



TERMS & CONDITIONS OF BIZTRAK MSB SaaS

1. The Biztrak MSB SaaS product ("the Product") consists of the Biztrak MSB Modules & Services as subscribed for by the Subscriber under this Subscription Form.
2. Upon the subscription for the Product by the Subscriber the Licensor shall grant a non-exclusive and non-transferable license to the Subscriber to use the Product in accordance to the terms provided in the Biztrak End-User Software License Agreement ("EULA") and upon the terms and conditions herein.
3. The Product shall be used solely by the Subscriber and the Subscriber's subsidiaries or affiliates as may be defined and prescribed in the SLA where the subscription is for multi-companies provided that the number of companies using the Product does not exceed the number of companies subscribed for in this Order Form.
4. The Subscriber shall pay the Subscription Fee ("License Fee") semi-annually in advance and other than the 1st payment of the Subscription Fee, each subsequent semi-annual payment of the Subscription Fee shall be payable at least one (1) month before the expiry of the current subscription period, in respect of which payment for the Subscription Fees have been made, failing which the right of the Subscriber to use the Product may be terminated or suspended at the sole discretion of Biztrak Business Solutions Sdn Bhd ("the Licensor").
5. In the event of the suspension of the use of the Product due to non-payment or late payment of the Subscription Fee, reinstatement may be allowed subject to payment of all overdue Subscription Fee.
6. The subscription and the license to use the Product shall be terminated in the event of non-payment of the Subscription Fee or other material breach of the EULA by the subscriber.
7. The Subscription shall be renewable automatically at the applicable rate of Subscription Fee unless a written notice of termination is received one (1) month in advance from the Subscriber.
8. In the event of termination, in writing, prior to the expiry of the current Subscription Period for which payment has been made, Biztrak reserves the right to retain any portion of the payment for such period.
9. Standard Training shall be provided at Biztrak Business Solutions Sdn Bhd's office and must be utilized within three (3) months of signing up.
10. The Subscriber shall be responsible to maintain its database including regular backup and verification of its reliability.
11. Assignment. The Subscriber shall not be entitled to assign, sub-license or otherwise transfer the License to any company or party without the written consent of the Licensor which consent may be refused without assigning any reasons therefore.
12. LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (TORT, CONTRACT, OR OTHERWISE) SHALL THE LICENSOR OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO THE SUBSCRIBER, ITS LICENSEES, OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA, COSTS TO RECOVER LOST DATA, COST OF SUBSTITUTE SOFTWARE, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES ARISING FROM USE OR INABILITY TO USE THE PRODUCT, OR FOR ANY DAMAGES OF ANY NATURE (INCLUDING BOTH DIRECT AND INDIRECT) IN EXCESS OF THE LICENSE FEES ACTUALLY PAID TO THE LICENSOR FOR THE SPECIFIC PRODUCT AND DOCUMENTATION WHICH DIRECTLY CAUSED SUCH DAMAGES, EVEN IF THE LICENSOR SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.
13. Force Majeure. Notwithstanding anything else contained in this Agreement, the Licensor shall not be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the other party). The performance of the Licensor's obligations shall be suspended during the period that the said circumstances persist.
14. Subscriber's Warranty. The Subscriber hereby warrants to the Licensor that the Subscriber has not been induced to enter into this Agreement by any prior representations or warranties, whether oral or in writing, except as specifically contained in this Agreement and the Subscriber hereby irrevocably and unconditionally waives any right it may have to claim damages for any misrepresentation not contained herein (unless such misrepresentation or warranty was made fraudulently) and/or to rescind this Agreement.
15. Waiver of Remedies. No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its right operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any right, power or remedy available to that party and each such right, power or remedy shall be cumulative.
16. Entire Agreement. This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties.
17. Notices. All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered personally or by prepaid registered post or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by post 48 hours after posting and if by facsimile transmission when dispatched.
18. Severability. Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provisions in question shall remain in full force and effect.