



Backup Express Pty. Ltd.

ACN 115 518 397

P.O. Box 95, GEEBUNG, Q4034

www.backupexpress.com.au

Ph. 1300 369 325

Fax (07) 3265-2258

email: sales@backupexpress.com.au

Terms and Conditions of use of Backup Express Services

Our commitment to you:

1. We provide an easy to use service that is suitable for installation and operation by regular computer users in most cases.
2. We provide to you the ability to upload selected files from your computer system and store them on our servers for the purpose of offsite backup, and to restore these files to your computer system.
3. We agree to allocate to you the Agreed Storage Quota on our servers for the storage of your files.
4. We grant you a license to install the client portion of our software on your computer system(s) for the purpose of backing up to / restoring your data from / our servers.
5. We protect your data during transit and during storage, by ensuring that your data remains encrypted from the moment it leaves your premises. The minimum encryption is 448 bit.
6. We locate our servers in Tier-one data centres providing a high level of environmental protection and physical security for our servers.
7. We equip our servers with redundant disk storage to minimize the possibility of data loss due to hardware failure.
8. We believe that our Customer Support and Technical Assistance exceeds industry norms.
9. We supply recovery DVD(s) on request. Our target delivery time for this is 1 business day (excluding shipping time).
10. We allow you to upgrade your plan at any time, and will effect such changes promptly. Our target lead time for creation of new accounts or upgrades is 1 business day
11. We allow you to cancel or downgrade your plan at any time prior to its monthly or annual renewal.

Your commitment to us:

12. You as the client acknowledge that payment is required to us prior to service/product delivery, either monthly or annually in advance. If a credit account is approved, invoices issued by Backup Express will be payable within 14 days (and still in advance of service delivery). Time is of the essence in this regard.
13. Should payment NOT be so received or you breach any other obligation to us, we reserve the right to suspend/cancel your service without notice.
14. Our service will only be used by you and not any third party.
15. You will advise the need for any changes to your plan, including cancellation, to us in writing.



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16. You will not store or transmit any unlawful, threatening, defamatory, offensive or pornographic material that constitutes a criminal offence or other unlawful act under any laws.
17. You will securely store your service and access details and will not knowingly allow your service and access details, specifically your security code, to be viewed or retrieved by any unauthorised third parties.
18. Our software is licensed to you for your use only and must not be used by any third party. This is a non-exclusive licence for as long as you have an active account with us. On cessation, you must remove the software from your systems.
19. You will notify us immediately of a breach of security of your service, access or security code, or change of billing or contact details.
20. You as the client accept that you are solely responsible for the following:
 - The selection of and inclusion of file data into backup sets for submission to our servers;
 - The scheduling of backup operations;
 - Ensuring that successful backup has occurred;
 - Periodically ensuring that file data can be restored from our servers; and
 - Any costs payable to any other third party, including your Internet Service Provider and I.T. consultant, that result from the use of our service.
21. You agree that to the extent permitted by law, our liability is limited to the resupply of services you have ordered and paid for in full.
22. You agree to indemnify us (our directors, employees and officers) against any cost incurred or damage or loss suffered as a result of any breach of any obligation you owe us.

Exclusions:

23. We do not warrant that our service is suitable for use by unqualified computer users under all circumstances. Your computer system may include certain complexities that require input from a qualified I.T. consultant.
24. We do not warrant that all types of data are suitable for storage on our servers.
25. We do not warrant that our servers will be available at all times. Our target availability is 99%.
26. We do not warrant that our servers are free from unauthorized physical or remote access.
27. We do not warrant that data stored on our servers is secure against all possible forms of intrusion or abuse.



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28. We do not warrant that data stored on our servers is secure against loss or corruption under all circumstances.

29. We do not warrant that our software will operate correctly on all computer systems.

30. We do not scan your uploaded data for viruses or other threats.

31. We do not warrant that a recovery DVD will be made available to you in any particular timeframe.

32. We are not liable for delays, interruptions, computer viruses or communication line failures; or damage or unauthorised access to your computer system or network.

Changes:

33. We reserve the right to make changes to these Terms and Conditions. Changes will be notified to you and will become effective immediately.

34. Variation of these Terms and Conditions for individual clients may be made by us in our discretion but must be in writing and specially say that it varies these Terms and Conditions.

Commissions:

35. You accept that commissions may be paid by us to the person(s) who introduced you to us.

Definitions:

36. "Agreed Storage Quota" means the storage quota on the backup plan you have subscribed for and we have agreed to provide.

37. "You" means you our client and your executors, administrators, successors and permitted assigns (and if more than one person or entity each of you jointly and severally).

38. "We/our/us" mean Backup Express Pty Ltd ACN 115 518 397 and its administrators and assigns.

General:

39. These Terms and Conditions shall be governed by the laws in the State of Queensland, Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts in that State.

40. Dollars are Australian dollars.

41. If any provision or part of a provision of these Terms and Conditions is invalid or otherwise unenforceable it may be severed with the fullest meaning possible to be given to the remainder.



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42. We may assign our rights and obligations under our agreement with you by notice in writing to you.
 43. Notices may be given by email, fax, mail or delivery. The addresses for the client shall be taken to be those advised to us at the point of subscription or as notified to us in writing (specifically requesting that our records be updated with the changed details).
 44. Non-enforcement or any right or remedy does not amount to a waiver or prevent us from insisting on strict performance.
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