



14 Palmiet Drive, Kingfisher Lane (unit 4), Westville, Durban, 3629
081 432-2194 - www.bastionbackups.co.za – Reg No: 2005/057373/23 – VAT No: 4740254570

BASTION BACKUPS TERMS & CONDITIONS OF BUSINESS

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1. Interpretation

- 1.3 "BASTION BACKUPS CC" shall mean BASTION BACKUPS CC Systems, registration number 2005/057373/23.
- 1.1 "Reseller" and/or "Client" shall mean the entity or person's name appearing on the order or communication from the other party to this Agreement.
- 1.2 Any reference to the "products" and "services" shall mean the products and services described in the quotation and/or invoice and ordered by or supplied to the client in terms of this Agreement.

2. Terms & Conditions prevailing

- 2.1 The terms and conditions contained in the Quotation, Order, Invoice and herein (as applicable), shall constitute the sole terms of the Agreement between BASTION BACKUPS CC and the client.
- 2.2 By transmitting an order to BASTION BACKUPS CC, reseller agrees to receive Invoices and Statements electronically. All electronically sent Invoices and/or Statements shall be deemed to be the original.
- 2.3 No amendment or consensual cancellation of the Agreement, extension of time, waiver or relaxation or suspension of any of the provisions or terms of the Agreement shall be binding on the parties unless recorded in writing and signed by an authorised representative of BASTION BACKUPS CC.

3. Payment

- 3.1 Accounts are due and payable as prescribed in the quotation, and if not so prescribed on presentation of invoice and before delivery of the software licence information to the client.
- 3.2 Payments are payable by the client to BASTION BACKUPS CC in cash, in South African currency (ZAR) or United States Dollars (USD) without deduction or set off and free of any exchange. Direct EFT payment to BASTION BACKUPS CC's bankers is preferred.

3.3 BASTION BACKUPS CC banking details are on quotations and invoices, and at www.BASTION BACKUPS.co.za/about/banking.htm.

3.4 The client shall pay interest on all overdue accounts at the rate of 2% per month.

3.5 Any amount of whatsoever nature due by the client to BASTION BACKUPS CC shall be proved by way of a Certificate signed by a Director of BASTION BACKUPS CC, which Certificate shall constitute proof of the extent of the client's indebtedness to BASTION BACKUPS CC.

4. Warranties & Indemnities

4.1 No warranties, guarantees or representations, express or implied or tacit whether by law, contract or otherwise or whether they induced the contract or not, which are not set forth in this Agreement, shall be binding on BASTION BACKUPS CC, the client irrevocably waiving any right it may have to rely thereon.

4.2 The parties agree that BASTION BACKUPS CC shall have no liability in respect of any injury, loss or damage (direct, indirect or consequential) arising out of the use of, or inability to use, any of the products and/or services and whether or not occasioned by BASTION BACKUPS CC's negligence (gross or otherwise) or any act or omission on its part. For the purposes hereof, any reference to BASTION BACKUPS CC shall include its servants, employees, agents, suppliers or contractors or any other person for whose acts or omissions BASTION BACKUPS CC may be liable in law. Without limiting the foregoing, BASTION BACKUPS CC does not warrant that the products and/or services will be fit for the purposes for which they are to be used by the client (notwithstanding that the use of which the client intends to put the products and services is known to BASTION BACKUPS CC).

4.3 The client shall have no claim of any nature whatsoever whether for damages, or omission of the contract price, cancellation or otherwise, against BASTION BACKUPS CC, its servants, agents or others on whose behalf BASTION BACKUPS CC will be liable, in respect of any loss or damage sustained by the client of any nature whatsoever or any damage caused to the assets of the client or assets kept on its premises by any third parties or in regard to the client's business or sustained by any of its customers, howsoever caused, (gross or otherwise), act or omission of BASTION BACKUPS CC, its servants, agents or others from whom it may be liable in law.

5. Addresses & Notices

5.1 The street address and contact information supplied by the client on the quotation and order will be regarded as client's chosen address where notices may be given and documents and legal proceedings may be served.

5.2 Client must notify BASTION BACKUPS CC in writing immediately if client's chosen address changes.

5.3 Any notice to BASTION BACKUPS CC should be addressed to its head office at 14 Palmiet Drive, Kingfisher Lane (Unit 4), Westville, 3629, Durban, South Africa.

6. Cession

6.1 Only BASTION BACKUPS CC shall be entitled, without notice to the reseller/client, to cede and assign its rights and obligations which it may have in terms of this Agreement to any third party.

7. Legal Proceedings / Costs

7.1 The client shall be liable for all costs incurred by BASTION BACKUPS CC in the recovery of any amounts or the enforcement of any rights which it has hereunder on an attorney and own client scale and costs of counsel as on brief whether incurred prior to or during the institution of legal proceedings or if Judgement has been granted in connection with the enforcement of such Judgement.

7.2 Client consents that BASTION BACKUPS CC may sue in a Magistrate's Court, even if its claim against the client exceeds the jurisdiction of the Magistrate's Court.

8. Breach / Cancellation

8.1 Should the client fail, refuse or neglect to make payment of any amounts due and payable in terms of the invoice, BASTION BACKUPS CC shall be entitled in addition to any other rights or remedies it might have in law, to:-

8.1.1 immediately cancel the Agreement on written notice;

8.1.2 remove / uninstall / delete the products and associated certificates, serial keys, documentation and other product-specific materials and information from the client systems and premises without hindrance;

8.1.3 institute an action for damages.

8.2 The client may return the product for credit but no cash refund within 30 days of purchase when all of the following conditions are met without exception:

8.2.1 Within 30 days of the original purchase date, and

8.2.2 after a certification by the vendor/original product/service supplier, such certification being a vendor-produced Technical Support Ticket or equivalent official communication explicitly stating the product fails to meet the vendor's specifications, and

8.2.3 the end-user client and Reseller signs a Letter of Deletion and complies with the terms thereof, and returns same to BASTION BACKUPS CC, and

- 8.2.4 affords BASTION BACKUPS CC and/or the vendor the opportunity to replace or substitute the product with a functional equivalent.

9. Client's Obligations

- 9.1 Client shall ensure that all addresses and contact information of both reseller and end-user are correct.
- 9.2 Client agrees that delivery shall be affected by email communication from BASTION BACKUPS CC to the client; such communication shall include the product licence and software download information as provided to BASTION BACKUPS CC by the original vendor.
- 9.3 Client shall deliver the licence information to their end-user customer, together with the download instructions and links to documentation downloads, as per the original email sent by BASTION BACKUPS CC or its supplier to the client.

10. General

- 10.1 These terms and conditions will be governed by South African law.
- 10.2 The client consents to BASTION BACKUPS CC making inquiries about the client's credit record with any credit reference agency and any other party to confirm the details relevant to this Agreement. BASTION BACKUPS CC may also provide credit reference agencies with regular updates regarding how you manage your accounts, including your failure to meet agreed terms and conditions.
- 10.3 All quotations are only valid for a period of seven (7) days of the issue date stated on the quotation, unless otherwise agreed in writing.

All quotations and orders are subject to standard terms and conditions of business.

- 10.4 Client agrees to respect the trademarks, logos, copyrights and other intellectual property of BASTION BACKUPS CC and its suppliers, agents, and affiliates.
- 10.5 BASTION BACKUPS CC and Client agree to conduct their business ethically and in conformance of all applicable laws in the jurisdictions in which their business is conducted.