedy fails of its essential purpose; (c) all your claims are subject to the damages limitation in this Section 10; and (d) the 12-month calculation shall be made only once regardless of the number of claims arising out of or related to the Agreement and regardless whether they exceed the amounts actually paid by and due from you hereunder in the 12 months preceding your first claim.

10.3 Limitation of Action. Except for actions for non-payment or for violation or misappropriation of a party's IPRs, no action (regardless of form) arising out of the Agreement may be commenced by a party more than 2 years after the facts giving rise to the cause of action have occurred.

11. Term and Termination.

11.1 Term of Services. The initial term of each of the Web Services is specified in the Order Form (“**Initial Term**”) and shall automatically renew for the same length as the Initial Term (“**Renewal Term**”) unless either party gives written notice 45 days prior to the end of the Initial Term or any Renewal Term of its intention to terminate the Web Services described in the applicable Order Form. The Initial Term and Renewal Terms are referred to as the “**Term**”. Other than as expressly set forth herein, you may not cancel the Web Services without our written consent.

11.2 Termination for Cause. A party may terminate this Agreement, including all Order Forms: (a) upon 45 days’ written notice of a material breach by the other party if the breach remains uncured at the expiration of such period, except for breach of payment obligations which shall have a ten (10) day cure period; and (b) if the other party becomes insolvent or the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If we terminate for your payment default, you agree to pay to us, in addition to fees accrued through the date of termination, the remaining value of the then-current Initial or Renewal Term (that you acknowledge as liquidated damages reflecting a reasonable measure of actual damages and not a penalty) equal to the recurring fees (as set forth in the Order Form) that will become due during the canceled portion of such Initial or Renewal Term.

11.3 Partial Termination. Where a party has rights to terminate, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable Order Form. Order Forms that are not terminated shall continue in full force and effect under the Terms of Use.

11.4 Suspension. We shall be entitled to suspend any or all performance upon 10 days written notice to you in the event you are in breach of the Agreement (and not cured within 5 business days of such written notice), including without limitation breach of the payment terms set forth in the Order Form. Further, we may suspend your access and use of the Services if, and so long as, in our sole judgment, there is a security risk created by you that may interfere with the proper continued provision of the Web Services or the operation of our network or systems. We may impose an additional charge to reinstate Web Services following such suspension, in addition to the regular fees for the period of suspension.

11.5 Return of Customer Data. As soon as practicable following your written request and payment of all amounts you owe to us, so long as you are not in breach of this Agreement, we shall provide you, to the extent technically feasible without undue cost or expense, a file, in a standard format, containing Customer Data in our possession or under our control, in such form as it exists on the date of termination or expiration of the Web Services. Notwithstanding anything in the Agreement or otherwise, we shall have no obligation to maintain or provide any Customer Data more than 30 days after termination or expiration of the Web Services for any reason. Thereafter, we may delete all Customer Data in our possession or under our control, provided, however, we may retain a copy for archival purposes. We reserve the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer Data immediately ceases, and we shall have no obligation to maintain or forward any Customer Data.

11.6 Survival. The following provisions shall survive termination of this Agreement: Sections 1, 5, 6.2, 6.4, 6.5, 7, 8.2, 9, 10, 11 and 12 of this Agreement.

12. General Provisions.

12.1 Relationship. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

12.2 Assignment/No Benefit to Others. You may not assign or sublicense any of your rights or obligations hereunder, whether by operation of law or otherwise, without our prior express written consent. Any assignment not in accordance with this Section shall be void and shall entitle us to immediately terminate the Agreement. The Agreement shall bind and inure to the benefit of the parties, their respective successors, and permitted assigns. There are no third party beneficiaries to this Agreement. All representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the parties and their respective successors and permitted assigns. Notwithstanding the above, the parties acknowledge that all rights and benefits afforded to Autotask under the Agreement shall apply equally to the owner of the Third Party Product with respect to the Third Party Product, and such third party is an intended third party beneficiary of the Agreement, with respect to the Third Party Product only.

12.3 Notice. We may notify you by a general notice on the Web Services, by electronic mail to one of your Champion’s e-mail address we have on record or by pre-paid first class mail or overnight courier to your address on our records. Notice shall be deemed to have been given within 3 business days after mailing or 12 hours after sending an email or posting a change on the Service. You shall notify us (and such notice shall be deemed given when received) of any matter regarding the Agreement only by a written letter (a) sent by confirmed facsimile to us at the following fax number: 1-518-283-7243,

(b) delivered by prepaid nationally recognized overnight delivery courier or by first class mail to us at the following address: Autotask Corporation, 26 Tech Valley Drive, East Greenbush, New York, 12061, USA, addressed to the attention of the Chief Financial Officer, or to such other address that we may designate to you in writing for notices, or (c) by e-mail to legal@autotask.com. Notices by phone shall not be accepted.

12.4 No Waiver/Cumulative Remedies. No failure or delay in exercising a right shall constitute a waiver of that right. Except as expressly provided herein, a party's rights and remedies shall be cumulative, and none of them shall be in limitation of any other right or remedy in law or equity.

12.5 Amendments. We may update and change any part or all of these Terms of Use. If we update or change these Terms of Use, the updated version will be posted at www.autotask.com/assets/terms/2016/03/autotask.htm and we will notify you at the email address you provided for an authorized officer in the Order Form. The updated Terms of Use will become effective and binding thirty calendar days after it is posted. When we change the Terms of Use, the "Last Modified" date above will be updated to reflect the date of the most recent version. We encourage you to review these Terms of Use periodically. If you do not agree with a modification to the Terms of Use, you must notify us in writing within thirty (30) days after receiving notice of modification. If you give us this notice, your Services will continue to be governed by the terms and conditions of the Terms of Use prior to modification for the remainder of your current Term. Upon renewal, the Terms of Use published by us on our website will apply.

12.6 Governing Law. The laws of the State of Delaware will govern the Agreement, without reference to conflicts of law principles. The United Nations Convention on Contracts for the Sale of Goods and the Uniform Computer Transaction Act do not apply to the Agreement. The sole and exclusive jurisdiction and venue for actions arising under the Agreement shall be the Delaware Chancery Court; you hereby agree to service of process in accordance with the rules of such court.

12.7 Entire Agreement. Our provision of the Services is expressly conditioned upon your assent to the terms of these Terms of Use. Accordingly, no text or other information set forth on any of your purchase orders, preprinted forms, or other documents shall add to or vary any term of the Agreement and we expressly reject any such additional or different terms. If any term of these Terms of Use or an Order Form is held to be invalid or unenforceable, such term shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable term, with all other terms remaining in full force and effect. These Terms of Use and Order Forms comprise the entire agreement between you and us and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between you and us regarding the Services and this Agreement. Should there be a difference between the Terms of Use and the Order Form, the Terms of Use shall take precedence; provided that the parties may agree in writing that a provision of the Order Form shall supersede a provision of the Terms of Use by expressly referencing in the Order Form, the provision in the Terms of Use to be so superseded.

12.8 Export Control Laws. You shall comply with all United States and foreign export control laws and regulations applicable to the exercise of your rights under this Agreement.

12.9 U.S. Government Rights. The Services are provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Service. If you are using the Service Offerings on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, you will immediately discontinue your use of the Services. The terms "commercial item" "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

12.10 No Contingencies. You agree that your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by us regarding future functionality or features.