



Updated 10/20/2023

## Master Services Agreement Terms & Conditions

### 1. Services Provided

This service agreement (the "Agreement") is between the person and entity identified on the DaZZee Service Description Statement of Work ("SDSOW" or "Service Description") and Enterprise Networks by Design, L.L.C. – DBA DaZZee ("DaZZee"). By authorizing this Agreement, DaZZee agrees to provide Client with the services described in the Service Description, and Client agrees to pay for those services, upon the terms defined in this document, the Service Description and the authorized Quote.

Client subscribes for an Initial Term of months defined in the SDSOW and/or Quote for the quantity of Users noted in the DaZZee SDSOW and/or Quote. The first three months of the Initial Term shall be considered Client's Trial Period. The quantity of users establishes the Minimum Monthly Amount ("MMA") for the Agreement (described below). The Initial Term commences on the SDSOW or Quote effective date. It is understood that Services provided under this Agreement are limited to those detailed in a SDSOW. MSP shall not be liable for any Services or Product not explicitly agreed to in the SDSOW

### 2. Entire Agreement

This document together with the Service Description Statement of Work and an authorized Quote contains the entire Agreement between the parties regarding the subject matter herein, and supersedes any prior agreements or representations, whether oral or written. No terms, agreement, representation or understanding not specifically contained herein or mutually agreed to and executed SOW shall be binding on DaZZee. Any terms added by Client to any SDSOW or any Quote shall be null and void and have no effect on this Agreement unless mutually executed by both parties. If there are conflicts between any documents included in this Agreement, they shall be resolved in the following order of precedence:

- A. This Agreement
- B. The Services Description Statement of Work (SDSOW)
- C. The applicable Quote.

### 3. Satisfaction Guarantee

Client or DaZZee may cancel the Agreement within the three month Trial Period with thirty (30) days prior written notice ("Notice Period") for any reason if the Client is dissatisfied with DaZZee. No funds will be returned but monthly billing will stop at the end of the Notice Period without an Early Termination Fee. After such Trial Period, termination shall be governed by the Termination provision herein. Any DaZZee provided equipment including but not limited to, servers and Networking Equipment must be returned within 15 days of the end of the Notice Period or Client will be invoices for the equipment at full list price and such amounts will be due immediately.

### 4. Service Plan Onboarding

Upon authorizing this Agreement, DaZZee will schedule our onboarding/setup process which may vary depending on the services subscribed. Typically, onboarding/set-up includes:

- A. Conducting a site survey and preparing a detailed survey report that details many aspects of the network, so support can be provided seamlessly across all of our team members;
- B. Initial deployment of our tools and removal of any existing products. Our tools that will be installed and implemented include, but are not limited to, software support agent, Endpoint Security software, i Spam filtering solution, Backup and Disaster Recovery Service, and our Managed Security Service.
- C. Conducting a baseline audit of all hardware and software
- D. Establishing our maintenance tasks and monitoring systems
- E. Bringing all machines to a current Microsoft patch level.

Depending on the size and complexity of the environment this process can take up to 90 days to complete. Our onboarding method tests every step of the way and minimizes the risk of data loss or impact to workforce productivity. We provide regular status updates as we determine necessary to keep Client up to date on the status of onboarding/set-up.

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## 5. Provision of Materials and Services to DaZZee

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Client agrees to timely furnish, unless stated otherwise herein or in a SDSOW, at its own cost and expense, all personnel, all necessary computer hardware, software and related materials and appropriate and safe work spaces for purposes of DaZZee or its contracted subcontractors, performing the services. Client will also provide DaZZee or its contracted subcontractors, with access to all information, passwords and facilities requested by DaZZee that is necessary for DaZZee or its contracted subcontractors, to perform the Services. Access may be denied for any reason at any time, however if access to information, passwords or facilities is denied, Client understands that the DaZZee or its contracted subcontractors, may be unable to perform their duties adequately, and Client shall remain liable for all applicable fees, costs, and expenses set forth in the SDSOW and/or Quote.

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## 6. Working Environment

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Client shall provide a safe and suitable working environment for any Equipment located at Client's facility. Such environment includes, but is not limited to the appropriate temperature, static electricity and humidity controls and properly conditioned electrical supply for each piece of Equipment. Client shall bear the risk of loss of any Equipment located at Client's facility. Should DaZZee send an employee, contractor, or subcontractor to perform on-site services for Client, Client shall be liable for providing a safe and secure working environment for such individual or individuals, and will indemnify, defend, and hold DaZZee harmless from any failure to do so.

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## 7. Client Data Ownership and Responsibility

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Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any proprietary data, information or material submitted by Client to MSP

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## 8. Intellectual Property

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DaZZee retains all intellectual property rights in any property invented or composed in the course of or incident to the performance of this Agreement, as well as any software, materials, or methods created prior to or after conclusion of any work (collectively, "Inventions"). Client acquires no right or interest in any such intellectual property, by virtue of this Agreement or the work performed under this Agreement or any SDSOW or applicable Quote. Further, Client hereby assigns and agrees to assign to DaZZee or its designee, without further consideration, Client's entire right and interest in and to all Inventions, including all rights to obtain, register and enforce patents, copyrights, mask work rights and other intellectual property protection for Inventions. Client agrees to execute all documents reasonably necessary to perfect such intellectual property rights and the assignment of those rights to DaZZee or its designee. Client further agrees to assist DaZZee (at DaZZee's expense), both during and after the Term of this Agreement with DaZZee, in obtaining, protecting and/or enforcing patents, copyrights or other forms of Inventions.

Client may only use any Invention in accordance with the terms of this Agreement and any applicable SDSOW. DaZZee reserves all rights in and to the Invention not expressly granted in this Agreement. Client may not disassemble or reverse engineer any Invention or decompile or otherwise attempt to derive any software Invention's source code from executable code, except to the extent expressly permitted by applicable law despite this limitation. Client may not provide a third-party with any right to use, copy, transfer or sell the Inventions, or operate the Inventions as an outsourcing platform to process the data of third parties and may not provide any third party with the results of any functional evaluation, or benchmarking or performance tests on the Inventions, without DaZZee's prior written approval.

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## 9. Minimum Monthly Amount ("MMA")

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The MMA establishes the minimum user count for the Agreement. Each month, the actual supported user count is compared to the MMA for true-up purposes. If the actual user count is less than the MMA, the MMA count will be billed for the upcoming month. If the actual user count is higher than the MMA, Client will be billed for the additional users beginning the month of the user count and continuing for each month thereafter unless modified by another true-up. This true-up ensures that both DaZZee and the Client capture actual user counts for service and licensing purposes.

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## 10. Service Renewals and Rates

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This Agreement will automatically renew for successive terms matching the Initial Term at the end of the Initial Term and any subsequent terms, unless a Termination Notice is sent by either party in writing 60 days prior to the end of the current term. At the start of each renewal the MMA actual user count will be true'd-up to ensure all users are captured prior to the first renewal term's invoice.



Upon completion of the Initial Term or any subsequent terms, if a Termination Notice is provided, the Client may retain provided on-site servers and have Microsoft Office 365 subscription transferred into Client's name upon payment of the final invoice. Please note the backup service, Microsoft licensing provided as part of this agreement, and all networking equipment (firewall, switches, and wireless access points) are subscription based and will not function and use is not authorized past the Term. Therefore, Upon expiration of a Termination Notice period, all networking equipment, including but not limited to firewall, switches, and wireless access points, must be returned to DaZZee within 15 days of the end of the Termination Notice period and replaced by Client. DaZZee shall have no liability for services or equipment past the end of a Termination Notice Period.

The service rates in this Agreement will increase a minimum of 3% and no greater than 10% upon renewal and any subsequent renewals.

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## **11. Help Desk Services & Products Supported**

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We agree to use our best efforts to support Client's commercial software packages. If Client uses third party proprietary software, we will work with the third party software vendor to provide the necessary information and access needed to resolve Client's issue and will collaborate with the third-party software vendor as needed.

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## **12. Non-Client Owned Devices / Personal Computers**

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We do not support non-Client owned devices or personal computers leveraged by users of our Clients. Our only engagement in issues surrounding these devices is for network connectivity in the office (i.e. wireless) and remote access to the Clients network resources (i.e. Outlook Web Access (OWA), Remote Desktop Services aka Terminal Services, Citrix).

If, in our sole discretion, we determine that the network or remote access issue is related to a personal device (i.e. virus or malware), that User must seek independent consumer support to resolve the underlying issue prior to reconnecting to the network. If Client data will be stored on non-Client owned devices (i.e. through ActiveSync or Outlook Anywhere), the Client understands and accepts all risks associated with placing Client data on non-Client owned devices and will have an appropriate policy in place.

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## **13. Scheduled Maintenance Windows**

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DaZZee will perform daily maintenance tasks to keep Client workstations and servers running efficiently and to minimize exposure against the latest security threats. For many of these updates to be installed properly Client workstations and servers must be restarted. DaZZee may restart Client systems, as necessary, between our regular maintenance window of 11PM and 4AM Sunday through Saturday. If a reboot is required outside of this timeframe, we will coordinate that with Client so it can be communicated to Client staff. For our automated tasks Client reserve the right to request that we adjust the maintenance window start and end times to align with Client business needs.

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## **14. Non-Solicitation of Employees**

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Client acknowledges that DaZZee has a substantial investment in its employees and that such employees are subject to DaZZee's control and supervision. In consideration of this investment, Client agrees not to solicit, hire, employ, retain, or contract with any DaZZee employee without first receiving DaZZee's written consent.

If any employee terminates his or her employment with DaZZee (regardless of the reason for termination) and is employed by Client (or any affiliate or subsidiary of Client) in any capacity within a 12 month period following the employee's termination of employment with DaZZee, Client agrees to immediately pay DaZZee an amount equal to 200% of the then current annual salary paid by DaZZee to such employee.

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## **15. Reimbursement for Supplies**

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DaZZee may need to purchase spare parts, other equipment, supplies, accessories or software to enable the services under this Agreement. In any such case, Client shall reimburse DaZZee for all such costs or expenses incurred for these supplies, including all sales tax where applicable. All purchases will be subject to prior Client approval.

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## **16. Alterations to Services or Equipment**

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If Client or a vendor of the Client under Client direction alters any Equipment or Services provided by DaZZee without the express written consent of DaZZee, Client does so at its own risk and expense. DaZZee shall not be liable or

responsible for any damage of any nature whatsoever caused as a result of or related to Client's or Client vendor's alteration of Services, Equipment, network or system. Any correction, repair, alteration, or remediation needed as a result of Client's or Client's Vendor's action, will be considered a separate Project that will be contained in a separate SDSOW under to this Agreement.

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## **17. No Third Party Beneficiary**

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Client shall not subcontract, assign, subrogate or transfer any interest, obligation or right under this Agreement without prior written consent from DaZZee, and any such attempt shall be null and void. Any dissolution, merger, consolidation, reorganization or transfer of a majority of the assets or stock of Client shall constitute an attempted assignment of this Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.

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## **18. Relationship**

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DaZZee provides services to Client hereunder as an independent contractor, and this Agreement shall not be construed as a partnership or joint venture or other business relationship.

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## **19. Logos and Trademarks**

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Client agrees that DaZZee may use the Client's name, logos, trademarks and artwork in marketing material, web sites, trade shows and literature for the purposes of promoting DaZZee's own products and services.

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## **20. Insurance**

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DaZZee agrees to maintain sufficient insurance coverage to enable it to comply with applicable law and its performance under this Agreement. DaZZee shall provide evidence of such coverage upon Client's request. Client shall secure at its own cost and expense Property Insurance for the equipment that is part of the provisions of this Agreement and any SDSOW. Client shall also secure and maintain for the duration of this Agreement Cyber Liability Insurance to insure Client's cyber exposures. Specific limits and coverages should be evaluated by a qualified insurance broker or risk manager to determine Client's specific coverage and policy limit requirements. Client shall cause such Cyber Liability Insurance policy to name DaZZee as an additional insured.

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## **21. Software, Hardware Security**

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Client understands and agrees that data loss or network failures may occur, whether or not foreseeable. In order to reduce the likelihood of a network failure the Client must maintain proper security for its computer and information system including software and hardware updates. Client will adhere to software and hardware updates and maintain minimum specific security standards, policies, and procedures set forth and recommended by MSP. Notwithstanding the foregoing, Client acknowledges and agrees that such security standards, policies, and procedures may not be adequate to fully protect Client from or prevent network failures, and that Client is the solely responsible for implementing, adhering to, and maintaining security standards, policies, and procedures in accordance with its own practices

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## **22. Warranty**

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DaZZee warrants that all work will be performed to the best of its ability and in accordance with reasonable and customary practices prevailing at the time for its business.

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To the maximum extent permitted by law, all warranties, whether statutory, express or implied, including any warranties of quality, durability, fitness for particular purpose, merchantability, infringement, continuous use, design, compliance with applicable law, performance or error-free operation are disclaimed in their entirety.

Notwithstanding any provision to the contrary in this Agreement, any warranty offered and provided directly by DaZZee shall be deemed null and void if the applicable product, network configuration, security controls, firewalls, or any other service or setting provided by DaZZee is (i) altered, modified or repaired by persons other than DaZZee, including, without limitation, the installation of any attachments, features, or devices not supplied or approved by DaZZee (ii) misused, abused, or not operated in accordance with the specifications of DaZZee or the applicable manufacturer or creator of the hardware or software product, or, (iii) subjected to improper site preparation or maintenance by persons other than DaZZee or persons approved or designated by DaZZee.

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## **23. Limitations of Liability**

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DaZZee shall not be liable to Client for direct damages greater than the amounts actually paid hereunder for services rendered in the previous thirty (30) days under the relevant SDSOW that gave rise to the claim. Further, DaZZee shall not be liable to Client for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this Agreement, whether the claim alleges tortious conduct (including negligence) or any other legal theory.

DaZZee shall use all best industry practices in the performance of this Agreement and any SDSOW, but nothing contained herein or in any SDSOW shall be construed to be an absolute guaranty of any security from any and all potential cyber threats, or loss or disclosure of data,

Client acknowledges and agrees that DaZZee will have no responsibility for any deficiencies in the current operating systems until the DaZZee has completed its Service Plan Onboarding and otherwise had a reasonable opportunity to review Client's current system and to provide Client with minimum basic requirements and recommendations

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## **24. Indemnification**

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Mutual indemnification and hold harmless. Subject to any limitation of liability contained herein, each party agrees, to the fullest extent permitted by law, to at all times defend, indemnify, pay, save and hold the other parties and any of their affiliates and each of their respective agencies, employees, officers, directors, members, shareholders, nominees, consultants, successors and assigns (collectively, the "mutually indemnified parties") harmless from each and any and all liabilities, damages (including, without limitation, direct, special and consequential damages), costs, expenses, suits, civil or alternative dispute resolution proceeding, losses, claims, actions, violations, fines and penalties (including without limitation, court costs, reasonable attorney's fees and any other reasonable costs of litigation) (hereinafter collectively, the "claims") that any of the mutually indemnified parties may suffer, sustain or incur to the extent caused by the negligence or willful misconduct of the mutually indemnified parties arising out of this agreement.

The preceding 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

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## **25. Client Warranty - Software Licensing**

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Client warrants that all software it provides to DaZZee for installation, configuration or use in any way, has been legally obtained and is properly licensed. Client further warrants that it has legally purchased sufficient number of copies of such software and that it has not violated any licensing agreement or applicable law.

DaZZee has no knowledge regarding licensing of software provided to DaZZee by Client and the Client indemnifies DaZZee for any damage or harm caused by installation, configuration or use of such software. Client understands and acknowledges that that Client is solely responsible and liable for all software licensing compliance.

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## **26. Equipment Ownership**

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Equipment provided as part of this Agreement is owned by DaZZee and is leased to Client. Therefore, any, damage, destruction or theft of such property is the Client's financial responsibility. DaZZee, will procure replacement equipment solely at the Client's expense and any labor required to reinstall such equipment will be contained in a separate Project SDSOW and billed accordingly. In order to leverage Client's insurance for such damages to equipment, Client agrees to name Enterprise Networks by Design, L.L.C. dba DaZZee as an additional insured on its policy.

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## **27. Termination**

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Once the Initial Term is in effect if Client may terminate this Agreement for any reason with sixty (60) days prior written notice. Client may terminate this Agreement or a specific SDSOW for cause if DaZZee materially breaches this Agreement and fails to cure such material breach within fifteen (15) days after receipt of written Notice from Client.

If Client terminates this Agreement or any SDSOW or Quote before the end of the Initial Term, except during the three month Trial Period under the Satisfaction Guarantee above, no refunds will be awarded and Client agrees to pay Early Termination Fees equal to 100% of the MMA prorated for the number of full or partial months remaining in the Term. Networking equipment (DaZZee Managed Firewall, and wireless access points) are subscription-based devices and will not function past the term of the service agreement, so therefore need to be returned to DaZZee and replaced by client





(at the end of the term). No other services or products included as part of the Service Components section will continue to be provided i.e. backup and Microsoft licensing or Anti-virus software. Client may retain provided on-site servers and have Microsoft Office 365 subscription transferred into their name upon full payment of the Early Termination Fee.

Termination Notices must be sent in writing via the United States Postal Service at least 30 days in advance of the end of the service agreement, postage prepaid, registered, or certified and addressed to the addressee at its main office, as set forth below. This Termination Notice should include: Client name, contact name, telephone #, address, requested termination date, and a formal request for termination. Termination of this Agreement shall likewise operate as a termination of all applicable SDSOW's and Quotes then in effect and be subject to any and all applicable costs, expenses, and/or charges as set forth therein

DaZZee may terminate this Agreement and/or any or all SDSOWs or Quote: (a) if Client fails to pay any applicable fees due for any SDSOW or Quote within ten (10) days after receipt of written notice from DaZZee of non-payment; (b) if Client breaches this Agreement or any SDSOW or Quote and fails to cure such breach within fifteen (15) days after receipt of written notice from DaZZee; and/or (c) for any reason upon sixty (60) days' written Notice Period to Client. Upon termination of an individual SDSOW and/or Quote, Client will promptly pay DaZZee for Services rendered and costs/expenses incurred within ten (10) days of the expiration of the Notice Period.

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**28. Jurisdiction**

This Agreement shall be governed by the state and Federal laws applicable in Missouri, without regards to its conflict of law provisions. Any dispute, claim, or controversy arising out of or relating to the subject matter of this Agreement shall be filed in a court of competent jurisdiction in the State of Missouri and the Client irrevocably consents to the exclusive jurisdiction of the courts of Missouri

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**29. Force Majeure, Malicious Acts & Terrorism**

In no event, including the negligent act or omission on its part, shall MSP or its contracted subcontractors, whether under this Agreement, an SOW, other Work Order or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of or arose from any failure or malfunction of electrical, mechanical or telecommunications infrastructure and equipment or services, any satellite failure, or from any fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God, national or global pandemic or other physical event.

In no event, including the negligent act or omission on its part, shall DaZZee, whether under this Agreement, an SDSOW, Quote or otherwise in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of a data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of, relates to, or arose from any malicious act, act of terrorism, strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations, civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, or any action taken in controlling, preventing or suppressing any of these things, including any such act or series of acts of any person or group(s) or persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including but not limited to the intention to influence any government and/or to put the public in fear for such purposes by using activities perpetrated electronically that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, telecommunications or electronic networks and/or its content thereof or sabotage and or threat therefrom.

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**30. Data Backup Considerations & Storage**

The Client acknowledges that DaZZee cannot guarantee the integrity of backups due to the sheer number of variables in data backup. Periodic backup integrity tests are performed, but at the exact time a restore is needed, Client understands number of variables can prevent a successful restore.



Depending on the Service provided, Client’s data may occasionally be accessed or stored on secure servers located outside States. Client agrees to notify DaZZee if Client requires DaZZee to modify its standard access or storage procedures.

If Client subscribes to DaZZee Backup and Disaster Recovery Services, see Exhibit A for additional terms that apply.

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**31. Mutual Non-Disclosure Agreement**

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The parties agree to the Mutual Non-Disclosure Agreement attached at Exhibit B which is hereby incorporated into this Agreement.

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**32. Payment and Collection Costs**

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Payment for monthly services are due on the first of the month for the month Services are to be provided. Payment terms for additional products or services will be contained in a separate SDSOW executed between the Parties and may vary based on the services needed. Any amount not paid by the invoice due date will be subject to late charges at the rate of 5 percent (5%) per month or the maximum rate allowed by law from the date of invoice. Such interest will compound daily from the date due until the date paid.

If DaZZee enlists the services of an attorney or collections agency to collect any amounts due from Client under this Agreement; Client shall be responsible for and agrees to pay all expense related to such collection, including actual collection and attorneys’ fees and costs incurred by DaZZee or its representatives in enforcing its rights under this Agreement. Client’s obligation to pay undisputed amounts due and DaZZee’s right to all such amounts are absolute and unconditional. Client is not permitted to setoff of such amounts.

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**33. Severability**

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Any provision of this Agreement which is invalid, illegal or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting in any way the remaining provisions hereof or, to the extent permitted by law, rendering that or any other provision invalid, illegal or unenforceable. Such clause shall be modified to read as closely to the intent of the parties as possible.

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**34. Amendment**

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This Agreement, or any SDSOW or Quote may not be amended except by a writing executed by an authorized individual of DaZZee.

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**35. Attorney’s Fees and Costs**

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For any dispute regarding this Agreement, the prevailing party, whether Client or DaZZee, shall be entitled to its reasonable attorneys' fees and costs, including such fees and costs incurred in connection with any appeals, in addition to such other relief as may be provided by law.



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## **36. Notice**

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All notices, requests and communications under this Agreement shall be in writing. Notice shall be deemed to have been given on the date of service if personally served or served by facsimile on the party to whom notice is to be given. If notice is mailed, it shall be deemed to be given within seventy-two (72) hours after mailing, if mailed to the party to whom notice is to be given, it must be mailed by first-class mail, registered or certified, postage prepaid, and addressed to DaZZee at the address set out below or to Client at the address provided in the SDSOW or Quote.

Enterprise Networks by Design, L.L.C. dba DaZZee I.T. Services  
1015 State Hwy 248 Suite A.  
Branson, MO 65616

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## **37. Taxes**

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Client shall be solely responsible for any taxes or similar charges arising out of this Agreement, including all applicable Federal, State or local sales taxes, , customs, duties, use taxes, value-added taxes, excise charges or brokerage fees. Client shall also be solely responsible for assessing and remitting payment for any such items to the appropriate authorities.



## Exhibit A Backup and Disaster Recovery Services

### Services Provided

If we provide and or maintain a Server/appliance on-site to act as a local backup storage device and stand-by server in the event of a server production server failure. Incremental backups will be done to the server as frequently as every 24 hours. The data is then sent to a secure remote (off-site) storage data center as the Clients Internet bandwidth permits. We will restore the data, as needed. In the event of catastrophic loss where both the production and backup servers are lost, data from the most recent off-site back-up will be made accessible and shipped or transmitted on-site for restoration. We provide full management, monitoring, and testing of these servers and remote storage.

### Security

All data is fully encrypted during transmittal off-site and is stored on-site and off-site in encrypted form using 256-bit AES and SSL key-based encryption technology. 256-bit AES encrypted data cannot be read without the corresponding keys, so encrypted data cannot be misused. On-site servers communicate with off-site remote servers using SSL (Secure Socket Layers) technology. As a result, online backups of data is encrypted twice and at all times is encrypted using the 256-bit AES encryption.

### Data Deduplication and Compression

Data deduplication and compression occurs prior to data storage and transmission using state-of-the-art technology. This ensures that backups are completed in a shorter timeframe and the required bandwidth to transfer data off-site remains manageable.

### Backup Frequency and Retention Policy

Servers will be backed up as frequently as every 24 hours to the local server. Off-site backup frequency by default is every 24 hours but is ultimately dependent on available Internet bandwidth and rate of data change. Our default retention policy is 30 days but can be customized to create as many archived versions of data and full recovery points as needed. Please note that modifying the default policy can result in additional storage/billing requirements.

### Onsite and Office Storage

Client plan includes \_\_\_\_\_ of off-site deduplicated and compressed data. In the event that additional storage is required above the base storage capacity, then the additional per GB cost will be billed at \$0.30/per GB on a monthly basis based on utilization.

### Protected Machines

We backup the servers provided as part of this bundled plan. Workstations are not backed-up as part of our base services. However, workstations can included be at \$20/per month per workstation. All servers and workstations leverage the on-site and off-site storage as defined in the section above.

### Smart Data Transport

Data transmission will be configured to minimize Internet bandwidth consumption. The on-site server and propriety off-site data transfer system leverages advanced bandwidth throttling to schedule Internet bandwidth used depending on the time of day and day of the week. This allows bandwidth to be limited during business hours to maintain network functionality and maximize bandwidth during off-peak hours. Please note that this can impact when data is available off-site for recovery.

### Initial Off-Site Backup Image Creation

The initial backup will be sent via an external hard drive to the remote storage facility to seed the data center with Client base backup image. There is an approximate 2-week turnaround time to seed the initial backup off-site. Incremental backups will continue to occur on-site during the off-site seeding process and will collapse into the main backup once the off-site transfer is complete. The data stored on this drive will be encrypted as noted above for



security purposes during shipping.

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## Recovery Time Objective (RTO)

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DaZZee can restore a file, file folder, or an entire database as needed. The process begins with a Service Request for assistance. In a disaster, where Client loses an entire office, we will work closely with Client to decide if off-site virtualization is appropriate or to have most current backup information that was successfully transmitted off-site be copied to an external drive to be shipped for restoration to replacement hardware. There is an additional cost for this service as declared in Equipment Ownership section above.

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## Ownership of the Data

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The backup data being stored locally on DaZZee provided servers and remotely at the Secure Data Center remains the sole property of the Client. If the client chooses to terminate services, DaZZee will assist Client in the orderly termination of services and removal of data from the DaZZee backup storage servers 30 days after the termination date.

## Mutual Non-Disclosure Agreement (Exhibit B)

DaZZee and Client desire to establish a business relationship of mutual interest (the "*Business Purpose*"). In connection with such discussions and work performed, DaZZee and Client recognize that there is a need to disclose to each other certain confidential information to be used only for the Business Purpose and to protect such confidential information from unauthorized use and disclosure.

In consideration of the other party's disclosure of such confidential information, each party agrees as follows:

1. For purposes of this Agreement, "*Confidential Information*" means any technical, business or other information that:
  - (i) is disclosed in writing by one party to the other party and is marked "confidential" or "proprietary" at the time of such disclosure;
  - (ii) is disclosed orally by one party to the other party, is identified as "confidential" or "proprietary" at the time of such disclosure, and is summarized in a writing sent by the disclosing party to the receiving party within thirty (30) days after any such disclosure; or
  - (iii) the receiving party knows or has reason to know under the circumstances such information should be treated as confidential or proprietary.
2. Confidential Information will not include information that:
  - (i) is now or thereafter becomes generally known or available to the public, through no act or omission on the part of the receiving party;
  - (ii) was known by the receiving party prior to receiving such information from the disclosing party and without restriction as to use or disclosure;
  - (iii) is rightfully acquired by the receiving party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or
  - (iv) is independently developed by the receiving party without access to or use of any Confidential Information of the disclosing party.
3. Each party agrees:
  - (i) to maintain the other party's Confidential Information in strict confidence using no less than a reasonable degree of care;
  - (ii) not to disclose such Confidential Information to any third parties; and
  - (iii) not to use any such Confidential Information for any purpose except for the Business Purpose.
  - (iv) to only disclose the Confidential Information of the other party to its employees and consultants who have a bona fide need to know such Confidential Information for the Business Purpose, but solely to the extent necessary to pursue the Business Purpose and for no other purpose; provided that each such employee and consultant first executes a written agreement (or is otherwise already bound by a written agreement) that contains use and nondisclosure restrictions at least as restrictive as those contained herien.

Nothing contained in this Agreement restricts a party from disclosing the other party's Confidential Information to the extent required by any law regulation or government request; provided that the party required to make such a disclosure uses reasonable efforts to give the other party reasonable advance notice of such required disclosure in order to enable the other party to prevent or limit such disclosure.

4. Upon the disclosing party's request, the receiving party will promptly return or destroy all Confidential Information to the disclosing party including all tangible items and embodiments containing or consisting of the disclosing party's Confidential Information and all copies thereof (including electronic copies). Notwithstanding anything contained herein, the receiving party may retain one copy for archival purposes.

5. All Confidential Information remains the sole and exclusive property of the disclosing party. Each party acknowledges and agrees that nothing in this Agreement will be construed as granting any rights to the receiving party, by license or otherwise, in or to any Confidential Information of the disclosing party, or any patent, copyright or other intellectual property or proprietary rights of the disclosing party, except as specified in this Agreement.