



Terms of Service and Acceptable Use Policy

FTP Backup

FTP Backup is intended to be used by existing Information Point Technologies (iPoint) customers for remote backup of files and data. Information Point Technologies (iPoint) recommends a diverse backup strategy including customer-site backups in addition to FTP Backup, and thus Information Point Technologies (iPoint) does not guarantee the availability or condition of any data or files stored on its servers. FTP Backup may not be used to share files with the general public nor may illegal or otherwise prohibited data or files be stored on Information Point Technologies (iPoint) backup servers. Connections to FTP Backup are permitted only from Information Point Technologies (iPoint) backup program. Use of FTP Backup is subject to Information Point Technologies (iPoint) Terms of Service and Acceptable Use Policy.

- 1. FEES, TAXES AND PAYMENT.**
 - 1.1 Fees. In exchange for the License and the Services provided by Information Point Technologies under this Agreement, Subscriber shall pay Information Point Technologies in advance a monthly fee based on the service plan the Subscriber has selected. If Information Point Technologies does not receive written notice of a request for service termination by the Subscriber, the Subscriber acknowledges and understands that Information Point Technologies will continue to charge the Subscriber for the Services as long as the Subscriber's account remains active regardless if the Services are used or not.
 - 1.2 Over usage Charges. Subscriber acknowledges that at the end of each billing period, if the Subscriber is using more than the allotted amount of storage based on the service plan the Subscriber has selected, then Information Point Technologies shall charge an additional fee for Subscriber's over usage of the Services. Such fee shall be calculated based on incremental Bytes used multiplied by the implied price per Gigabyte for additional storage for the service plan the Subscriber selected.
 - 1.3 Restoration costs. The Subscriber may restore any or all files using the Automated Offsite Backup software over the internet at any time without any additional fee. In the instance the Subscriber needs a large amount of data, the subscriber may request a drive to be delivered or shipped to the subscriber. The Subscriber will be responsible for an Emergency Fee of \$300 plus any shipping costs to produce and ship or deliver the data. Any labor by Information Point Technologies to assist in the recovery of said data either over the internet or shipped or delivered drive will be billed at the subscriber's hourly rate.
 - 1.4 If the Subscriber requires restoration of data from outside the retention period the subscriber agrees to pay a Restoration Fee of \$300 to Information Point Technologies to attempt to retrieve the requested data regardless if Information Point Technologies can recover said data. The Restoration does

not include the Emergency Fee if the data must be delivered or shipped to subscriber the Emergency fee will still apply. Any labor after the recovery is complete to assist the subscriber to restore the data to their systems will be billed hourly at their hourly rate.

1.5 Taxes. Subscriber is responsible for all sales, use and other taxes that are levied or imposed by reason of the License, Subscriber's use of the Software or the Services, this Agreement, or the transactions contemplated herein, other than taxes imposed on Information Point Technologies net income.

1.6 Payment by Check. For Subscribers who choose to pay for the services via check, Subscribers shall be receive an invoice in the mail approximately fifteen (15) days before the beginning of each monthly billing cycle, dated on the first day of the billing cycle. All payments shall be due upon receipt of invoice. After the first day of the billing cycle, all amounts due but unpaid shall accrue interest at the lesser of the rate of one and one-half percent (1-1/2%) per month or the maximum rate allowed by applicable law.

- 2. TERM AND TERMINATION.**
- 2.1 Term. This Agreement shall commence on the Effective Date and continue in effect for one (1) year or term specified on Automated Offsite i-RemoteBackup Order Form thereafter unless terminated earlier as provided herein. Subscriber therefore agrees to pay the Information Point Technologies for a minimum of twelve (12) months of service at the amount specified on the Automated Offsite Backup Order Form.
- 2.2 Termination by Subscriber. Subscriber may terminate this Agreement at any time after the initial one year term by providing Information Point Technologies with written notice of Subscriber's intent to terminate use of the Service. At the time termination, the Subscriber's access to Subscriber Account and any of Subscriber Files stored by the Service may be permanently terminated. Information Point Technologies shall not provide a refund for any unused portion of the Services paid in advance by Subscriber.
- 2.3 Termination by Information Point Technologies for Breach. Information Point Technologies may, by written notice to Subscriber, terminate this Agreement, including all licenses granted hereunder, in the event of a default by Subscriber. Each of the following shall constitute a default: (i) failure by Subscriber to pay Provider in full for any fee(s) and/or charge(s) due to the provider if payment is not rendered within fifteen (15) days after the payment was due; (ii) any breach of any material term or obligation of this Agreement if not remedied within thirty (30) days after written receipt of notice; (iii) any material breach of license grants, license restrictions, intellectual property rights, or confidentiality provisions provided herein effective immediately upon receipt of notice from Information Point Technologies ; or (iv) Subscriber becomes the subject of any bankruptcy, insolvency, or reorganization proceeding, or generally seeks relief from its debts, or becomes or is declared, by any court of competent jurisdiction, to be insolvent.
- 2.4 Termination by Information Point Technologies without Cause. Information Point Technologies may terminate this Agreement, including all licenses granted hereunder, without cause upon thirty (30) days written notice. Should Information Point Technologies opt to terminate the Agreement without cause, Information Point Technologies agrees to allow Subscriber access to Subscriber Account and Subscriber Files for not less than 30 days following notification of termination. Information Point Technologies also agrees to provide a refund for any unused portion of the Services paid in advance by Subscriber.
- 2.5 Termination by Subscriber without Cause. The Subscriber may terminate this Agreement, including all licenses granted hereunder, without cause upon thirty (30) days written notice if the account is current. Any remaining Fees and or Charges must be

paid in full prior to the termination of the agreement. If account is not paid in full the Subscriber will continue to accrue monthly service fees until account is in good standing and there is a zero (0) balance. Should Subscriber opt to terminate the Agreement without cause, at the time termination, the Subscriber's access to Subscriber Account and any of Subscriber Files stored by the Service may be permanently terminated. The Subscriber also agrees to provide a payment in full for remaining term of the agreement in addition to an early termination fee equal to one month's service.

2.6 Disposition of data on termination. Subscriber understands that all subscriber files stored by Information Point Technologies under this agreement shall be deleted on or after seven (7) days from the termination date of this agreement (the "termination period"). Subscriber acknowledges that after the termination period, subscriber files will no longer be accessible to subscriber.

2.7 Payment of Fees and Other Matters upon Termination. Upon the termination of this Agreement for any reason, Subscriber shall pay to Information Point Technologies any and all outstanding fees, charges and other amounts relating to the Software and the Services or otherwise which are due Information Point Technologies. All rights granted by the Information Point Technologies under this Agreement shall cease upon the expiration or termination of this Agreement for any reason, and Subscriber shall immediately cease any use of the Software and/or the Services upon such termination.

3. OWNERSHIP RIGHTS. Subscriber Files Property of the Subscriber. All Subscriber files are and shall remain the exclusive property of the Subscriber. Subscriber shall retain all right and title in and to the Subscriber files, including any proprietary rights in the Subscriber files. Information Point Technologies shall not transfer, sell, disclose, license, alter or otherwise use the Subscriber Files other than to provide the Services as contemplated by this Agreement. Information Point Technologies shall have the right to make copies of Subscriber files stored in connection with the Services; however, Information Point Technologies is not obligated to archive such copies and will utilize them only for backup purposes. At the time termination, the Subscriber's access to Subscriber Account and any of Subscriber Files stored by the Service may be permanently terminated at the time termination, the Subscriber's access to Subscriber Account and any of Subscriber Files stored by the Service may be permanently terminated.

4. Bandwidth and Storage Usage

You agree that use of the Services under this Agreement will not exceed the bandwidth and storage usage limits set out. If you use any bandwidth or storage space in excess of the agreed upon number of megabytes per month, you agree to pay the associated additional charges. Data stored in your user account on a Information Point Technologies Server is not owned by Information Point Technologies; therefore Data preservation is the ultimate responsibility of you, the client.

5. User Responsibilities

You are solely responsible for any and all activities that occur under your account and ensuring that you exit or log-off from your account at the end of each session of use. You shall notify Information Point Technologies immediately of any unauthorized use of your password or account or any other breach of security that is known or suspected by you. You shall also use your best efforts to stop immediately any copying or distribution of Content that is known or suspected by you. Information Point Technologies shall not be responsible for any unauthorized access to, or alteration of, your transmissions or data, any material, information or data sent or

received, regardless of whether the data is actually received by Information Point Technologies, or any transactions entered into through the Service or failure to abide by this Agreement. DO NOT MISUSE OR ABUSE OUR SYSTEM OR OUR SYSTEM RESOURCES (I.E.BANDWIDTH). YOUR ACCOUNT WILL BE IMMEDIATELY TERMINATED.

LIMITATION AND EXCLUSION OF LIABILITY

Limitations

IN NO EVENT SHALL Information Point Technologies HAVE ANY LIABILITY WHATSOEVER FOR DAMAGE, UNAUTHORIZED ACCESS TO, ALTERATION, THEFT OR DESTRUCTION OF INFORMATION PROVIDED TO Information Point Technologies, DISTRIBUTED OR MADE AVAILABLE FOR DISTRIBUTION VIA THE SERVICES. Information Point Technologies SHALL HAVE NO LIABILITY UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF Information Point Technologies HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF Information Point Technologies TO YOU FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID TO Information Point Technologies BY YOU UNDER THIS AGREEMENT DURING THE THIRTY (30) DAYS IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CLAIM ACCRUED. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS. THE FEES FOR THE SERVICES SET BY Information Point Technologies UNDER THIS AGREEMENT HAVE BEEN AND WILL CONTINUE TO BE BASED UPON THIS ALLOCATION OF RISK. ACCORDINGLY, YOU HEREBY RELEASE Information Point Technologies FROM ANY AND ALL OBLIGATIONS, LIABILITIES, AND CLAIM IN EXCESS OF THE LIMITATION STATED IN THIS SECTION. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES, OUR LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW.

Interruption of Service

You hereby acknowledge and agree that Information Point Technologies will not be liable for any temporary delay, outages or interruptions of the Services. Further, Information Point Technologies shall not be liable for any delay or failure to perform its obligations under this Agreement, where such delay or failure results from any act of God or other cause beyond its reasonable control (including, without limitation, any mechanical, electronic, communications or third-party supplier failure).

Maintenance

You hereby acknowledge and agree that Information Point Technologies reserves the right to temporarily suspend services for the purposes of maintaining, repairing, or upgrading its systems and network. Information Point Technologies will use best efforts to notify you of pending maintenance however at no time is under any obligation to inform you of such maintenance.

Company Name: _____

Representative/Client: _____

Signature: _____ Date: _____