

# DAMAJ LTD

## TERMS AND CONDITIONS

Effective 1 November 2008

### On-Line Backup Service Agreement

<b>Services</b>	The provision of services by DAMAJ Ltd is in partnership with Datasafe NZ Ltd.
<b>Price adjustment mechanism</b>	Prices are subject to change at the discretion of DAMAJ Ltd. Such changes will be communicated prior to application of new price.
<b>Termination of Agreement</b>	1 months notice of cancellation of service is required.
<b>Rates and charges</b>	You agree to pay to us the rates specified in this agreement with an amount equal to the charges. The rates will be adjusted in accordance with the price adjustment mechanism.
<b>Invoicing and payment</b>	Our terms of payment are full payment by Direct Debit on the 1 <sup>st</sup> of each month. Non payment could result in an interruption of your back-up service. We may charge you interest at a rate not exceeding two percent (2%) above the prevailing 180 day bank bill rate as quoted by the Australian and New Zealand Banking Group on any amount due and not paid by you within the time required for payment.
<b>Disclaimer of liability</b>	We will not be liable to you (whether in tort or in contract) for or in respect of any loss or damage of any kind whatsoever arising directly or indirectly from any act or omission (whether negligent or otherwise) on our part or on the part of any of our employees, agents, contractors and/or sub-contractors in connection with, arising out of or otherwise relating to this agreement. Neither party will be liable to the other party in any circumstances for any indirect, economic, special or consequential loss or damage, including but not limited to loss or revenue, loss of production or loss of profit.
<b>Fees</b>	Fees are charged as per our attached price schedule. You will incur an additional charge per GB over your monthly allocation which will be invoiced at month end payable by Direct Debit. You will be notified should your backups exceed 80% of your capacity.

**DAMAJ Ltd**

**P O Box 21778, Henderson, Waitakere, 0650.**

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**e-mail: info@damaj.co.nz - web: www.damaj.co.nz**



**Force Majeure**

If, as a result of some fact, circumstance, matter or thing beyond the reasonable control of a party (“force majeure”), that party becomes unable, wholly or in part, to perform any of its obligations under this agreement: (a) that party is to give the other party prompt notice of the relevant event of force majeure with reasonably full particulars and, in so far as known to it, the probable extent to which it will be unable to perform, or be delayed in performing, the relevant obligations; (b) the relevant obligations, other than an obligation to pay money, is suspended but only so far as, and for so long as, it is affected by the relevant event of force majeure; and (c) that party is to use all possible diligence to overcome or remove the relevant event of force majeure as quickly as possible.  
The obligation of the affected party to perform its obligations, resumes as soon as it is no longer affected by the relevant event of force majeure.

**Governing law**

This agreement is governed by the laws of New Zealand. You and we agree to submit to the non-exclusive jurisdiction of New Zealand and the courts of appeal from them.

The parties agree to the supply and receipt of services for Plan ....., and on the terms and conditions set out in this agreement.

Name: [ ] Name: [ ]

Position: [ ] Position: [ ]

Signature: \_\_\_\_\_  
For the recipient Company

Signature: \_\_\_\_\_  
for DAMAJ Ltd

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## On-Line Backup Service Fee Schedule

**Effective 1 November 2008**

The backup service has a two tiered cost structure:

- A licence fee for each computer or server on which the backup software is installed.
- A monthly data charge based on the backup plan you have chosen. Your combined backup size is calculated across all workstations you choose to backup.

### **Fee Schedule**

<b>Backup Licence</b>	<b>Monthly Fee</b>
Desktop	\$ 19.95
Server	\$ 49.95
Advanced Server	\$ 69.95

<b>Data Plans</b>	<b>Monthly Fee</b>
Data 5 GB	\$ 12.50
Data 10 GB	\$ 24.00
Data 15 GB	\$ 34.50
Data 20 GB	\$ 46.00
Data 40 GB	\$ 88.00
Data 60 GB	\$ 126.00

NOTE: All prices are exclusive of GST.