
**MASTER SERVICES AGREEMENT
OF
MIDWEST DATA CENTER, INC.**

This Master Services Agreement is made and entered into, by and between, Midwest Data Center, Inc., a corporation formed under the laws of the State of Missouri, (“MDC”), and “Customer” as identified in the applicable signature page. MDC and Customer shall also be referred herein as a “Party”, and collectively as the “Parties”.

This Agreement shall be binding between MDC and Customer; and shall serve as the foundational contractual agreement between MDC and Customer. All Quotes, along with all addendums, modifications, and amendments thereto, (collectively “Quote”), will be subject to the terms and conditions contained herein, and incorporated in this Agreement. Should there ever arise a contradiction between a Quote and this Agreement, or where a Quote is silent as to any contractual term, this Agreement shall control. This Agreement and the Quote shall constitute the entire agreement of the Parties; and along with all exhibits, schedules, attachments, addendums, amendments, and all other corollary documents, whether in hard copy or electronic copy, shall constitute the Parties’ “Agreement”.

Recitals

- A. MDC is a Managed Services Provider.
- B. Customer is in need of certain Managed Services and desires MDC to provide such Managed Services.
- C. Pursuant to the terms and conditions of this Agreement, the Parties intend to establish a contractual framework to govern their relationship, wherein MDC provides Managed Services to Customer.
- D. Therefore, in consideration of the mutual promises and covenants set forth herein, and any and all Quotes, along with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both Parties, the Parties hereby agree as follows:

Article I: Definitions

- 1.1 Definitions.** Any term that is not specifically defined herein shall derive its definition first from Missouri law; secondly from United States Federal law; and thirdly in accordance with industry standards.

Article II: Term

- 2.1 Term.** The Term of this Agreement shall be the totality of the Initial Term, plus all Renewal Terms, and all Extensions.
- 2.2 Initial Term.** The Initial Term shall be set forth in the Quote.
- 2.3 Renewal Term.** The Renewal Term or Renewal Terms shall be of such duration as agreed to by the Parties that shall automatically begin at the end of the Initial Term, or the end of a terminating Renewal Term. The mechanism for enacting Renewal Terms shall be set forth in the Quote.
- 2.4 Extensions.** Should the relationship of the Parties extend beyond the Initial Term and all Renewal Terms, the Term of this Agreement shall automatically extend for the duration of the Parties' relationship, until such relationship is terminated in writing by either Party.
- 2.5 Termination.** Should either Party determine to terminate this Agreement, said Party must inform the other Party, in writing, no less than thirty days, but no more than sixty days, prior to the expiration of the Initial Term or any Renewal Term.
- 2.5 Continuity.** There shall be no lapse of Term or the provisions of this Agreement between the Initial Term, Renewal Term(s), and Extension(s).

Article III: Services

- 3.1 Service Standard.** MDC offers a wide range of services, including managed services to its customers. The acceptance of a specific Service or Services by Customer will be reflected in the Quote.
- 3.2 Quote.** A Quote shall be agreed to by both Parties which will set forth the Services to be provided, the pricing of the Services, the Term, and the level of Service.
- 3.3 Provision of Service.**
- a. Industry Standard.** All Services provided and Work performed by MDC shall be performed to industry standards. Such Work shall be performed in a professional and workman-like manner.
 - b. Acceptance.** Customer agrees to take the Service(s) agreed to in the applicable Quote and allow for MDC's Work in furtherance of the provisions of such Service(s).
 - c. Waiver.** Customer shall have fifteen days from the date of Work, or the date of a provision of Service, or provision of a Service Report, to notify MDC of any inadequacies or mistakes in such Work or provision. Failure to so notify MDC shall constitute a waiver of Customer to lodge any complaint with MDC as to such Work or provision of Service. On Services that are of a continuing nature, each day shall account for a specific provision of Service for that day, and customer shall have fifteen days from that day to make the required notification to MDC.

3.4 Intellectual Property. Neither the provision of Services nor anything in this Agreement shall give Customer any right or license to any intellectual property of MDC.

Article IV: Confidential Information

- 4.1 Confidential Information.** “Confidential Information” of a Party means all information, unless specifically identified by such Party as non-confidential; without regard as to how communicated or stored, concerning:
- a.** the operations, affairs, products, services, and businesses of such Party,
 - b.** the financial affairs of such Party,
 - c.** the relations of such Party with its customers, employees, vendors, and service providers,
 - d.** the above includes, without limitation, confidential or proprietary information, intellectual property, trade secrets, data, drafts, documents, communications, plans, know-how, formulas, improvements, designs, pricing, estimates, calculations, test results, specimens, schematics, drawings, tracings, studies, specifications, surveys, facilities, photographs, documentation, software, equipment, processes, programs, reports, orders, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, business and financial information, customer or client lists, account information, procedures, computer information and databases, business plans, budget forecasts, business arrangements, financial information and estimates, personnel data, and long-term plans and goals.
- 4.2 Confidential Information of MDC shall include such information in Article 4.1 and the following:**
- a.** all information relating to the Services and Quotes, including the terms and conditions of this Agreement,
 - b.** the specifications, designs, documents, correspondence, software, data, and other materials and work products produced by or for Customer in the course of providing Services, and
 - c.** other MDC information or data, stored or otherwise or communicated, and obtained, received, transmitted, processed, stored, archived, maintained, or derived by Customer under this Agreement or in connection with the Services.
- 4.3 Confidential Information shall not include any information that is or becomes generally available to the public, other than as a result of a breach of this Agreement.**
- 4.4 Each Party shall take all necessary measures to safeguard the Confidential Information of the other Party, including the following.**
- a.** Treat the other Party’s Confidential Information as if it was its own confidential information.
 - b.** Limit the persons with access to the other Party’s Confidential Information on a “need to know” basis.
 - c.** Not disseminate the other Party’s Confidential Information to a third-party without the consent of the other Party; and then only if such third-party has entered into a confidentiality agreement with terms similar to this Article.

- d. Ensure Confidential Information of the other Party shall only be used in connection with this Agreement.
- e. Advise the other Party in writing within three business days in the event such Party becomes aware of any misappropriation or misuse of Confidential Information of the other Party by any person.
- f. Provide reasonable assistance to the other Party in any investigation, dispute, proceeding, or lawsuit related to unauthorized access of Confidential Information.

4.5 These provisions in this Article shall be binding upon the Parties for the Term of this Agreement and for fifteen years after the Termination of this Agreement.

Article V: Work on Customer's Premises

- 5.1 **Proper internet connection, electricity, fixtures.** Customer shall ensure that Customer possesses, and maintains throughout the Term, the proper internet connection and internet service, the proper electrical capacity and services, and the proper fixtures and equipment for MDC to provide Services to Customer.
- 5.2 **Access.** Customer shall ensure that MDC shall have access to Customer's physical facilities: during all normal business hours of Customer, during emergencies, and during non-business hours upon two-hours' notice. Customer shall ensure that MDC shall have unfettered access, including remote access, to Customer's computers, software, and Equipment through which MDC provides Services to Customer.
- 5.3 **Make-Ready.** Prior to MDC performing any Work on Customer's premises, Customer shall ensure that the premises is situated to allow MDC to perform such Work. MDC shall not move or place any fixtures, furniture, flooring, etc. in order to perform such Work.
- 5.4 **Safety and Security.** Customer shall ensure that its premises accessed by MDC personnel for Work are safe and secure. Any unsafe condition or safety concern shall be communicated by Customer to MDC prior to on-site Work and again upon arrival by MDC personnel.
- 5.5 **Restricted Access.** Customer shall ensure the physical safety and integrity of all equipment used in the provision of Services located on Customer's premises. Customer shall take all necessary steps to restrict access to such equipment to only those individuals who understand the sensitivity of such equipment and whose jobs necessitate access to the locations where such equipment is located. Customer shall ensure that only knowledgeable, competent individuals utilize the software, interface, and systems used by MDC to provide Services to Customer. All such individuals shall possess a basic understanding of data, email, and internet usage and security.

Article VI: Customer Representatives

- 6.1 Customer's Duty.** Customer shall provide the names and contact information of, at a minimum, a Technical Representative and an Account Representative, along with a secondary contact for each, where applicable. Customer shall, as soon as practicable, update such names and contact information if a new individual takes up the duty of such representative. MDC shall not be liable for any consequences related to communication deficiencies derived from contact information provided by Customer.
- 6.2 Technical Representative.** The Customer's Technical Representative shall be such person or persons who facilitate the technical aspects of MDC's provision of Services. The Technical Representative shall be able to address issues involving internet connectivity, power supply, computer usage, and Service operation.
- 6.3 Account Representative.** The Customer's Account Representative shall be such person or persons who is/are responsible for the payment of MDC's invoices to Customer.

Article VII: Billing

- 7.1 Invoices.** MDC will electronically transmit to Customer's Account Representative invoices on a monthly basis. The invoices will be in conformity with the terms of the respective Quotes.
- 7.2 Additional Charges.** Any one-time or non-recurring charges incurred by Customer will be added to Customer's then-next monthly invoice.
- 7.3 Payment Terms.** Invoices are due upon receipt. Customer shall maintain the necessary means to remit all payments electronically. All invoices unpaid more than thirty days shall accrue interest in the amount of one and one-half percent per month, compounding at one and one-half percent per month, until the maximum interest allowed by law.
- 7.4 Collection Costs.** Should MDC be required to take any action beyond the sending of an invoice in order to receive payment hereunder, such costs, including reasonable attorney fees and court costs, shall be paid for by Customer.
- 7.5 Disputes.** Should Customer dispute any charge on an Invoice the following procedure shall be undertaken:
- a.** Customer shall pay all Invoices in full during the pendency of any dispute.
 - b.** Customer shall advise MDC of the dispute within fifteen days of the receipt of the Invoice with the disputed charge; specifically stating the charge that is disputed and the reason for the dispute.
 - c.** Customer and MDC shall work together in good faith to resolve the dispute.
 - d.** If the dispute is resolved in Customer's favor, Customer shall receive a credit for the disputed amount on Customer's next Invoice.

- 7.6 Waiver.** Failure of Customer to dispute, in writing, any charge on an Invoice within fifteen days of receipt of the Invoice, shall constitute Customer's waiver of its right to dispute the charge.
- 7.7 Automatic Adjustments.** Any material change to this Agreement and/or a specific Quote shall require a written agreement between the Parties. The following adjustments to this Agreement and/or a specific Quote shall be deemed non-material:
A change in the total sum billed to Customer via invoice up to five percent per annum.
- a. An increase or decrease in subscription fees or other fees or amounts vendors charge MDC for Services subsequently provided to Customer.
 - b. A quantity adjustment to any Service performed under a Quote, as agreed upon by both Parties in writing.

Article VIII: Representations

- 8.1 Representations of Midwest Data Center.** MDC does hereby represent and warrant to Customer as follows, which warranties and representations shall survive the Term of this Agreement for a period of three hundred sixty-five (365) days at which time all liability or MDC for breach thereof shall terminate:
- a. MDC is a lawful corporation formed under the laws of the State of Missouri.
 - b. MDC is a business in good standing and has met all lawful requirements to conduct business in each and every jurisdiction within which it does business.
 - c. MDC, and its authorized representative(s), have the authority to enter into this Agreement and fully bind MDC to the provisions hereof.
 - d. MDC is not a party to any agreement, whether written or oral, which in any manner restricts its right to enter into this Agreement, or to carry out the terms and conditions hereof.
 - e. MDC has in all material respects performed all obligations required to be performed by it under all material leases, contracts, agreements and other commitments to which it is a party which materially affect its provision of Managed Services to Customer; and is not in default of them.
 - f. MDC shall not take any action, or fail to take any action, that would cause it to not fulfill its obligations of this Agreement.
 - g. MDC has all of the required personnel, experience, and skill to perform its obligations of this Agreement.
 - h. MDC has good and marketable title to all goods sold to Customer during the Term of this Agreement, free and clear of all liens, claims, security interests, encumbrances, restrictions or other charges of any kind.
 - i. MDC shall retain all records related to this Agreement and applicable Quotes for the Term of this Agreement plus an additional two years after such Term's expiration.
 - j. MDC may report unlawful activity or intellectual property right infringement to law enforcement or the holder of such intellectual property right.
- 8.2 Representations of Customer.** Customer does hereby represent and warrant to MDC as follows, which warranties and representations shall survive the Term of this Agreement

for a period of three hundred sixty-five (365) days at which time all liability or Customer for breach thereof shall terminate:

- a. Customer is a lawful business in good standing and has met all lawful requirements to conduct business in each and every jurisdiction within which it does business.
- b. Customer, and its authorized representative(s), have the authority to enter into this Agreement and fully bind Customer to the provisions hereof.
- c. Customer has the financial ability to make all payments for Managed Services in a timely manner.
- d. Customer is not a party to any agreement, whether written or oral, which in any manner restricts its right to enter into this Agreement, or to carry out the terms and conditions hereof.
- e. Customer has in all material respects performed all obligations required to be performed by it under all material leases, contracts, agreements and other commitments to which it is a party which materially affect its acceptance of, and payment for, Managed Services; and is not in default of them.
- f. Customer shall not take any action, or fail to take any action, that would cause it to not fulfill its obligations of this Agreement.
- g. Customer shall ensure that all of its employees, contractors, and agents who utilize the Services have a minimum knowledge of, and efficiency in, IT, data usage, data security, email usage and security, internet safety, cybersecurity awareness, and computer systems.
- h. Customer shall retain all records related to this Agreement and applicable Quotes for the Term of this Agreement plus an additional two years after such Term's expiration.
- i. Customer possesses the rights or interests to allow installation of equipment on Customer's premises.
- j. Customer shall not allow any person to use the Service(s) of MDC unless such person possesses a basic understanding of data, email, and internet usage and security.
- k. All equipment used to provide Services shall be electrically surge protected.
- l. No equipment or Services shall be used to conduct any illegal activity or business.
- m. No equipment or Service shall be used for any purpose other than to conduct Customer's ordinary business.
- n. Customer waives any claim or complaint regarding the deficiency of provision of a Service if such purported deficiency is not reported to MDC within fifteen days of a Service Report related to such Service.

Article IX: Non-Competition

- 9.1 Customer shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, be intentionally in direct or indirect competition with MDC in MDC's predominate line of business.
- 9.2 Customer shall not resell any Service under this Agreement.
- 9.3 MDC shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, be intentionally in direct or indirect competition with Customer in Customer's predominant line of business.

Article X: Non-Solicitation

- 10.1** Customer shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, solicit, induce, or attempt to induce any past or current customer of MDC to: (1) cease doing business in whole or in part with or through MDC; or (2) do business with any other person, firm, partnership, corporation, or other entity that performs services materially similar to or competitive with those provided by MDC.
- 10.2** Customer shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, solicit, induce, or attempt to induce any past or current employee of MDC to: (1) cease employment with MDC; or (2) be employed by, or work for, Customer.
- 10.3** MDC shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, solicit, induce, or attempt to induce any past or current customer of Customer to: (1) cease doing business in whole or in part with or through Customer; or (2) do business with any other person, firm, partnership, corporation, or other entity that performs services materially similar to or competitive with those provided by Customer.
- 10.4** MDC shall not, for the Term of this Agreement, and for a period of twenty-four months after the Termination of this Agreement, solicit, induce, or attempt to induce any past or current employee of Customer to: (1) cease employment with Customer; or (2) be employed by, or work for, MDC.

Article XI: Limitation of Liability

- 11.1** MDC shall not be liable for damage to Customer premises or Customer property, unless grossly negligent or intentional.
- 11.2** MDC shall not be held liable for any costs, loss, or damages due to delays of any kind in the furnishing of material, labor, Equipment, or Services, nor any costs, loss, or damages that are not directly and exclusively due to an act or omission of MDC; including, without limiting the generality of the foregoing, costs, loss, or damages arising out of the design, installation, manufacture, operation or failure of Equipment, the system of which the Equipment is a part, or its controls.
- 11.3** No action, regardless of form or basis, arising out of this Agreement may be brought by either party more than thirty days after the Work was performed.
- 11.4** In no event shall MDC or its suppliers be liable for any damages whatsoever beyond the amount actually paid by the customer to MDC with respect to the Service(s) provided pursuant to this Agreement during the then-current Term, excluding the cost of all materials, software, and Equipment.

- 11.5** In no event shall MDC or its suppliers be liable for any indirect damages whatsoever (including without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary or punitive loss), special damages, incidental damages, punitive damages, or consequential damages arising out of the use of, or inability to use, the Service(s) provided by MDC pursuant to this Agreement, even if MDC has been advised of the possibility of such damages.
- 11.6** Under no circumstance will MDC have responsibility to pay a ransom, or any part thereof.

Article XII: Warranties

- 12.1** Except as otherwise provided herein, MDC makes no warranty to Customer, the customers of Customer, the end user or beneficiary of a Service, or any other person or entity whatsoever, whether such warranty is express, implied, statutory, or regulatory, as to the merchantability, fitness, fitness for a particular purpose, lack of viruses or malware, non-infringement, title, or quiet enjoyment of the Service(s).
- 12.2** MDC makes no warranty, whether express, implied, statutory, or regulatory, that any Service will aid in the investigation, capture, arrest, or conviction of anyone engaged in unlawful activity.

Article XIII: Insurance

- 13.1 Property and Casualty Insurance.** Each Party shall maintain property and casualty insurance in an amount, and with a coverage, that would adequately compensate the other Party should a loss be incurred by the non-insured Party where such loss occurs on/to the insured Party's property.
- 13.2 General Liability Insurance.** Each Party shall maintain general liability insurance in an amount, and with a coverage, that would be commensurate with the Terms of this Agreement.

Article XIV: Indemnification

- 14.1 MDC Indemnification of Customer.** MDC shall hold harmless and/or indemnify MDC, its directors, officers, contractors, agents, and employees from and against claims, liabilities, demands, losses, costs, damages, actions, suits, or proceedings against Customer (collectively "Claims") arising out of:
- a.** Events or circumstances within the control of MDC; and
 - b.** MDC's unauthorized, unlawful, or unlicensed use of the Services or equipment utilized in the facilitation of Services.
- 14.2 Customer Indemnification of MDC.** Customer shall hold harmless and/or indemnify MDC, its directors, officers, contractors, agents, and employees from and against claims,

liabilities, demands, losses, costs, damages, actions, suits, or proceedings against MDC (collectively “Claims”) arising out of:

- a. Events or circumstances within the control of Customer; and
- b. Customer’s unauthorized, unlawful, or unlicensed use of the Services or equipment utilized in the facilitation of Services.

Article XV: Compliance with Laws

- 15.1 Compliance.** Each Party shall abide by all applicable federal, state, and local laws, rules, regulations, ordinances, and court orders.
- 15.2 Contest.** Should either Party contest an applicable federal, state, or local law, rule, regulation, ordinance, or court order, such Party shall notify the other Party in writing. The contesting Party shall solely bear the consequences of such contest. The non-contesting Party shall have no duty or obligation to assist the contesting Party in such contest.
- 15.3 Change in Law.** Should a change in law occur after the initial execution of this Agreement that has a material adverse impact on a Party’s ability to perform this Agreement; the Parties will use reasonable best efforts to revise this Agreement to relieve such material adverse impact while minimally affecting the remainder of this Agreement. If this Agreement cannot be so revised, the affected Party shall have the right to cessation of its obligations that were materially adversely impacted by said change in law.

Article XVI: Cooperation with Third-Parties

- 16.1 Third-Parties.** The provision of Services will be dependent upon certain third-parties, who may include: software vendors, utility providers, landlords, and government entities.
- 16.2 Cooperation.** It shall be the duty of both Parties to reasonably cooperate with any such third-parties to facilitate the provision of Services. Should a Party fail to reasonably cooperate with a third-party and that lack of cooperation causes the provision of a Service to fail or be detrimentally impacted, such Party shall bear the responsibility of such failure or detrimental impact.

Article XVII: Force Majeure

- 17.1 Force Majeure.** An event that is outside of the reasonable control of a Party that materially impacts that Party’s ability to perform its obligations under this Agreement will be considered “Force Majeure”.
- 17.2 Avoidance, Limitation, and Cure.** Each Party shall exercise due diligence to avoid any Force Majeure event; to limit the event’s impact; and to cure the impact as soon as is reasonably possible.

17.3 Failure to Perform. Should Force Majeure cause either Party to fail to perform its obligations hereunder, such failure shall be excused, except for the obligation of payment, so long as the Party is actively pursuing the Force Majeure events' limitation and impact. Should a Force Majeure event cause a material interruption in the performance of this Agreement for more than thirty days, either Party may declare such performance abated for the duration of this Agreement.

Article XVIII : Breach

18.1 Breach by MDC. MDC shall be considered in Breach in the following circumstances:

- a. Provision of Services.** If MDC fails to provide the Service(s) contracted for under this Agreement, Customer shall notify, in writing, MDC of the purported breach. Within twenty-four hours of the notice, MDC shall commence due diligence to provide or restore the Service(s) to acceptable use. MDC shall use all reasonable efforts to provide or restore the Service(s), and shall not cease said efforts until the Service(s) are provided or restored. If such Service(s) are not provided or restored within three business days of the initial notice, Customer shall provide a second notice to MDC that Customer will declare MDC in breach if such Service(s) are not provided or restored within twenty business days. If the Service(s) are not provided or restored within twenty business days, MDC shall be in Breach of this Agreement.
- b. Breach of this Agreement.** For any failure of obligation of MDC other than the failure to provide the Service(s) contracted for under this Agreement, Customer shall notify, in writing, MDC of the purported breach. Within five days of the notice, MDC shall commence due diligence to correct the purported breach and shall cure such purported breach within thirty days of notice. If the purported breach is not cured within thirty days, MDC shall be in Breach of this Agreement.
- c. Defenses to Breach.** MDC shall not be in Breach of this Agreement if its failure of obligation under **18.1.a. or 18.1.b.** is due to:
 1. Action or inaction of the Customer, or circumstances within the Customer's reasonable control or influence.
 2. Force Majeure under **Article XVII.**
 3. Failure of a necessary third-party to perform its reasonably-assumed duties.

18.2 Breach by Customer

- a. Breach of this Agreement.** For any failure of obligation of Customer, MDC shall notify, in writing, Customer of the purported breach. Within five days of the notice, Customer shall commence due diligence to correct the purported breach and shall cure such purported breach within thirty days of notice. If the purported breach is not cured within thirty days, Customer shall be in Breach of this Agreement. Time is of the essence in all payment obligations hereunder. It shall be considered a breach of this Agreement should Customer refuse, or attempt to remove, any Service agreed upon in a Quote.
- b. Defenses to Breach.** Customer shall not be in Breach of this Agreement if its failure of obligation under **18.2.a. or 18.2.b.** is due to:
 1. Action or inaction of the Customer, or circumstances within the Customer's reasonable control or influence.

2. Force Majeure under **Article XVII**.
3. Failure of a necessary third-party to perform its reasonably-assumed duties.

18.3 Cooperation. Each Party shall have the duty to work with the other Party to cure any and all purported breaches.

18.4 Declaration of Breach. After the notice and cure period requirements under this Article have run their course, and the breaching Party is still in Breach, the non-breaching Party may suspend the performance of its obligations hereunder and declare this Agreement terminated under **Article XIX**.

Article XIX: Termination

19.1 Termination. This Agreement shall be terminated upon one or more of the following events.

- a. The end of a Term.
- b. The Parties may mutually agree to the Termination of this Agreement, so long as such mutual agreement is in writing.
- c. Force Majeure under **Article XVII**.
- d. Breach under **Article XVI**.

19.2 Return of Equipment, Software, Confidential Information. Within ten days of the termination of this Agreement, each Party shall return to the other Party all of the other Party's equipment, and all physical copies (or originals) of software and Confidential Information; and delete or destroy all intangible copies (or originals) of software and Confidential Information; and provide certification of the same; with the exception that MDC shall retain Customer's data for forty-five days after termination and shall thereafter forever purge such data from its systems.

19.3 Amounts Owed. All amounts owed under this Agreement at the time of Termination shall be fully due and payable at such Termination. If Customer unilaterally terminates this Agreement, except for end of Term Termination, Force Majeure, or Breach by MDC, Customer shall be liable for the entire amount due under this Agreement; and said amount shall immediately become due and payable to MDC.

19.4 Remedies. Along with all legal remedies, either Party is authorized to seek injunctive relief along with specific performance of this Agreement, because the Parties recognize the special and unique nature of the relationship created hereunder and irreparable harm could occur from a Breach, to which monetary damages would be incapable of calculation and/or insufficient.

19.5 Suspension of Services. The provision of all Services to Customer by MDC shall cease upon Termination.

19.6 Self-help. MDC is authorized to remove all equipment owned by MDC, at Customer's physical location(s) upon Termination.

- 19.7 Cessation of Liability.** Upon Termination, all liability between the Parties, except for amounts still owed under this Agreement, shall cease.
- 19.8 Customer to not Use Disabled Software/Services.** Upon Termination Customer shall not use, or attempt to use, any software or Services provided under this Agreement.
- 19.9 Offboarding Process.** Upon Termination, MDC shall use an industry-standard offboarding process to ensure the integrity and safeguard of Customer's data. Such offboarding process shall include communication with Customer as to the steps taken.

Article XX: Waiver

- 20.1** Except as provided in Article 3.3 and Article 7.6, the failure by a Party to enforce any provision of this Agreement shall not be in any way construed as a waiver of any such provision or any other provision hereof, nor prevent that Party thereafter from enforcing each and every other provision of this Agreement.

Article XXI: Independent Parties

- 21.1 Independence.** For all purposes the Parties hereto are separate legal entities; and no interpretation of this Agreement shall render the relationship of Parties a partnership, joint venture, cooperative, consortium, association, or contractor/contractee.
- 21.2 No Cross-Party Operational Liability.** Aside from the specific responsibilities and liabilities herein expressly set forth, neither Party shall bear any responsibility or liability for the other Party's actions, inactions, or business decisions or operations.

Article XXII: Taxes and Assessments

- 22.1 Federal and State Taxes.** No provision of this Agreement shall shift the burden of any federal or state tax from one Party to the other.
- 22.2 Property Taxes and Assessments.** The Party responsible for personal property taxes and assessments on items covered in this Agreement shall be determined by the ownership and the physical location of such property.
- 22.2 Prompt Payment.** Each Party shall timely file all necessary tax and assessment forms and returns; and shall promptly pay all such taxes and assessments when due.
- 22.3 Tax-Exempt Status.** If Customer is a tax-exempt entity, such status must be relayed to MDC at the inception of this Agreement. Customer shall provide sufficient evidence of its tax-exempt status to MDC at the execution of this Agreement and on the anniversary date of this Agreement's execution. It is Customer's responsibility to immediately inform MDC of any change to Customer's tax-exempt status.

Article XXIII: Notices

23.1 Notice to MDC. Any notices required hereunder to be provided to MDC shall be sent by certified mail, return receipt requested, to the address as follows:

Midwest Data Center, Inc., 214 S. Main St., Rock Port, MO 64482.

Said Notice shall also be sent by email to: billing@mwdata.net.

23.2 Notice to Customer. Any notices required hereunder to be provided to Customer shall be sent by certified mail, return receipt requested to the address of Customer's designated Account Representative; and by email to said Account Representative.

Article XXIV: Assignment

24.1 Non-assignability. This Agreement shall not be assigned by either Party unless the non-assigning Party consents to such assignment in writing. Neither Party shall have the duty to consent to an assignment. Any attempted assignment shall constitute a material breach of this Agreement and the other Party shall be released from its duties and obligations hereunder.

24.2 Change in Circumstances. Should a Party hereto make an assignment for the benefit of creditors, enter into receivership, file bankruptcy, or have a change in the makeup of more than forty percent ownership, such change in circumstances shall constitute an attempted assignment under **24.1** herein; and the other Party hereto shall not be bound by the terms of this Agreement.

Article XXV: Governing Law

25.1 Missouri Law. In all circumstances the laws of the State of Missouri, without giving effect to Missouri's conflict of law principles, shall govern this Agreement and the relationship with the Parties.

25.2 Federal Jurisdiction. The Parties waive any right to litigate in federal court and agree that Missouri state court shall hold exclusive jurisdiction.

25.3 Venue. Atchison County, Missouri, shall be the exclusive venue for any legal proceedings emanating from this Agreement and/or the relationship of the Parties.

25.4 Service of Process. The Parties submit to the jurisdiction of the Circuit Court of Atchison County, Missouri. The Parties consent to be served with any process or paper by registered mail or by personal service within or without the state of Missouri. Furthermore, the Parties waive, and agree not to assert in any such action, suit, or proceeding that they are not personally subject to the jurisdiction of such court; that the action, suit, or proceeding is brought in an inconvenient forum; or that venue of the action, suit, or proceeding is improper.

25.5 Waivers. The Parties waive any rights to a jury trial, mediation, and/or arbitration.

Article XXVI: Survival

- 26.1 Survival.** Should any provision of this Agreement be held to be invalid, unlawful, void, voidable, and/or unenforceable:
- a.** Such provision(s) shall be deemed amended to such a minimum degree as to cure any defect so long as such cure does not run contrary to the intent of this Agreement.
 - b.** If such provision(s) cannot be so amended, such provision(s) shall be deemed as struck and shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such provisions were omitted.

Article XXVII: Integration and Entirety

- 27.1 Integration.** All Quotes, Exhibits, schedules, attachments, addendums, amendments, and all other corollary documents shall be integrated into this Agreement as if fully set forth herein.
- 27.2 Entire Agreement.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and there are no agreements, representations, warranties, or understandings between the Parties except as set forth in this Agreement. This Agreement shall supersede and take precedence over any prior agreement between the Parties, whether written or oral, and all terms and provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, jointly and severally, except where specifically stated herein.

Article XXVIII: Amendments

- 28.1** Any and all amendments, except as herein provided for, shall be executed in writing by both Parties and shall be deemed a material part of this Agreement.

Article XXIX: No Third-Party Beneficiary

- 29.1** No third-party, unless specifically set forth herein, shall benefit from this Agreement. No third-party shall derive any benefit, interest, or right from this Agreement. No third-party shall have the ability to enforce any claim purportedly derived from this Agreement.

Article XXX: Exhibits

- 30.1** All Exhibits, Schedules, Addendums, and Appendices referenced herein are hereby fully incorporated into this Agreement by this reference and are deemed part of this Agreement for all intents and purposes, as if fully set forth herein. All references to this Agreement shall fully include all such Exhibits, Schedules, Addendums, and Appendices.

Article XXXI: Interpretation

- 31.1 Headings.** The headings and titles herein are meant for ease of reading and usage and in of themselves shall have no legal effect.
- 31.2 Missouri Law.** In all circumstances the legal interpretation of this Agreement shall fall under Missouri law.
- 31.3 Industry Standards.** Any term that is not specifically defined herein shall derive its definition first from Missouri law; secondly from United States Federal law; and thirdly in accordance with industry standards.

Article XXXII: Execution

- 32.1 Counterparts.** This Agreement may be executed in several counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- 32.2 Signatures.** All signatures, whether original, copied, scanned, electronic, or otherwise, shall bind the respective Party hereto; whether such signatures be made hereupon or on a Quote. Even in the absence of signatures, a Party's acknowledgment and acceptance of the terms and conditions herein, effectuated through any electronic medium, shall bind such Party.
- 32.3 Continual Binding Effect.** The execution of this Agreement shall continually bind the Parties through amendments, revisions, and adjustments of this Agreement; and the then-current version of this Agreement shall control.

The current version of this Agreement is located at: www.mwdata.net/msa.