

DATTO RESELLER AGREEMENT

This Reseller Agreement (the "Agreement") is a binding, legal contract between Datto, Inc. or one of our subsidiaries or affiliates depending on where you are located ("Datto" or "us") and you, the person or entity identified as the reseller in the registration process to become a reseller ("you" or "Reseller").

BY CLICKING "I AGREE" BELOW YOU ACKNOWLEDGE YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO ABIDE BY ITS TERMS, INCLUDING ALL APPLICABLE POLICIES AND THIRD PARTY TERMS DESCRIBED THROUGHOUT. IF YOU ACCEPT ON BEHALF OF A BUSINESS OR LEGAL ENTITY, YOU REPRESENT AND WARRANT YOU HAVE THE AUTHORITY TO BIND THAT LEGAL ENTITY TO THIS AGREEMENT AND "YOU" WILL REFER TO THAT LEGAL ENTITY.

This Agreement governs the relationship between Datto and you as a reseller of our Products and is separate from other agreements that apply to use or administration of our Products. Each party that uses any Product must agree to the applicable Product Terms of Use. If you use a Product either for your own internal use or as a Product Administrator on behalf of another party, you must agree to the Product Terms of Use applicable to that Product. If you act as a Product Administrator, you must also ensure the Content Owner for that Product agrees to the applicable Content Owner Terms found on an Online Portal. If you resell a Product to a Content Owner that will directly use or support the Product, you must ensure that Content Owner is properly registered for the Product and agrees to the applicable Product Terms of Use.

Capitalized words are defined in the last section or when first used throughout this Agreement.

1. APPOINTMENT; RESELLER RIGHTS AND OBLIGATIONS

1. **Appointment.** Subject to the terms and conditions of this Agreement, Datto appoints you as a reselling partner of the Products to Content Owners in the Territory. This appointment is non-exclusive and we expressly reserve the right to authorize others to use, market and re-sell the Products in the Territory.
2. **Right to Purchase, Market and Resell Products.** Datto grants you a limited, non-transferable, non-sub-licensable, non-exclusive (i) right to purchase the Products in order to market, distribute and resell the Products to Content Owners for use within the Territory and (ii) right to use the Products and to display and distribute Specifications and Marketing Materials, as necessary to promote, advertise, demonstrate and market the Products.
3. **Use of Third Party Technology.** Certain Products involve the use of third party technology, the use and/or resale of which is subject to such third parties' license and resale terms. These Additional Resale Terms found on an Online Portal, are incorporated into and made part of this Reseller Agreement as applicable to certain Products. By accepting this Agreement, you agree to comply with all applicable Additional Resale Terms.
4. **Online Portals.** As an authorized reseller, you are granted account access to one or more Online Portals to order, manage, support, use, and/or market certain Products. You are responsible for the security of all access credentials, including passwords, to Online Portals and you are responsible for any action that you permit, assist or facilitate any person or entity to take

related to your Online Portal account(s), including any sub-accounts created under your Online Portal account(s). Your Online Portal account(s) may contain Administrative Data about you, Content Owners and Products. You acknowledge and agree that Online Portals may be hosted in the U.S. regardless of where you, any Content Owner, any Product or any Content related to any Product may be stored or hosted. You are responsible for securing any necessary consents, if any, related to the hosting location of Online Portals.

5. **Third Party Applications.** Third party products or services ("Third Party Applications") that may connect to or interact with certain Products or Online Portals. Any Third Party Application is provided by the third party, not us, pursuant to a separate agreement between you and the third party provider. We do not endorse, support or control any Third Party Applications. We make no representation or warranty with respect to any Third Party Application and we expressly disclaim all liability with respect to your use of any Product or Online Portal with a Third Party Application.
6. **Policies.** You acknowledge that you have reviewed, understand and agree to comply with our Policies as they relate to your activities under this Agreement. Our Policies can be found on an Online Portal or we will provide a copy of our Policies to you upon request. We reserve the right to update our Policies from time to time in our sole discretion.
7. **Feedback.** If you provide us with reports, comments, suggestions, ideas or other feedback regarding the Products or our business, whether written or oral (collectively "Feedback"), you do so without any expectation of compensation. You hereby grant us a worldwide, irrevocable, transferable, perpetual, royalty-free right and license to use the Feedback to improve the Products and for any other purpose, including in all media now known and later developed. Feedback is strictly voluntary and we are not required to hold it in confidence.
8. **Beta Products.** We may designate certain enhancements to a Product or a new Product as "Beta Product." Such Beta Product will not be ready for use in a production environment and its operation may be unpredictable and lead to erroneous results. As a reseller you may be invited, but are under no obligation, to use a Beta Product. You may not resell nor may you authorize any other party to use a Beta Product. If you choose to use a Beta Product, you agree the Beta Product (i) is experimental and has not been fully tested; (ii) may not meet your requirements; (iii) use or operation may not be uninterrupted or error free and is for purposes of evaluating and testing the product and providing feedback to us. You agree to report promptly to us any errors or other deficiencies in the Beta Product and will hold all information relating to use and performance of the Beta Product in strict confidence and not disclose such information to any unauthorized third parties. Use of any Beta Product is otherwise subject to the Product's applicable Terms of Use. **ALL BETA PRODUCT IS PROVIDED "AS-IS" AND "AS-AVAILABLE," WITHOUT WARRANTIES OF ANY KIND.** You hereby waive any and all claims, now known or later discovered, that you may have against us and our suppliers and licensors arising out of your use of any Beta Product.

2. RESERVATION OF RIGHTS; LIMITATIONS REGARDING PRODUCTS

- 1. Intellectual Property Rights.** All Intellectual Property Rights in and to our Products, Datto Marks and Marketing Materials are and will remain the sole and exclusive property of Datto, or, as applicable of our suppliers and licensors, and you have no rights in any of the same other than as specifically set forth in this Agreement. All rights not expressly granted to you under this Agreement are expressly reserved by Datto and our suppliers and licensors. You may not remove or modify any Product identification or proprietary notice of Datto or our suppliers or licensors from the Products, Marketing Materials or Specifications, including any copyright and trademark notices.
- 2. Right to Change Products.** We may continually develop ongoing innovation to our Products through updates and upgrades that offer new features, functionality, and efficiencies ("Enhancements"). Some, but not all Enhancements, will be provided at no additional charge. We also reserve the right to add new Products and to replace or discontinue Products at any time.
- 3. Software is Licensed.** Datto Software, as incorporated into any Product, is licensed, not sold. Except for the limited rights granted herein and in the applicable Product Terms of Use, we and our licensors retain all right, title, interest and Intellectual Property Rights in Datto Software and Services, and all copies thereof.
- 4. Restrictions.** You may not nor may you authorize any third party to: (i) copy or modify the Products, or make derivative works of the Products; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to extract the source code from any Product, except to the extent this restriction is expressly prohibited by applicable law; (iii) use any Product to build a similar or competitive product or service; (iv) use any device or software that damages, interferes with or disrupts a Product; or (v) use the Products in a manner inconsistent with the Specifications, Policies, Product Terms of Use, this Agreement or Applicable Law.

3. MARKETING AND TRADEMARKS

- 1. Promotion.** You agree to actively market, promote and sell the Products to Content Owners in the Territory, including by listing Datto in your marketing materials and on web sites that show your third party service providers, and by cooperating with us in creating sales leads and marketing opportunities.
- 2. Your Responsibilities.** You agree (i) to conduct your business in a professional manner that reflects favorably on us and the Products; (ii) not to make any representations, warranties, or claims about Datto or the Products other than presenting our current Marketing Materials or as pre-approved by us in writing; (iii) not to use deceptive, misleading, illegal, or unethical practices in your business or in marketing and reselling the Products; and (iv) to keep us informed as to any problems encountered with the Products.
- 3. License to Marks.** We hereby grant you a non-exclusive, non-transferable, royalty free, revocable, non-sub-licensable license during the Term to use, reproduce, and display the Datto Marks in the Territory subject to the terms of this Agreement, and any Datto Trademark Guidelines, solely for the purposes of marketing and reselling the Products. The goodwill derived from your use of any Datto Marks exclusively is for our benefit and belongs to us. You may not

represent yourself as Datto nor may you use the Datto Marks, or any other mark that may be deemed confusingly similar to a Datto Mark, in a manner that would imply our affiliation with, endorsement of, or sponsorship of you or to otherwise suggest that you are more than an independent authorized reseller of the Products.

4. **General Trademark Obligations and Restrictions.** You will not (i) challenge the validity of our rights and title to the Datto Marks; (ii) claim any right, title, or interest in or to Datto Marks; (iii) register or apply for registration of Datto's Marks or any confusingly similar mark; or (iv) use Datto Marks anywhere in the world except as specifically permitted under this Agreement.

4. ORDERS & PAYMENT

1. **Section Applies to Direct Orders.** This Section 4 applies to you only when you purchase Products directly from Datto. If you purchase Products through a distributor or other master reseller, you will place orders and pay all fees for Products to such distributor or master reseller according to the terms and at the prices agreed between you and such distributor or master reseller.
2. **Ordering Products.** When you place an order for a Product the terms of this Agreement, and not any of your pre-printed terms (such as standard terms and conditions attached to your purchase order) will govern the order and any of your pre-printed terms will be null and void. You may place an order directly through an Online Portal, or by electronically confirming any phone, electronic or written quote, order or invoice we place or enter on your behalf.
3. **Price and Payment.** Prices for Products are determined on a jurisdiction by jurisdiction basis and are, unless quoted separately by us in writing, set forth in an Online Portal. We reserve the right to change our prices at any time. Our standard payment terms apply unless we expressly authorize different terms in writing. You agree to pay all charges applicable to the Products ordered by you including, but not limited to, monthly recurring Service subscription charges, and any additional usage based charges, including data overage or additional user charges. Fees and payments will be calculated by us solely based on records maintained by us. You must notify us of any payment dispute in writing within fifteen (15) days of receipt of a disputed invoice. Prices do not include taxes, duties, and fees (including shipping, and handling) unless otherwise quoted.
4. **Order Acceptance.** Your receipt of an order confirmation does not signify our acceptance of your order, nor does it constitute confirmation of our offer to sell. We may at any time after receipt of your order accept or decline your order, or elect to supply less than the quantity you ordered, for any reason. We may require additional verifications or information before accepting any order. Your order will be deemed accepted by us upon our delivery or registration confirmation of the Products you ordered. Any delivery date we provide is an estimate only and we will not be liable for failure to meet any estimated delivery date. All sales of Products are subject to our then-current return policies, as posted on an applicable Online Portal. Any pricing errors, unintentional misrepresentations of Product availability or features ("Errors") will be corrected by us as soon as practicable following discovery. We reserve the right to revoke any quote, cancel any order or adjust amounts due, as

applicable, where Errors affecting an order are discovered. Our sole obligation if we cancel an order due to Error will be to refund any amount already paid.

5. **Title; Risk of Loss.** All new orders for physical Products will be shipped from us freight prepaid and billed to you; title and risk of loss to such physical Products will pass to you upon shipment to the destination designated in your order or to any customs officials or border authority.
6. **Shipments Made to Certain Jurisdictions.** When you order Products for delivery outside of jurisdictions in which we operate, you may be subject to import duties and taxes, which are levied when the Product arrives at the destination that you specified or the Product is otherwise received. Any charges for customs clearance are your responsibility, as we have no control over such charges and cannot foresee the amount charged (if any). Since customs policies vary from country to country, you should contact the customs office in the country where you have us ship Products to get more information. You are considered the importer of record and must comply with all laws and regulations of such jurisdiction.
7. **Payment Information and Authorization.** You must provide us with complete and accurate billing and contact information including your complete legal name, street address, e-mail address and the name and telephone number of an authorized billing contact. You agree to update this information within three (3) days of any change. You must provide an approved payment method ("Payment Method") with each order. By providing us with a Payment Method, you authorize us to automatically charge that Payment Method, or any updated Payment Method provided by you, for all charges and fees incurred in connection with the Product you order. You represent (i) that the Payment Method and related information is valid, accurate, current, and complete, and (ii) you will maintain and promptly update the Payment Method and related information in order to keep it valid, accurate, current, and complete. We reserve the right to change our approved Payment Methods at any time and will use reasonable commercial efforts to alert you to any such changes.
8. **Term Commitments.** Certain Products require a commitment to a minimum Service subscription term ("Committed Service Term"). A Committed Service Term can't be transferred apart from the individual Product to which it applies. If you purchase a Product that involves a Committed Service Term, you agree to either pay in advance in full for the entire Committed Service Term or hereby authorize unconditional consecutive monthly payments throughout the entire Committed Service Term to be charged to your authorized Payment Method. At the end of a Committed Service Term, the same Service will continue indefinitely on a month to month basis at our then current fees until cancelled by you. If you cancel Service prior to the end of the Committed Service Term, a lump sum payment equal to the product of (i) the monthly amount for the terminated Service and (ii) the number of unpaid months remaining in Committed Service Term will become immediately due and payable and will be charged to your Payment Method. You will not be eligible for a pro-rated refund of any prepaid fees if you cancel Service during a Committed Service Term. Notwithstanding your cancellation, upon your request, we will continue to provide the Service to you for the remainder of the paid Committed Service Term.
9. **Collection of Fees.** All amounts payable by you will be made without setoff or counterclaim, and without any deduction or withholding. We may charge

interest at the rate of 1.5% per month (or the highest rate permitted by law) on late payments. If we are unable to collect any amount owed, we may take any other steps deemed necessary to collect such fees, and you will be responsible for all our incurred costs such as collection fees, court costs and attorneys' fees. Furthermore, in the event of non-payment, following notice of such non-payment, we may suspend or terminate Datto Services, including access to Products and Content or the right to continue to purchase new Products or use Products already purchased hereunder until payment is made in full.

10. **Resale Price and Payment.** You have sole discretion to establish prices at which you resell and distribute the Products to Content Owners and you will manage and be responsible for billing and collection of all Content Owner accounts. All amounts payable under this Agreement are solely your obligation and are not contingent upon your receipt of any amounts payable to you by a Content Owner.
11. **Taxes.** You will pay and be solely liable for all taxes including sales, use, excise and any other taxes, duties or charges with respect to our sale of the Products to you, but excluding taxes based on our net income or gross receipts and taxes from which you are exempt by law as shown by a valid tax exemption certificate. You agree to indemnify and hold us harmless in the event we are required to pay such taxes, duties or other charges for which you are responsible.

5. PRODUCT TERMS OF USE / PRODUCT REGISTRATION / TRAINING

1. **Product Terms of Use.** Use of all our Products is subject to the applicable Product Terms of Use. You may resell or distribute the Products only pursuant to such applicable Product Terms of Use.
2. **Direct Use by Content Owners.** You must cause each Content Owner that will directly use or support a Product to agree to the applicable Product Terms of Use, either as part of the Product registration process or prior to the Content Owner being allowed access to the Product or an applicable Online Portal for the Product. We may specify procedures by which the Content Owner should gain access to the Product, including provision of any access codes, technical specifications, connectivity standards or protocols, or any other relevant procedures.
3. **Use by You.** If you use any Product for your own internal use, for testing or promotional purposes, or as a Product Administrator, you accept and agree to the applicable Product Terms of Use.
4. **Content Owner Terms.** If you act as a Product Administrator you must ensure that the Content Owner for each Product agrees to certain Content Owner Terms as part of a valid, enforceable contract between you and the Content Owner. Upon our request, you must provide evidence of each Content Owner's acceptance of the Content Owner Terms. You agree to immediately notify us of any known or suspected breach of any Content Owner Terms and to assist us in the enforcement of the same.
5. **Business Associate Agreements.** If you act as a Product Administrator managing or using certain Products for a Content Owner that is a Covered Entity or Business Associate, as defined under U.S. law, you agree to enter into

and comply with the terms of an applicable Business Associate Agreement with the Content Owner. Furthermore you agree to notify us in such event so that you and we may enter into a valid Business Associate Agreement prior to the transfer of any Content related to the applicable Product. Upon our request you agree to send us a copy of each such Business Associate Agreement between you and the Content Owner. The terms "Covered Entity," "Business Associate" and "Business Associate Agreement" will have the same meanings as set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act), and such regulations as may be further amended from time to time (collectively, the HIPAA Standards).

6. **Support Obligations.** You agree to provide Content Owners with support as may be detailed in any Product support obligation guidelines, including, resolution of pre-sales questions, setup, integration, post-sale inquiries, basic support, problem screening, and basic diagnostics.
7. **Notice of Breach.** You agree to immediately notify us of any known or suspected breach of any Product Terms of Use or any other unauthorized use of the Products and to assist us in the enforcement of the same.
8. **Training.** You agree to participate in any training programs as may be required by us from time to time in order to maintain your reseller status. Our training (through any written or visual presentation) provides instruction on the general use and functionality of the Products but is not the same, and you should not rely on it, as advice in specific technical support situations. You acknowledge and agree that we will not be liable for any statements or omissions made during training or contained in training materials.

6. CONFIDENTIALITY

1. **Protection of Confidential Information.** For purposes of this Agreement, Content will not be considered the Confidential Information of either Party and the provisions of this Section 6 will not apply to Content. Each party will (i) maintain the confidentiality of the Confidential Information of the other party (and that of any third parties to which either party has access as a result of this Agreement); (ii) hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party except to the extent necessary to perform its obligations under this Agreement (iii) use the same care to prevent disclosure of the Confidential Information of the other party to third parties as it employs to avoid disclosure of its own information of a similar nature, but in no event less than a reasonable standard of care; (iv) use the Confidential Information of the other party solely for the purpose of performing its obligations under this Agreement; and (v) promptly return, or provide a copy of, as the requesting party directs, Confidential Information upon the request of the other party.
2. **Administrative Data.** If you are not a Product Administrator or if the Content Owner has not otherwise authorized your access, any access you may have, by means of an Online Portal or otherwise, to Administrative Data related to such Product or its use, including but not limited to, Device or Product identification, usage amount, individual user identities, or Product or account

settings may be used by you only for billing and product support purposes and will not otherwise be used or disclosed by you for any purpose.

3. **Disclosure of Confidential Information.** Each party may disclose Confidential Information of the other party to its employees, officers, agents, subcontractors and independent contractors (collectively "Representatives") who have: (i) a need to know such Confidential Information in order to perform their duties; and (ii) a legal duty to protect the Confidential Information. A party receiving Confidential Information of the other party assumes full responsibility for the acts and omissions of its Representatives with respect to such Confidential Information.
4. **Required Disclosures.** Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party required to make any such disclosure, where legally permissible in the reasonable judgment of that party's counsel, will first have given written notice to the other party in order to allow the other party to seek, at its sole cost and expense, a protective order or other remedy to limit such disclosure.
5. **Notification.** Except for any disclosure permitted under section 6.3 above, in the event of any disclosure or loss of Confidential Information, the receiving party will notify the disclosing party as soon as possible.
6. **Injunctive Relief.** Each party acknowledges that any breach of any provision of this Section 6 (Confidentiality) by the receiving party, or its Representatives may cause immediate and irreparable injury to the disclosing party, and in the event of such breach, the injured party will be entitled to seek and obtain injunctive relief to the extent provided by a court of applicable jurisdiction, without bond or other security, and to any and all other remedies available at law or in equity.
7. **Return of Confidential Information.** Unless it is expressly authorized to retain the other party's Confidential Information, a party will promptly return or use commercially reasonable efforts to destroy, at the other party's option, the other party's Confidential Information upon request or upon termination of this Agreement.

7. TERM AND TERMINATION

1. **Term.** This Agreement will commence on your acceptance of this Agreement by electronic or written means and continue until terminated in accordance with the provisions of this section (the "Term").
2. **Termination for Convenience.** We may terminate this Agreement, at any time, without cause, upon 30 calendar days written notice. In addition, we may terminate providing a particular Product, at any time, without cause, upon 30 calendar days written notice, without terminating this Agreement.
3. **Termination for Breach.** Each party will have the right to terminate this Agreement upon notice to the other party if such other party materially breaches this Agreement and fails to cure such breach within ten (10) days after receiving written notice thereof. Notwithstanding the above, we may terminate this Agreement immediately for cause for any violation by you of Section 2 (Reservation of Rights/Limitation on Use) or Section 12 (Compliance

with Laws). We may also terminate this Agreement immediately upon notice to you if you disparage us or our Products or engage in abusive or threatening conduct or communications toward us or about us.

4. **Effect of Termination.** Immediately upon either of us serving the other with notice of termination, you may not order or sell any additional Products without our express written consent and we reserve the right to terminate your Online Portal access. Upon termination, (i) any amounts you owe to us will be immediately due and payable; (ii) all rights and licenses granted hereunder will terminate and you must cease the use, marketing and distribution of the Products and Datto Marks and may not represent yourself as a reseller of or affiliated with Datto in any manner. Both parties will immediately cease use of all Confidential Information of the other party and will use commercially reasonable means to irretrievably delete or remove such items from all computer hardware and storage media, including backups.
5. **No Effect on Use of Products.** Termination of this Agreement does not affect any of our rights with respect to Content Owners' use of the Products that were purchased from you or for which you acted as Product Administrator. We may continue to provide the Products to such Content Owners, including Datto Services with respect to Content, following termination of this Agreement. We may assume your role with respect to such Content Owners and/or may assign such Content Owners to a different Datto reseller. You agree to provide us with all Content Owner and Product information that may be needed to effect the intent of this section. Notwithstanding the above, all Committed Service Terms will survive termination of this Agreement unless otherwise agreed by the parties.
6. **To the extent that termination of this Agreement also leads to termination of Datto Services or if Datto Services are terminated otherwise, we reserve the right to permanently delete or disable access to all related Content from any remotely located servers owned by us or under our control, without liability for such deletion, 60 days after the termination of such Datto Services.**
7. **Survival.** Notwithstanding anything to the contrary, the following provisions will survive termination of this Agreement: those that by their express terms survive or by their nature may be reasonably inferred to survive, as well as sections 4, 6, 7, 8, 9, 10.2, 11, 12, 13, 14 and 15.

8. WARRANTIES

1. **Mutual Warranties.** Each party represents and warrants that (i) it is duly organized, validly existing and in good standing under the laws of its place of incorporation or formation; (ii) it has the authority to enter into this Agreement and to perform its obligations and grant the rights and licenses provided herein; and (iii) by entering into this Agreement it is not in violation of any previous agreement or obligation between it and any third party.
2. **Limited Datto Hardware Warranty.** Warranty terms for physical hardware Products provided by Datto are found on an Online Portal. We have no warranty obligations with respect to any products we may sell that are developed by third parties.
3. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL OTHER 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, COURSE OF PERFORMANCE OR USAGE OF TRADE. WE DO NOT WARRANT THAT THE PRODUCTS WILL MEET ANY CONTENT OWNER, ADMINISTRATOR, OR USER REQUIREMENTS OR THAT THE OPERATION OF ANY PRODUCT WILL BE SECURE, UNINTERRUPTED, OR ERROR-FREE, FREE OF HARMFUL COMPONENTS OR THAT ALL ERRORS WILL BE CORRECTED. WE MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT ANY PRODUCT'S COMPLIANCE WITH LAWS AND REGULATIONS SPECIFICALLY APPLICABLE TO ANY CONTENT OWNER OR INDUSTRY AND DISCLAIM ALL LIABILITY ASSOCIATED THEREWITH.

4. THE PRODUCTS MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.
5. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NO SUPPLIERS OF ANY THIRD PARTY COMPONENTS INCLUDED IN THE PRODUCTS WILL BE LIABLE FOR ANY DAMAGES WHATSOEVER.
6. No Revenue Guarantee. You acknowledge and agree that we make no promise or guarantee that you will obtain or receive any minimum revenue or profit as a result of this Agreement or selling the Products.

9. LIMITATIONS AND EXCLUSIONS OF LIABILITY

TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT WILL WE OR OUR LICENSORS OR SUPPLIERS BE LIABLE TO YOU OR TO ANY THIRD PARTIES FOR ANY 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 WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL WE BE LIABLE FOR THE PROCUREMENT OF SUBSTITUTE SERVICES OR PRODUCTS.

TO THE FULLEST EXTENT ALLOWED BY LAW, OUR TOTAL LIABILITY (AND THAT OF OUR SUPPLIERS/LICENSORS) ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WILL BE LIMITED TO DIRECT DAMAGES ONLY IN AN AMOUNT EQUAL TO THE FEES RECEIVED BY US RELATED TO THE INDIVIDUAL CONTENT OWNER, ACCOUNT OR PRODUCT, IN THE 12 CALENDAR MONTHS PRIOR TO THE INCIDENT GIVING RISE TO SUCH LIABILITY; PROVIDED THAT IN NO EVENT WILL OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL FEES YOU PAID TO US FOR ALL PRODUCTS IN ANY 6 CALENDAR MONTH PERIOD.

THESE LIMITATIONS OF LIABILITY ARE INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

Essential Basis. You acknowledge and agree that the disclaimers, exclusions and limitations of liability set forth in Sections 8 and 9 form an essential basis of this Agreement and have been relied on by both of us, and that absent such disclaimers, exclusions and limitations of liability, the terms and conditions of this Agreement and the fees applicable to the Products would be substantially different.

10. INDEMNIFICATION

- 1. Indemnification by Datto.** We agree to defend you from and against third party claims that a Product or Datto Mark in the form supplied to you under this Agreement infringes or misappropriates a third party's patent, copyright or trademark rights in the Territory and we will indemnify and hold you harmless from all damages, costs, and similar liabilities ordered by a court or agreed upon by Datto in settlement in connection with any such claim. Our indemnification obligations will not apply to (i) claims of infringement to the extent based on your combination of the Product or Datto Mark with other products, services, software or marks if the infringement could have been avoided by the use of such Product or Datto Mark not in such combination; (ii) any modifications to the Product or Datto Marks not made by us; (iii) any damages incurred as a result of your failure to use any update to the Product or Datto Marks we provide; or (iv) use of a Product in a manner that does not conform to its Specifications (these exceptions (i) through (iv) collectively will be referred to as "IP Exclusions"). If we determine that a Product or Datto Mark is or may be subject to an infringement claim, we may, at our option: (1) procure for you the right to continue distributing the Product in accordance with this Agreement or (2) replace or modify the Product so it becomes non-infringing. If we determine that neither of these options is commercially practicable, we may terminate this Agreement or your ability to further distribute such Product upon written notice to you. This Section 10.1 represents your sole and exclusive remedy and Datto's sole and exclusive liability for any infringement claims based on the Products or Datto Marks.
- 2. Your Indemnification of Datto.** You agree to defend us, our licensors and affiliates, and the officers, directors, employees and representatives of each of them (each a "Datto Indemnified Party"), from and against all damages and costs incurred as a result of a third party claim and you will indemnify and hold any and all Datto Indemnified Parties harmless from all damages, costs, and similar liabilities ordered by a court or agreed upon by you in settlement in connection with any such claim, to the extent the claim arises out of (i) your breach of this Agreement; (ii) your negligence or other acts or omissions resulting, in whole or in part, in a third party claim being asserted against us; (iii) any of the IP Exclusions referenced in section 10.1; (iv) your failure to cause each Content Owner to agree to the applicable Product Terms of Use and/or [Content Owner Terms](#) or your actions in excess of the authority granted to you by any Content Owner; (v) your failure to secure Content, any personally identifiable information or Confidential Information in accordance with this Agreement, any applicable agreement with a Content Owner, any applicable Business Associate Agreement, and Applicable Law.

3. **Process.** The foregoing indemnification obligations are conditioned on any of the indemnified parties: (i) notifying the indemnifying party promptly in writing of such action; (ii) reasonably cooperating and assisting in such defense; and (iii) giving sole control of the defense and any related settlement negotiations to the indemnifying party with the understanding that the indemnifying party may not settle any claim in a manner that admits guilt or otherwise prejudices the indemnified party, without consent.

11. AUDIT/EXPENSES

1. **Audit.** You will retain all records and documentation with regard to your compliance with this Agreement throughout the Term and for 3 years thereafter. At all reasonable times during the Term and such subsequent 3 year period we or our duly authorized representative will be permitted access to such records and documentation for purposes of auditing and verifying compliance with this Agreement, upon 5 business days prior written notice, during your regular business hours.
2. **Costs and Expenses.** Except as expressly stated, each of us will bear all costs and expenses incurred in performing our respective obligations under this Agreement, including expenses related to marketing of the Products, and you are not entitled to receive any fees, commissions, or other payments for the performance of your obligations.

12. COMPLIANCE WITH LAWS

1. **All Applicable Laws.** You represent, warrant, and covenant that in the performance of this Agreement, you will comply, and will cause all Reseller Parties to comply with all Applicable Laws and regulations related to your activities under this Agreement. You will not cause us or our affiliates to be in violation of any Applicable Laws or regulations. You will respond to our requests for information, to the extent reasonable and related to our efforts to ensure compliance with Applicable Laws and regulations.
2. **Subcontractors.** You may not retain any third-party broker, agent, subreseller, or other contractor to interact with Officials or Content Owners in the performance of your obligations under this Agreement, unless such third party is vetted and approved by us in writing or otherwise in accordance with standards approved by us in advance. We may withhold or withdraw such approval in our sole discretion.
3. **Compliance and Required Permits.** You will obtain all licenses and approvals and other authorizations required and will otherwise comply with all laws governing the importation or distribution of the Products into and throughout the permitted Territory and will pay (and reimburse us if we are required to pay) all related governmental charges and related expenses.
4. **Authorizations.** You will at your own expense, make, obtain and maintain in force at all times during the term of the Agreement, all reports, licenses, permits and authorizations required to perform your obligations under this Agreement.

5. **Export Compliance.** You represent and warrant that you: (i) will comply with all export laws, restrictions, national security controls, and regulations of the United States or other applicable authority in the Territory; (ii) will not export or re-export or allow the export or re-export of the Products, or any Content through use of the Products, in violation of any such export laws, restrictions, controls or regulations. Without limiting the generality of the foregoing, each party agrees that it does not intend to nor will it, directly or indirectly, engage in any export or re-export of the Products or services to (i) any territory that is subject to a U.S. economic embargo, including, but not limited to, Cuba, Iran, North Korea, Sudan, Syria, and the Crimea, or to any national of any such territory, wherever located, (ii) to any entity or individual who such party knows or has reason to know is engaging in the design, development or production of nuclear, chemical or biological weapons, or missile technology, or (iii) to any entity or individual who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. Government, including the U.S. Department of Treasury's Office of Foreign Assets Control and the U.S. Bureau of Industry and Security, a consolidated version of a list of such prohibited persons is available at http://export.gov/ecr/eg_main_023148.asp. We reserve the right to refuse sales of Products, or to terminate the provision of Services, to any Content Owner if the provision of Products or services to such Content Owner is prohibited under Applicable Law.
6. **Corrupt Practices.** You will and you will cause all Reseller Parties to comply with all applicable laws, statutes, regulations and sanctions relating to anti-bribery and anti-corruption compliance, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977 as amended (the "FCPA"), any guidance issued by the U.S. government from time to time regarding the FCPA, the United Kingdom Bribery Act 2010 ("UKBA"), any guidance issued by the UK government from time to time regarding the UKBA, and other applicable anti-corruption, anti-fraud, embezzlement, anti-money laundering, and anti-terrorist financing laws and regulations (collectively, "Anti-Corruption Laws"). You will not, with a corrupt, improper, or illegal intention, directly or indirectly, offer, promise, authorize, pay, give, solicit, or accept any money, favor, advantage, bribe, kickback, or anything else of value to or from an Official or any other individual or entity, whether in the public or private sector, for purposes of obtaining, retaining, or directing business, regulatory approvals, or any other improper advantage. Further, you will not, directly or indirectly, offer, promise, authorize, pay, give, solicit, or accept a financial or other advantage to induce the improper performance of a relevant function or activity, as a reward for the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of the financial or other advantage would itself constitute an improper performance of a relevant function or activity. Neither you, nor to your knowledge, any of your affiliates' respective owners, officers, directors, employees, subresellers, subcontractors, members, partners or managers or, to your knowledge, any immediate family member of the foregoing persons (collectively, "Interested Persons") is an Official or a potential customer who has not otherwise been disclosed as such to us in writing. You will notify us promptly if (i) an Interested Person becomes an Official or (ii) an Official becomes an Interested Person or acquires a personal interest in your income.

7. **Developments.** You will use your best efforts to promptly advise us in writing of any statute, regulation or other law in the Territory that is not the United States, if applicable, that is or comes into effect during the term of the Agreement and that affects the importation, exportation, sale promotion, provision or protection of the Product or services or which otherwise has a material effect on the parties' rights or obligations under the Agreement.
8. **Government Registration.** If any approval or registration of this Agreement ("Required Registrations") is required, either initially or at any time during the Term, in order to give the Agreement legal effect within any jurisdiction in the Territory, or with respect to exchange regulations or requirements so as to assure the right of remittance abroad of sums due to us, you agree, at your sole expense, to take whatever steps may be necessary to secure such Required Registrations, immediately and prior to commencing within any jurisdiction in the Territory any activities which are subject to such approval or registration.
9. **Policies/Procedures.** You will maintain and comply with policies and procedures which are (i) substantially consistent with the foregoing representations, warranties, covenants and certifications, and (ii) in compliance with all Applicable Laws and regulations applicable to you and us, including, but not limited to, the laws described in this Section 12.
10. **Notification and Cooperation.** You have in good faith provided to us and/or our agents and advisors all documents and information of the character and type requested by us in writing in the course of any corporate and anti-corruption due diligence review of you. You will immediately notify Datto if you have any information or suspicion that there may be a violation of Applicable Laws or regulations, including, but not limited to, the laws described in this Section 12, in connection with this Agreement. You will reasonably cooperate with us in regard to any matter, dispute, or controversy related to this Agreement and in which we may become involved and of which you may have knowledge. Such obligation will continue after the expiration or termination of this Agreement.

13. ARBITRATION; CLASS ACTION WAIVER

1. **Arbitration / No Class Action.** All claims and disputes arising out of this Agreement, except for those set forth below, that can't be settled informally between us will be settled by binding arbitration in accordance with the rules then in effect of the American Arbitration Association ("AAA"). Arbitration must be on an individual basis and neither of us may join or consolidate claims in arbitration or arbitrate claims as a representative or member of a class. Arbitration proceedings must be initiated within the statute of limitations and within any deadlines imposed under AAA rules for the pertinent claim. Any settlement offer made by either party may not be disclosed to the arbitrator until after the arbitrator's determination of any award. Judgment upon the award rendered by way of such arbitration may be entered in any court having jurisdiction thereof. Costs of arbitration (including reasonable attorneys' fees) will be made a part of the arbitrator's award. The arbitration will take place in Fairfield County, Connecticut. All aspects of the arbitration

- proceeding, including but not limited to the award of the arbitrator and compliance therewith, will be strictly confidential.
2. **Claims Not Subject To Arbitration.** Notwithstanding the foregoing section, any claims involving the following are not subject to mandatory arbitration: (i) alleged infringement or misappropriation of the other party's Intellectual Property Rights; (ii) any claims involving a party's right to indemnification under this Agreement; (iii) your breach of any Product Terms of Use; (iv) any collection claims; and (v) any claim for temporary or permanent injunctive relief.
 3. **Courts.** In any circumstances not subject to mandatory arbitration, we each hereby waive any right to a trial by jury and hereby submit to the personal jurisdiction of the courts set forth in section 14.4.
 4. **No Class Actions.** All disputes arising out of or related to this Agreement or any Product must be brought on an individual basis, and you hereby waive your right to, and agree that you will not, bring (or join) a claim as a plaintiff or a class member in a class, consolidated, or representative arbitration, litigation or other proceeding.

14. ADDITIONAL PROVISIONS

1. **Nature of Relationship.** Each of us enters into this Agreement as an independent contractor and neither of us may act or represent ourselves as an agent, partner, or joint venturer of the other.
2. **Government Contracts.** If the Products are to be used in the performance of a government contract or subcontract, no government requirements or regulations will be binding on us unless we specifically agreed in writing.
3. **Construction.** The section headings in this Agreement are for convenience of reference and will not be deemed to be a part of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party will not be applied in the interpretation of this Agreement.
4. **Governing Law.** This Agreement, if with Datto, Inc., will be governed, construed and enforced in accordance with the laws of the State of Connecticut without reference to conflicts of law principles. The parties agree that exclusive jurisdiction for any permitted actions connected with this Agreement will be in the Superior Courts of Fairfield County, Connecticut or the United States District Court for the District of Connecticut. This Agreement, if not with Datto, Inc., will be governed in accordance with the laws of the jurisdiction where the applicable Datto affiliate or subsidiary is located and nothing in this Agreement will be deemed to exclude or limit the liability of either party which cannot be limited or excluded by such applicable law. This Agreement will not be governed by the U.N. Convention on Contracts for the International Sale of Goods.
5. **Enforceability.** If any provisions herein are deemed invalid, illegal, or unenforceable, the validity, legality and enforcement of the remaining provisions will not be affected or impaired.
6. **Electronic Communications.** You consent to receive communications from us in electronic form and agree that all agreements, including this Agreement, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement as if in writing.

7. **Assignment.** You may not assign this Agreement or any rights or obligations hereunder (including with respect to any individual Product or Content), without our express written consent. Any assignment or transfer in violation of the foregoing will be null and void. We reserve the right to assign this Agreement to any (i) affiliate; or (ii) any entity in connection with the sale, combination, or transfer of all or substantially all of the assets or capital stock or from any other corporate form of reorganization by or of us. Subject to all of the terms and conditions hereof, this Agreement is binding upon the parties, their permitted successors and assigns.
8. **Force Majeure.** Any delay in or failure of performance of either of us (excluding obligations to pay for Products) will not constitute a default under this Agreement or give rise to any claim for damages to the extent such delay or failure of performance is caused by an event beyond our control.
9. **No Waiver.** The failure to enforce or the waiver by either of us of one default or breach by the other will not be considered to be a waiver of any subsequent default or breach.
10. **No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.
11. **English Language.** This Agreement has been drafted in the English language and such version will be controlling in all respects and any non-English version is solely for accommodation purposes.
12. **Notices.** All notices required or permitted hereunder will be in writing and delivered by nationally recognized overnight courier (e.g., UPS, FedEx) and will be deemed effective upon receipt as evidenced by courier delivery confirmation. Notices to you will be sent to you at the address specified in an Online Portal or the billing contact you provide. Notices to us must be sent to 101 Merritt 7, Norwalk, CT 06851 Attn: General Counsel. In addition, we may send any notice required or permitted hereunder to you at the email address specified in an Online Portal and such notice will be deemed effective upon our receipt of email delivery notification.
13. **Remedy.** The rights and remedies of the parties will be cumulative (and not alternative). In the event of any litigation between the parties relating to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees, expert witness fees and court costs from the other party.
14. **Entire Agreement.** This Agreement, and all Policies and third party resale or other applicable terms on any Online Portal, together constitute the entire understanding of the parties with respect to the subject matter hereof, and supersede all prior and contemporaneous written and oral agreements with respect to the subject matter. No modification of this Agreement will be binding on us unless it is in writing and signed by us. Any inconsistent or additional terms contained in any of your purchase orders, sales confirmations or any other communications are deemed material changes which we hereby expressly reject. Our fulfillment of any order will not constitute acceptance of any such additional or inconsistent terms and conditions

15. DEFINITIONS

1. "Administrative Data" means data concerning registration, use and administration of Products that may be available to Reseller through an Online Portal or otherwise. Administrative Data does not include Content.
2. "Applicable Laws" means any applicable law, rule, regulation, directive, code, order or other requirement in any jurisdiction contemplated by this Agreement.
3. "Confidential Information" means any information, other than Content, whether oral, written, electronic, or in any other format, regarding this Agreement, the Products, services, Intellectual Property Rights, pricing, discounts, marketing and business plans, Beta Products, Online Portals, other information not generally known to the public and any other information received under circumstances reasonably interpreted as imposing an obligation of confidentiality; provided that, "Confidential Information" does not include any information that: (i) was publicly available at the time of disclosure; (ii) became publicly available after disclosure through no fault of the receiving party; (iii) was known to the receiving party prior to disclosure by the disclosing party; or (iv) was rightfully acquired by the receiving party after disclosure by the disclosing party from a third party who was lawfully in possession of the information and was under no legal duty to the disclosing party to maintain the confidentiality of the information.
4. "Content" means data, content or other materials stored, backed-up, hosted, displayed, transmitted, routed, virtualized, processed or communicated using a Product.
5. "Content Owner" means the person or entity that a) purchases and has use of a Product; and b) owns, licenses, lawfully controls or uses Content, or for whose benefit Content is held or transmitted, in connection with any Product. Content Owner may also be referred to in certain Product Terms of Use or Online Portals as Customer, End User, Account Owner, Network Owner or Client.
6. "Content Owner Terms" means terms related to certain Products that must be included in a valid, enforceable contract between a reseller and Content Owner when that reseller acts as a Product Administrator of a Product for the benefit of the Content Owner and the Content Owner does not itself directly access or use the Product.
7. "Datto Marks" means Datto's trademarks, service marks, trade names, brands, domain names, URLs, logos and other proprietary indicia (whether or not registered).
8. "Datto Services" means all services provided by or on behalf of Datto, including without limitation, the business continuity, backup, disaster recovery, routing, file sharing, networking, technical support, training, Online Portals or other applications. Datto Services may be provided through any of the following, or any combination of the following, or any later developed or implemented, means: (i) the use of Devices by or under the control of the Content Owner or Reseller; (ii) the use of remotely located servers under the control of Datto ("Datto Cloud"); (iii) the use of Datto Software licensed for use by Content Owner or Reseller; and/or (iv) enrollment in and use of a Software as a Service (SaaS), file sharing or other subscription-based offerings.
9. "Datto Software" means software technology and other Intellectual Property Rights of Datto and its licensors in or comprising any Product, including any embedded software on or comprising Devices.

10. "Device" means any (i) storage or backup and disaster recovery product instance, regardless of whether it is physical hardware, virtual or imaged form; (ii) any networking product instance.
11. "Intellectual Property Rights" means all intellectual property rights, however arising and in whatever media, whether or not registered, including patents, copyrights, trademarks, service marks, trade names, design rights, database rights, domain names, trade secrets or other proprietary rights and any applications for the protection or registration of such rights and all renewals and extensions thereof throughout the world.
12. "Marketing Materials" means press releases, advertising materials, and any other items or information in any medium provided by or on behalf of Datto for use by Reseller in promoting the Products.
13. "Official" means (i) a director, officer, employee, contractor, or agent of any government, military, or state-owned or affiliated entity or organization; (ii) any department, agency, corporate entity, instrumentality or political subdivision of any government or military; (iii) any person or commercial entity acting in an official capacity for or on behalf of any government or military; (iv) any candidate for political office, any political party or any official of a political party; or (v) any officer, employee, contractor, or agent of any public international organization such as the United Nations or the World Bank.
14. "Online Portal" means any web-based application or portal provided by Datto that contains information related to the purchase, use, support and/or resale of the Products. Different Products may have different Online Portals and certain Datto affiliates may have separate Online Portals.
15. "Policies" means the policies established by Datto applicable to the purchase, access, use, management and support of the Products.
16. "Products" means any product made available by Datto, including Datto Services, Devices, Datto Software, as well as all Enhancements and Specifications related to all of the foregoing, that a reseller is authorized to promote, resell and distribute according to the terms and conditions of this Agreement.
17. "Product Administrator" means a third party other than Datto authorized by a Content Owner to control, manage, support and/or use a Product for the benefit of that Content Owner. For purposes of this Agreement, a Product Administrator does not include a user of a Product that is authorized by the Content Owner to have administrative responsibilities (for example, an account administrator authorized by a Datto Drive account owner).
18. "Product Terms of Use" means the terms and conditions applicable to the use of each Product. Different Products may have different Product Terms of Use.
19. "Reseller Party" means Reseller or any of Reseller's employees, officers, directors, agents, subcontractors, suppliers, vendors or independent contractors.
20. "Specifications" means the Policies, documentation, user manuals and any technical publications and materials, as applicable, made available by Datto relating to the Products. Specifications may be published on an Online Portal.
21. "Territory" means the geographic area in which a reseller is authorized to market and resell the Products. Except where indicated otherwise in the applicable Product Terms of Use, Territory includes any location where reseller maintains the personnel and infrastructure necessary to comply with its obligations under this Agreement, but in no event will Territory include any

jurisdiction where any sale or use of the Products is prohibited by applicable law.

DATTO THIRD-PARTY TERMS

KROLL EULA

LICENSE AGREEMENT: TERMS AND CONDITIONS OF USE

IMPORTANT NOTICE. THIS LICENSE AGREEMENT (THE "AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR A SINGLE ENTITY) AND KROLLONTRACK INC. OR ANY SUBSIDIARY. AND ITS THIRD PARTY LICENSORS ("KROLL ONTRACK"). BY INSTALLING OR USING THIS SOFTWARE OR ASSOCIATED HARDWARE COMPONENTS IN ANY WAY YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND AND AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT INSTALL OR USE THIS SOFTWARE AND ASSOCIATED HARDWARE COMPONENTS IN ANY WAY.

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and/or use the Software directly, either via a hosted software solution or a hosted or leased hardware solution.

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Notwithstanding the foregoing, a MSP or Consultant shall not use the Software, including any Authentication Component if applicable, for its own internal business use.

LICENSE RESTRICTIONS. You shall not: (a) remove any product identification, copyright notices, or other notices or proprietary restrictions from this Software; (b) sell, lease, rent, copy, or distribute this Software, Documentation and any associated Authentication Component to another except as expressly permitted herein; (c) cause or permit reverse engineering, disassembly, decompilation or alteration of this Software except to the extent such restriction is expressly prohibited by applicable law; or (e) use the Software for competitive analysis purposes. You may make one copy of the Software and Documentation solely for backup or archival purposes. You may not copy any Authentication Component.

ASSIGNMENT. You may not assign or transfer the rights or obligations under this Agreement to another party without the express written consent of Kroll Ontrack. Any attempt to assign the Agreement without Kroll Ontrack's consent shall be null and void.

TERM. Your license to use the Software is effective until terminated. Your failure to comply with any term or condition of this Agreement, including failure to pay the appropriate license fees, shall result in termination of your license to use the Software, Documentation and any associated Authentication Component(s). Upon termination, you shall discontinue all use of the Software, destroy the Software and Documentation, together with all copies thereof, and return any associated Authentication Component(s).

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AUDIT RIGHTS. You shall maintain accurate records containing all necessary data required for verification of compliance with the terms of this Agreement. Kroll Ontrack may, during normal business hours, and upon reasonable prior notice to you, audit and analyze your records to verify compliance hereunder.

DISCLAIMER OF WARRANTIES. THIS SOFTWARE, DOCUMENTATION AND ANY ASSOCIATED AUTHENTICATION COMPONENT IS DISTRIBUTED 'AS IS' AND YOU, ITS USER, ASSUME ALL RISKS WHEN DOWNLOADING OR USING IT, THERE ARE NO WARRANTIES EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE. KROLL ONTRACK DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. KROLL ONTRACK DOES NOT WARRANT THAT THE SOFTWARE IS NON-INFRINGEMENT, THAT IT WILL MEET YOUR REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED, ERROR-FREE OR VIRUS-FREE.

LIMITATION OF LIABILITY. IN NO EVENT SHALL KROLL ONTRACK BE LIABLE FOR ANY DAMAGES OF ANY KIND INCLUDING DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (WHICH SHALL INCLUDE WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS OR PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR OTHER PECUNIARY LOSS) WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY. ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF KROLL ONTRACK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

MISCELLANEOUS. In the event of invalidity of any provision of this Agreement, the parties agree that such invalidity shall not affect the validity of the remaining portions, The Agreement is governed by the laws of the State of Minnesota as applied to agreements between Minnesota residents entered into and to be performed entirely within Minnesota, and each party hereto submits to the exclusive jurisdiction of the Courts of that State. Each party, on behalf of itself and its affiliates, to the fullest extent permitted by law, knowingly, voluntarily, and intentionally waives its right to a trial by jury in any action or other legal proceeding arising out of or relating to this Agreement. The foregoing waiver applies to any action or legal proceeding, whether sounding in contract, tort or otherwise. Each party, on behalf of itself and its affiliates, also agrees not to include any employee, officer or director of the other party or its affiliates as a party in any such action or proceeding. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. This is the entire agreement between you and Kroll Ontrack, which supersedes any prior or subsequent agreement including your purchase order terms, whether written or oral, relating to this subject matter.

GOVERNMENT USE. The Software and Authentication Components include "commercial computer software" and related documentation within the meaning of Federal Acquisition Regulation ("FAR") 2.101, 12.212, IIOd27.405-3 and Defense Federal Acquisition Regulations Supplement ("DFARS") 227.7202 and 152.227-7014(a)(1). The Software and Authentication Components are proprietary to Kroll Ontrack and its third party licensors. You shall ensure that all users, including, but not limited to employees, personnel, representatives or agents of the U.S. Government, are permitted to use the Software and Authentication Components only as expressly authorized under this Agreement. In accordance with FAR 12.212 and DFARS 227.7202, neither you nor any government agency or entity shall receive any ownership, license, or other rights in and to the Software and Authentication Components other than the commercial software license rights expressly set forth herein.

Contractor/manufacturer is Kroll Ontrack Inc., 9023 Columbine Road. Eden Prairie. MN 55347.

Paragon Software Group Corporation

Scope of Agreement

1. **IMPORTANT-- READ THIS CAREFULLY.** This End User License Agreement ("EULA") is a legally binding contract between Paragon Software Group Corporation ("Paragon") and you ("You"), the recipient of certain Licensed Product (defined below) from Paragon. This EULA sets terms and conditions for Your use of that Licensed Product. IT CONTAINS WARRANTY AND LIABILITY DISCLAIMERS. BY INSTALLING, COPYING OR OTHERWISE USING THE LICENSED PRODUCT, YOU ARE AGREEING TO THE TERMS AND CONDITIONS OF THIS EULA. IF YOU DO NOT AGREE TO THOSE TERMS AND CONDITIONS, YOU ARE NOT AUTHORIZED TO USE THE LICENSED PRODUCT.
2. The software product accompanying this EULA ("Software") and all affiliated materials, including handbooks, program descriptions, instruction manuals, and/or other information material (collectively "the Licensed Product") are copyrighted and

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Unless determined otherwise, Paragon grants You the simple right to install the Licensed Product on a device and use it for an unlimited period of time. The right to use is limited to the Software's object code. It will expire if You violate the conditions of use established in this EULA. Paragon is not obligated to provide You with the source code of the Software. Unless determined otherwise in the following, the acquisition of this Licensed Product does not entitle You to provide, install and/or run the Licensed Product on multiple devices at once, create and/or distribute copies of the Licensed Product, transfer the Licensed Product from one device to another by electronic means or over a network after its original download or installation on a device, modify, decompile, adapt or translate the Licensed Product or combine with other software, or decompile, reverse engineer, reengineer, disassemble or otherwise reduce the Software to a human-perceivable form. The right to use is limited to the specific Licensed Product acquired in the respective version thereof and does not extend to subsequent versions of the Licensed Product. The EULA does not provide any rights to grant a sublicense to the Licensed Product to third parties. Paragon reserves all further rights, in particular the rights to dissemination, duplication and publication.

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An acquisition in the form of the granting of a pay-per-use license entitles You to run or use the Licensed Product on a one-time basis only; further use of the Licensed Product is not permitted. The acquisition of the Licensed Product under the stipulation of a particular term of contract only entitles You to use the Licensed Product until the term of contract expires. The acquisition of a technician license of the Licensed Product entitles You to use the Licensed Product on different systems, as long as the Licensed Product is not used on multiple systems simultaneously. The acquisition of a site license (multi-station license) of the Licensed Product entitles You to use the Licensed Product on an unlimited number of computers at a particular company site, while the acquisition of a company license of the Licensed Product entitles You to use the Licensed Product on all computers at all sites of the company. The use of free Licensed Product from print media or online media allows private use only, unless a separate agreement for commercial purposes of use provides otherwise. Commercial use is not permitted.

Restrictions

1. YOU SHALL NOT MODIFY, ADAPT, TRANSLATE, RENT, LEASE, LOAN, RESELL FOR PROFIT, DISTRIBUTE, NETWORK OR CREATE DERIVATIVE WORKS BASED UPON THE LICENSED PRODUCT OR ANY PART THEREOF.
2. You agree that You will not use or otherwise export or re-export any Licensed Product except as authorized by United States laws.

Warranties and Disclaimers

1. Paragon warrants that the media on which the Licensed Product is distributed will be free from defects for a period of fifteen (15) days from the date of delivery of the Licensed Product to You. Your sole remedy in the event of a breach of this warranty will be that Paragon will, at its option, replace any defective media returned to Paragon within the warranty period or refund the money You have paid for the Licensed Product.
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Indemnification

WHENEVER YOU USE THE LICENSED PRODUCT, YOU WILL INDEMNIFY AND HOLD PARAGON, ITS DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS HARMLESS WITH RESPECT TO (A) ANY SUITS OR CLAIMS ARISING OUT OF YOUR BREACH OF THIS EULA, INCLUDING, BUT NOT LIMITED TO, ANY INFRINGEMENT BY YOU OF THE COPYRIGHT OR INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; (B) YOUR USE OF THE PARAGON PRODUCTS; OR (C) ANY ACTION TAKEN BY PARAGON AS PART OF ITS DUE DILIGENCE REGARDING A SUSPECTED VIOLATION OR AS A RESULT OF ITS DETERMINATION THAT A VIOLATION OF THIS EULA HAS OCCURRED.

Term of License

1. This EULA remains in force for as long as You use the Licensed Product in compliance with the terms herein.
2. Your rights under this EULA terminate without notice from Paragon if You fail to comply with any provision hereof. If at any time Paragon discovers You are not in compliance

with this EULA, it may without further notice to You or obligation to allow a cure period require You to return all media containing Licensed Product and to remove the Licensed Product and all files created by it from any systems on which it was installed, in a way that guarantees non-recoverability and, upon demand by Paragon, to confirm compliance with these requirements in writing under penalty of perjury.

General Provisions

1. This EULA If may not be modified, varied or altered, unless agreed upon in writing by Paragon.
2. This EULA is governed by and interpreted in accordance with the laws of the state of California, USA. The exclusive jurisdiction for any claim, action or dispute with Paragon or relating in any way to Your use of the Licensed Product shall be in the state and federal courts of the State of California and the venue for the adjudication or disposition of any such claim, action or dispute shall be in Orange County, California, USA.
3. You acknowledge that you have read this EULA, understand it, and that by using the Licensed Product you agree to be bound by this EULA's terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between Paragon and You, and supersedes any proposal or prior agreement, oral or written, and any other communication between Paragon and You relating to its subject matter. No additional or any different terms will be enforceable against Paragon unless Paragon gives its express consent, including an express waiver of the terms of this EULA, in writing signed by an officer of Paragon. You assume full responsibility for the use of the Licensed Product and agree to use the Licensed Product legally and responsibly in compliance with the terms of this EULA.
4. Should any provision of this EULA be declared unenforceable in any jurisdiction, that provision shall be deemed severable and shall not affect the remainder hereof. Paragon reserves all rights in the Licensed Product not specifically granted to You in this EULA.

EULA Version: February 2012

ADDITIONAL RESELLER TERMS

These Additional Resale terms are hereby incorporated into Datto Reseller Agreement for the resale of all Products involving the use of StorageCraft, Kroll or Paragon software.

StorageCraft Minimum Provider Terms

1. "StorageCraft Software" means the software licensed by Datto from StorageCraft Technology Corporation, Draper, Utah ("StorageCraft") and that is available with or and as part of certain Products.
2. Use of StorageCraft Software. Reseller acknowledges and agrees that the StorageCraft Software may be used only as follows: (a) in connection with the use of a Product and not on a standalone basis; (b) in a manner authorized by and consistent with these terms and (c) pursuant to a written Agreement between Reseller and a Content Owner.
3. Reseller acknowledges and agrees to the following:
 - o The StorageCraft Software is owned by and licensed from StorageCraft.

Reseller shall offer or provide use of the StorageCraft Software only to Content Owners as part of a Product.

- o StorageCraft's copyright, trademark, or other proprietary rights notices contained in or on the StorageCraft Software or within the Product will not be modified, removed, or obscured.
- o StorageCraft disclaims, to the extent permitted by applicable law, 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 StorageCraft Software, except as provided in the applicable End User License Agreement.
- o Upon termination of any Agreement between Reseller and a Content Owner, Reseller will use its best efforts to remove and/or deactivate all copies of the StorageCraft Software from all Content Owner computers on which it has been installed and ensure that any Content Owner or Administrator returns or destroys any media containing the StorageCraft Software.
- o In the event of nonpayment of fees to Reseller for services under the Content Owner Agreement, the Content Owner's use of the StorageCraft Software may be suspended or terminated.
- o In the event that the Reseller's right to use the Product that includes the StorageCraft software terminates, the relevant portion of the Agreement with the Content Owner will terminate.
- o Reseller will include in all Agreements with Content Owners the terms labeled "MSP Services Agreement Minimum Customer Terms" which can be found in Exhibit A to the Datto BCDR Product Content Owner Terms.

"Kroll Software" means that software licensed by Datto from Kroll Ontrack Inc., Eden Prairie, Minnesota ("Kroll") and that is available in connection with the use of certain Products.

“Kroll Solution” means Kroll Software available for use with the Product. Use of Kroll Technology. Reseller acknowledges and agrees that the Kroll Software may be used only as part of the Kroll Solution. Reseller shall not market, license, sublicense and/or distribute the Kroll Software, or any of the technology incorporated in the Kroll Software, in standalone form, either electronically or otherwise and shall resell the Product only in a manner authorized by and consistent with this Agreement. Reseller shall not license the Kroll Software to Content Owners for use in a hosted environment or as software as a service (SaaS). Reseller acknowledges and agrees:

Reseller shall offer use of the Kroll Software to Content Owners only as part of the Kroll Solution.

Reseller shall market and distribute the Kroll Solution only and solely under the name of Datto and not under the name of the Reseller or any other third party.

Reseller shall protect Datto’s and Kroll’s proprietary rights in the Kroll Software to at least the same degree as the terms and conditions of this Agreement.

Reseller shall not reverse engineer, reverse compile, or disassemble the object code for the Kroll Software or any third party components of the Kroll Solution.

Reseller shall make no representations or warranties on behalf of Datto or Kroll.

Reseller is not granted any rights beyond the scope of this Agreement.

Reseller shall distribute the Product with the Kroll EULA as provided by Datto.

Reseller shall not distribute the Kroll Software as part of the Kroll Solution, either directly or indirectly, to any Customer unless such Customer is subject to the Kroll EULA.

Reseller acknowledges and agrees that Datto may provide Kroll with reasonable access to this Agreement provided that Reseller may request that Datto redact such portions of this Agreement deemed necessary to preserve confidentiality.

“Paragon Software” means that software licensed by Datto from Paragon Software Group Corporation, Irvine, California (“Paragon”) and that is available in connection with the use of certain Products.

Use of Paragon Technology. Reseller acknowledges and agrees that the Paragon Software may be used only as part of the Product. Reseller shall not market, license, sublicense and/or distribute the Paragon Software, or any of the technology incorporated in the Paragon Software, in standalone form, either electronically or otherwise and shall resell the Product only in a manner authorized by and consistent with this Agreement. Reseller acknowledges and agrees:

Reseller shall offer use of the Paragon Software to Content Owners only as part of the Product.

Reseller shall protect Datto’s and Paragon’s proprietary rights in the Paragon Software to at least the same degree as the terms and conditions of this Agreement.

Reseller shall not reverse engineer, reverse compile, or disassemble the object code for the Paragon Software or any third party components of the Paragon Software.

Reseller shall make no representations or warranties on behalf of Datto or Paragon.

Reseller is not granted any rights beyond the scope of this Agreement.

Reseller shall distribute the Paragon Software as part of the Product with the Paragon EULA.

Reseller acknowledges and agrees that Datto may provide Paragon with reasonable access to this Agreement provided that Reseller may request that Datto redact such portions of this Agreement deemed necessary to preserve confidentiality.