

NETSURIT ONLINE PROTECTION SERVICES TERMS AND CONDITIONS

The following are the terms and conditions for use of the Netsurit Online Protection Services data backup service. Our Service is offered to you with the condition you accept without modification the terms and conditions contained herein. Netsurit (Pty) Ltd., the company that runs the Netsurit Online Protection Services, may change the Terms of Use at any time. You understand that by using the Service after a change becomes effective, you have agreed to it. By purchasing the Service from Netsurit (Pty) Ltd., you are indicating your agreement to be bound by all of the terms and conditions set forth in this document.

1. GENERAL

These Terms of Use (the "Agreement") are entered into by and between the customer ("you", "your" or "Subscriber") and Netsurit (Pty) Ltd.. ("Netsurit (Pty) Ltd.", "Netsurit Online Protection Services", "Netsurit Online Protection Services", "us" or "we"). This Agreement is made up of the terms below, plus the Privacy Policy, all attachments to this Agreement, and the other policies and materials specifically referred to in these Terms of Use, all of which are incorporated herein by reference. The Agreement and related policies are also set forth on the Netsurit Online Protection Services ("Website"). The Agreement sets forth the terms and conditions under which you agree to use the Service, and under which Netsurit (Pty) Ltd. agrees to provide the Service to you.

2. DEFINITION OF SERVICE

For purposes of this Agreement, the term "Service" shall mean the Netsurit Online Protection Services service as outlined on the website backup.netsurit.com

3. AUTHORIZED USER, USE, AND RESPONSIBILITIES

3.1 You acknowledge that you have the legal authority to enter into this Agreement and affirm that the information you supply to us is correct and complete. You understand that Netsurit Online Protection Services relies on the information you supply and that providing false or incorrect information may result in Service withholding or delays or the suspension or termination of your customer account. You agree to promptly notify Netsurit Online Protection Services whenever your personal or billing information changes (particular your bank account details for debit order transactions)

3.2 You agree that you are responsible for all use on your account. You understand this means that you accept full liability and responsibility for the actions of anyone who uses the Service via your account, with or without your permission.

4. AVAILABILITY OF SERVICE

4.1 The Service you select may not be available at all times, and may not be available in the format generally marketed, and some personal computers may not be available to receive the Service. Please see on the Website the list of the operating systems that Netsurit Online Protection Services currently backup.

4.1 Netsurit Online Protection Services may at any time, without notice or liability, restrict the use of the Service or limit its time of availability in order to perform maintenance activities and to maintain session control.

6. TERM AND TERMINATION

6.1 Effective Date and Term. This Agreement goes into effect upon your acceptance of this Agreement as set forth in Paragraph 1 and shall continue, subject to the terms of this Paragraph 12, until terminated by either party as permitted by this Agreement.

6.2 Termination of Service

6.2.1 Subscription Services can be terminated by the customer by notifying Netsurit Online Protection Services, in writing, at least three (3) days prior to the end of the current subscription period at support@backuponline.co.za

6.2.2 Termination and/or Suspension by Netsurit Online Protection Services. If, in the sole discretion of Netsurit Online Protection Services: (a) you are in breach of any of the terms of this Agreement (including but not limited to all policies regarding abuse and acceptable use of the Service); (b) your use of the Service is prohibited by law or is disruptive to, adversely impacts or causes a malfunction to the Service, Netsurit Online Protection Services's network, or the use and enjoyment of other users; or (c) Netsurit Online Protection Services receives an order from a court to terminate your Service; (d) Netsurit Online Protection Services for any reason ceases to offer the Service; or (e) you are no longer a Netsurit Online Protection Services customer, then Netsurit Online Protection Services at its sole election may terminate or suspend your Service immediately without notice.

6.2.3 Terminated Account. Netsurit Online Protection Services, in its sole discretion, may refuse to accept your request for service renewal or re-subscription following a termination or suspension of your use of the Service.

7. PRICING AND PAYMENT

7.1 Pricing and Fees. Netsurit Online Protection Services fees and charges for the Subscription Service(s) you select based on data storage requirements. You agree to pay the charges applicable to your selected data storage requirements

7.2 Discontinuation of Service for Non payment. Service to you may be denied or discontinued without notice at any time for non payment. The Service is billed one month in arrears depending on the data storage requirements for the preceding month.

8. LIMITATIONS ON USE OF THE SERVICE

8.1 You agree that your use of the Service and the Internet, without limitation, is your sole responsibility, is solely at your own risk, and is subject to all applicable local, state, national and international laws and regulations.

8.2 You agree that the Internet is not owned, operated or managed by, or in any way affiliated with Netsurit Online Protection Services and Netsurit Online Protection Services is not responsible and has no control over the information or materials accessible via the Internet through use of the Service. You further agree that Netsurit Online Protection Services does not own or control all of the various facilities and communications lines through which service may be provided, nor does Netsurit Online Protection Services guarantee access to or through websites, servers or other facilities on the Internet, whether or not such facilities are owned or controlled by Netsurit Online Protection Services.

8.3 You agree that Netsurit Online Protection Services cannot and does not guarantee or warrant that data available for downloading through the Service will be free of defects, infection or viruses, worms, Trojan horses or other code that manifest contaminating, malicious or destructive properties.

8.4 You agree that the Internet is not a secure network and that third parties may be able to intercept, access, use, or control the information you transmit or receive over the Internet. Netsurit Online Protection Services encrypts all of your data using 128-bit encryption prior to transmission to its servers and undertakes its best efforts to ensure your data remain secure. Netsurit Online Protection Services is not responsible for invalid destinations, transmission errors or corruption or the security of your data.

8.5 Netsurit Online Protection Services should not be used as a primary mechanism.

9. WARRANTIES AND LIMITATION OF LIABILITY

9.1 YOU ACKNOWLEDGE AND AGREE THAT THE SERVICE SUPPLIED HEREUNDER IS PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS, WITH ALL FAULTS. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH IN THIS AGREEMENT AND AS OTHERWISE SPECIFICALLY SET FORTH IN ANY MANUFACTURER WARRANTY FOR ANY EQUIPMENT OR SOFTWARE PROVIDED BY NETSURIT ONLINE PROTECTION SERVICES (BUT ONLY IF SUCH WARRANTY IS INCLUDED WITH SUCH EQUIPMENT OR SOFTWARE), MILLENNIUM/NETSURIT ONLINE PROTECTION SERVICES (AND ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, DISCLAIM ANY AND ALL WARRANTIES FOR THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON-INFRINGEMENT, NON-INTERFERENCE, TITLE, COMPATIBILITY OF COMPUTER SYSTEMS, INTEGRATION, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF TRADE, OR ARISING UNDER STATUTE. NO ADVICE OR INFORMATION GIVEN BY NETSURIT ONLINE PROTECTION SERVICES OR ITS REPRESENTATIVES SHALL CREATE A WARRANTY.

9.2 NETSURIT ONLINE PROTECTION SERVICES DOES NOT WARRANT THAT THE SERVICE PROVIDED BY NETSURIT ONLINE PROTECTION SERVICES WILL PERFORM AT A PARTICULAR SPEED, BANDWIDTH OR DATA THROUGHPUT RATE, OR WILL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR FREE OF VIRUSES, WORMS, OR THE LIKE. NETSURIT ONLINE PROTECTION SERVICES SHALL NOT BE LIABLE FOR LOSS OF YOUR DATA, OR IF CHANGES IN OPERATION, PROCEDURES, OR SERVICES REQUIRE MODIFICATION OR ALTERATION OF YOUR EQUIPMENT, RENDER THE SAME OBSOLETE OR OTHERWISE AFFECT ITS PERFORMANCE. NETSURIT ONLINE PROTECTION SERVICES MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED USING THE SERVICE OR THE INTERNET. NETSURIT ONLINE PROTECTION SERVICES MAKES NO WARRANTY REGARDING THE CONTENT AND INFORMATION ACCESSED BY USING THE SERVICE OR ANY LINKS DISPLAYED. YOU EXPRESSLY ASSUME ALL RISK AND RESPONSIBILITY FOR USE OF THE SERVICE AND THE INTERNET GENERALLY. DO NOT USE THE SERVICE IN ANY HIGH RISK ACTIVITIES WHERE DAMAGE OR INJURY TO PERSON, PROPERTY, ENVIRONMENT, OR BUSINESS MAY RESULT IF AN ERROR OCCURS.

9.3 IN NO EVENT SHALL NETSURIT/NETSURIT ONLINE PROTECTION SERVICES (OR ITS OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, OR AFFILIATES), ITS THIRD PARTY LICENSORS, PROVIDERS OR SUPPLIERS, BE LIABLE FOR: (A) ANY DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR LOSS OF REVENUE OR DAMAGE TO DATA ARISING OUT OF THE USE, PARTIAL USE OR INABILITY TO USE THE SERVICE, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, INCLUDING WITHOUT LIMITATION, THOSE ARISING UNDER CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF NETSURIT ONLINE PROTECTION SERVICES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, OR (B) ANY CLAIMS AGAINST YOU BY ANY OTHER PARTY.

9.4 ALL LIMITATIONS AND DISCLAIMERS STATED IN THIS PARAGRAPH ALSO APPLY TO NETSURIT ONLINE PROTECTION SERVICES THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, AS THIRD PARTY BENEFICIARIES OF THIS AGREEMENT.

9.5 ANY RIGHTS OR LIMITS STATED HEREIN ARE THE MAXIMUM FOR WHICH NETSURIT ONLINE PROTECTION SERVICES (AND IT'S OFFICERS, EMPLOYEES, PARENT, SUBSIDIARIES, AND AFFILIATES), NETSURIT ONLINE PROTECTION SERVICES THIRD PARTY LICENSORS, PROVIDERS AND SUPPLIERS, ARE COLLECTIVELY RESPONSIBLE.

9.6 THE REMEDIES EXPRESSLY SET FORTH IN THIS AGREEMENT ARE YOUR SOLE AND EXCLUSIVE REMEDIES. YOU MAY HAVE ADDITIONAL RIGHTS UNDER CERTAIN LAWS (SUCH AS CONSUMER LAWS), WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY, OUR EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

9.7 NETSURIT ONLINE PROTECTION SERVICES RESERVES THE RIGHT TO PURSUE ANY AND ALL LEGAL AND EQUITABLE CLAIMS AGAINST YOU PERTAINING TO YOUR USE OR MISUSE OF THE SERVICE OR FOR YOUR BREACH OF THE AGREEMENT (INCLUDING ANY POLICIES RELATING TO THE SERVICE.)

10. INDEMNITIES

You agree to defend, indemnify and hold harmless Netsurit Online Protection Services from and against all liabilities, costs and expenses, including reasonable lawyer's fees, related to or arising from: (a) any violation of applicable laws, regulations or this Agreement by you (or any parties who use your account, with or without your permission, to access the Service); (b) the use of the Service or the Internet or the placement or transmission of any message, information, software or other materials on the Internet by you (or any parties who use your account, with or without your permission, to access the Service); (c) negligent acts, errors, or omissions by you (or any parties who use your account, with or without your permission, to access the Service); (d) injuries to or death of any person and for damages to or loss of any property, which may in any way arise out of or result from or in connection with this Agreement, except to the extent that such liabilities arise from the active negligence or willful misconduct of the other party; or (e) claims for infringement of any intellectual property rights arising from the use of the Service, Software, or the Internet.

11. NOTICES

11.1. Notices by Netsurit Online Protection Services to you shall be deemed given: (a) when sent to your registered email address, or (b) when deposited in the mail addressed to you at last-known address or (c) when hand delivered to your home, as applicable. Notice of changes to this Agreement and these Terms of Use will be deemed given upon posting to the pages on the Website.

11.2 With regard to electronic communications, you and Netsurit Online Protection Services further agree that: (a) the membership number and/or alias of a sender, contained in an electronic communication ("email"), is legally sufficient to verify the sender's identity and the authenticity of the communication; (b) an email sent containing your membership number and/or alias establishes you as its originator and has the same effect as a document with your written signature on it; and (c) an email or any computer printout of it, is a valid proof of the validity of the original content of the electronic communication.

12. GENERAL PROVISIONS

12.1 All obligations of the parties under this Agreement, which, by their nature, would continue beyond the termination, cancellation or expiration of this Agreement, including by way of illustration and not limitation, those clauses relating to Limitation of Liability and Indemnities, shall survive such termination, cancellation or expiration.

12.2 Netsurit Online Protection Services will not be liable for delays, damages or failures in performance due to causes beyond its reasonable control, including, but not limited to, acts of a governmental body, acts of God, acts of third parties, fires, floods, strikes or other labour-related disputes, of other things we do not control, or an inability to obtain necessary equipment or services.

12.3 You agree not to assign or otherwise transfer, this Agreement in whole or in part, including any software or your rights or obligations under it. Any attempt to do so shall be void. We may assign all or any part of this Agreement without notice and you agree to make all subsequent payments as directed.

12.4 The construction and validity of these Terms of Use are to be governed by English law, and the English courts are to have jurisdiction over all matters relating to and arising out of these terms.

12.5 Netsurit Online Protection Services failure at any time to insist upon strict compliance with any of the provisions of this Agreement in any instance shall not be construed to be a waiver of such terms in the future. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the unenforceable portion shall be construed as nearly as possible to reflect the original intentions of the parties.

12.6 This Agreement, constitutes the entire agreement between you and Netsurit Online Protection Services with respect to the subject matter hereto and supersedes any and all prior or contemporaneous agreements whether written or oral. Any changes by you to this Agreement, or any additional or different terms in your purchase orders, acknowledgements or other documents, written or electronic, are void.

If you have any additional questions, please feel free to contact us any time at support@netsurit.co.za