

## Terms and Conditions – Bak2Bak Warehouse Solutions

### Definitions:

Client	The Client is the entity which engages Bak2Bak's services
Customers	Shall mean all customers of THE CLIENT
Damages	Direct physical damage to product making them no longer saleable condition
Employees	Any direct employee, temporary staff, sub-contractors or agents of Bak2Bak
Fire, Theft, Damage	Shall mean loss, damage or theft of any THE CLIENT products and/or other business contents at the Warehouse caused by fire, lightning, explosion, impact by animal, vehicle or aircraft, earthquake or volcanic eruption, Malicious acts, storm or water damage (But not flood), falling trees. Theft shall mean theft by any Bak2Bak employee or outside party.
Force Majeure Event	Shall mean an act of God, Government order, earthquake, flood, fire, riot, war, embargo, derailment, state-wide or national Union industrial action or any other cause or event unforeseeable and beyond the reasonable control of either party. The failure of a supplier or subcontractor to perform under its document with Bak2Bak, for any reason whatsoever, shall not constitute a Force Majeure Event.
Order processing fee	Shall mean a charge applied to every order processed to allow for picking, packing, labelling and preparation for despatch.
Picking error	Shall mean the incorrect product is shipped to a THE CLIENT's customer.
Storage fee	Shall refer to the number of units stored at Bak2Bak. Storage is charged per week or part thereof.
Peak Period	Commencing November 1 through 31 January is our Peak Period.

### 1. Services Provided

- 1.1. Bak2Bak shall provide the Services as outlined in the Warehouse and Distribution (W&D) Quote and is subject to the terms of this Document and in accordance with procedures agreed to with THE CLIENT
- 1.2. THE CLIENT request in writing that Bak2Bak perform additional services against terms and conditions and rates to be agreed upon separately.
- 1.3. Bak2Bak is entitled to use subcontractors and/or temporary personnel for the execution of the Services, without THE CLIENT'S prior consent. Bak2Bak shall always be responsible and liable to THE CLIENT for the performance of its sub-contractors, and they will be regarded as employees of Bak2Bak for the purposes of this Document.
- 1.4. Bak2Bak will ensure that all persons engaged in the performance of the Services on behalf of Bak2Bak are appropriately skilled and trained to perform services under this Terms and Conditions.
- 1.5. Bak2Bak is responsible for ensuring compliance with all laws and regulations and to have all licenses and insurances necessary for the provision of services under this Document.
- 1.6. Bak2Bak will provide all suitable information and communication technology to manage the Services, and appropriate interfaces to THE CLIENT and third-party systems so as to provide the Services as outlined in this document.
- 1.7. Bak2Bak shall keep the data in its systems up to date, so that they accurately represent the status of all products and product movements including but not limited to transfers, orders, deliveries and returned products, together with the quantity of all Products by location as stored in the Terms and Conditions.
- 1.8. Bak2Bak shall not be liable for any errors or losses caused by THE CLIENT data entry errors. THE CLIENT shall not be liable for any errors or losses caused by the faulty installation of Bak2Bak's systems, or for any errors or losses caused by data entry errors by Bak2Bak.
- 1.9. Bak2Bak shall, as far as is practicable, exercise all professional skills, care and diligence in the performance of the Services within this document and carry out all the Services in accordance with the mutually agreed performance requirements.

### 2. Charges and Payment

- 2.1. Upon the Client engaging Bak2Bak, they will accept and sign a Warehouse and Distribution quote. These rates shall remain effective for 12 months from the date services are commenced by Bak2Bak.
- 2.2. After each 12 month period, Bak2Bak will review and update all rates directly in proportion to the CPI as reported for the past 12 months by the Australian Bureau of Statistics.

- 2.3. All Freight Rates supplied to THE CLIENT shall remain effective for a 12-month period from the Commencement Date of this Document, or until altered by the Shipping provider, whichever occurs sooner
- 2.4. All Charge Rates exclude applicable GST
- 2.5. Subject to the provision of the Services and in accordance with the terms and conditions of the W&D Document, THE CLIENT will be invoiced on a weekly basis in arrears. This invoice will cover warehousing and distribution services provided under the terms of this Document. Unless otherwise agreed in writing THE CLIENT shall pay Bak2Bak for the services rendered in line with our Agreed Trading Terms of 7 days from date of invoice.
- 2.6. In the instance that invoice payment is not received by the due date, Bak2Bak reserves the right to place the account on hold until payment or payment document has been reached. During any period of stop trade all usual fees and charges will still apply, and Bak2Bak shall not be liable for any loss or damage claims for business interruption or associated loss.
- 2.7. In the event Bak2Bak anticipates any costs or expenses, which in its opinion should be borne by THE CLIENT, in addition to the pricing agreed upon, Bak2Bak shall seek THE CLIENT'S approval in writing before incurring such costs or expenses, which approval shall not be unreasonably withheld.
- 2.8. Bak2Bak will provide along with the weekly invoice supporting documentation that outlines the services provided that have been invoiced for.

### **3. Record Keeping and Reports**

- 3.1. Bak2Bak shall keep proper and detailed records of all things done and matters attended to in relation to the provision of the Services for the duration required by law, and shall, at THE CLIENT'S reasonable request, make them available for inspection and/or provide copies to THE CLIENT and their authorised representatives.
- 3.2. Record Keeping includes, but is not limited to:
  - a) Records of all inbound Shipments
  - b) Records of all Stock Quantities by SKU and warehouse location
  - c) Records of all Product Orders Released and Customer Locations Shipped to
  - d) Records of the Consignment Tracking Numbers relating to each order shipped
  - e) Customer Identification details and confirmation where a customer has picked up an order
- 3.3. Bak2Bak shall provide THE CLIENT with an electronic statement of Consignment Tracking Numbers for each order dispatched by 10am the following business day after despatch.
- 3.4. In all instances Bak2Bak shall maintain and ensure a high level of confidentiality exists with THE CLIENT surrounding products, documentation, customer, pricing and any other sensitive information. Bak2Bak shall ensure no other customer, supplier or external party shall be privy to any such information.
- 3.5. Bak2Bak will work with THE CLIENT to satisfy any unique reporting requirements from it's systems. Upon receiving request to create a unique report, Bak2Bak will work with it's systems and potentially have a requirement to engage support from the supplier of such system – if this does occur there may be a fee for such service, however this will be communicated, and agreed upon prior to any externally sourced programming support is utilised.

### **4. Receipt of Inventory**

- 4.1. Bak2Bak shall receive inventory into the Warehouse in accordance with the instructions provided by THE CLIENT and in accordance with this document.
- 4.2. THE CLIENT will provide at least 48 hours' notice of an impending delivery. Additionally, a purchase order will need to be entered within Bak2Bak's Warehouse Management System (WMS) – namely CartonCloud. If THE CLIENT is unable to provide the purchase order within CartonCloud, Bak2Bak can complete this data entry at a rate of \$45.00 per hour.
- 4.3. Bak2Bak shall be responsible for agreeing with THE CLIENT, a suitable time to effect delivery of product shipments to the Warehouse and by so doing, subject acceptance of those deliveries to the terms of this Document
- 4.4. Bak2Bak agrees that the act of unloading of a product shipment or container onto the ground in the yard of the Warehouse as evidenced by way of confirmation of receipt, signed waybill or similar document constitutes acceptance of delivery to Bak2Bak and therefore all products contained in that delivery are under the custody, control and care of Bak2Bak and subject to the terms of this Document.
- 4.5. Bak2Bak shall not leave an inbound product shipment outside the secure storage area of the Warehouse where it will be subject to diminished security or increased risk of damage.
- 4.6. On the arrival of Products at the Warehouse Bak2Bak will receive, unload, unpack, palletise (if necessary) and store inventory at the Warehouse in accordance with this Document

- 4.7. On the arrival of Products at the Warehouse, Bak2Bak shall execute a visual check of the Products. Bak2Bak shall notify THE CLIENT in writing of any identified external damages to products within 24hrs of having identified that damage on the receipt of stock into the Warehouse.
- 4.8. Time taken to receipt and put-away stock will vary proportionately to the volume and complexity of the receipt. While Bak2Bak will endeavour to achieve this within 24 hours, exceptions will be made for large shipments, complex shipment and shipments received during seasonal peak periods. In the event of such delayed receipt times, THE CLIENT will be kept informed and Bak2Bak will ensure delays are kept to a minimum.
- 4.9. Bak2Bak agrees that any external damage that occurs to a product after inspection and receipt in the warehouse shall be deemed a damage incurred by Bak2Bak unless the damaged product is later identified as a factory defect or damage incurred prior to acceptance of delivery by Bak2Bak.
- 4.10. For the receipt of Products returned from customers, Bak2Bak will record the name of the customer and the item being returned, inspect the product, and check the product back into inventory if of a new condition, otherwise store that returned product in a separate quarantined location within the Warehouse awaiting instructions from THE CLIENT. Returns will be completed within the week of arrival.
- 4.11. Stock arriving to the Bak2Bak warehouse shall be stored either on shelving, pallet racking or bulk storage areas within the facility. Stock held in pallet racking must be stored in line with WA Workcover guidelines on pallets rated well more than the load on those pallets

## **5. Warehousing and Storage**

- 5.1. Bak2Bak shall provide a secure storage facility that facilitate the tasks outlined in this document and to service all functions outlined in this document.
- 5.2. Bak2Bak will provide and equip the Warehouse with all storage and handling equipment as appropriate and is responsible for all running costs of the Warehouse.
- 5.3. Bak2Bak shall store Products in a safe and secure manner as to minimise any risk to people or stock and shall take reasonable measures to reduce the risk of Products under its care being misappropriated, stolen, replaced, or added to unfamiliar goods.
- 5.4. Bak2Bak shall store Products in a fashion in which they are readily identifiable and demarcated by a system based warehouse location. These storage locations will be maintained within Bak2Bak's WMS - CartonCloud
- 5.5. Where possible through the natural course of handling, Bak2Bak shall store products in a manner which minimizes the storage space utilized in the Warehouse. If THE CLIENT requires stock to be consolidated at a specific request, Bak2Bak reserves the right to charge for such service at a labour rate of \$45.00 per hour.
- 5.6. THE CLIENT will not store any Products, which are qualified by applicable regulations to be hazardous products without prior written approval of Bak2Bak.
- 5.7. Bak2Bak will provide THE CLIENT and its agents with all reasonable access to the Warehouse. THE CLIENT shall ensure its employees and agents comply with the Bak2Bak requirements, and reasonable directions, whilst on the premises of the Bak2Bak.
- 5.8. Bak2Bak will not allow access for any party other than its direct employees, contractors or agents to view or handle products.
- 5.9. Bak2Bak are able to apply Batch, Lot and Use by/Best Before dates to the storage locations used by THE CLIENT's Stock.
- 5.10. Stock will be picked in a First-in, First-out (FIFO) rotation meaning the first stock delivered into Bak2Bak will be the first stock picked. (Old stock will be picked before new stock) THE CLIENT is able to direct specific stock be picked for specific orders, however this must be done in writing at the time of placing an order.

## **6. Bak2Bak Security**

- 6.1. Bak2Bak shall ensure that adequate security measures and procedures are always in place at the Warehouse as to minimize the risk of any loss or occurrence of adverse events relating to THE CLIENT'S products,
- 6.2. At a minimum, Bak2Bak agrees to provide the following security measures for the term of this Document as relevant to the provisioning of services under this Document;
  - a) Back to Base Alarm Monitoring for the Warehouse
  - b) Gated Security access to the premises
  - c) CCTV onsite
  - e) Police Clearance for all employees
- 6.3. THE CLIENT shall be entitled to check on a regular basis that Bak2Bak has complied with its obligations concerning security systems in place.

## **7. Stock Management and Reconciliation**

- 7.1. Bak2Bak shall maintain an accurate stock keeping operation in line with this Document and is to provide stock and location reports as per the terms of this Document.
- 7.2. Bak2Bak recommends at least 1 time per year a full inventory stock count which will be done upon THE CLIENT requesting such a full stocktake. This annual stock take will be done at Bak2Bak cost, any further stocktake functions completed may attract a fee to be negotiated at such time. In the instance of a stock take being requested by THE CLIENT. Bak2Bak shall prepare and provide THE CLIENT an exhaustive stocktake report, based on the findings of the stock count including total counts and any noted variances.
- 7.3. THE CLIENT shall be invited to participate in stocktaking or to verify the result by random checks and audits if so required.
- 7.4. Bak2Bak agrees to investigate any material stock discrepancies and to identify the cause of any variation and implement corrective actions to remedy as required and in line with the performance levels identified in this Document.
- 7.5. THE CLIENT may request Bak2Bak complete ad hoc stock counts of certain product lines on the discovery of any stock variances identified at the point of order shipping.
- 7.6. Bak2Bak is permitted to make stock adjustments to the product quantities recorded in the warehouse management system only with written advice to THE CLIENT.

## **8. Packaging**

- 8.1. Bak2Bak shall professionally prepare and package products for shipment and distribution using the methods advised by THE CLIENT,
- 8.2. Bak2Bak shall always package products in order to minimize any risk of damage in transit
- 8.3. THE CLIENT will provide Bak2Bak with a Build Configuration Schedule for any products with multiple shipping components
- 8.4. Bak2Bak will prepare orders in accordance with the product Build Configuration Schedule provided to THE CLIENT
- 8.5. THE CLIENT May supply packaging that will be exclusively used for shipments for THE CLIENT
- 8.6. Alternatively, Bak2Bak can supply Packaging Materials to the specifications of THE CLIENT, this cost will be verified in writing at the time of commencement of purchase.
- 8.7. The specifications for Packaging Materials are
  - a) Satchels & envelopes (as applicable) to be brand new and unused
  - b) Packing Boxes are maybe either new or recycled cartons subject to the provision that the cartons are clean and free of dust, stains or other materials and that prior labelling for the cartons does not exceed 25% of the facings and does not include any content referencing alcohol, tobacco or adult related goods or services
- 8.8. Small amounts of dunnage will be provided without additional cost, however if large volumes of dunnage are required Bak2Bak will confirm and agree on a cost of this with THE CLIENT prior to proceeding.
- 8.8. Bak2Bak agrees that it will only use original THE CLIENTs outer shipping cartons in the situation that the product is pre-packed for shipping in that shipping carton, and such carton is a suitable strength for a despatch.

## **9. Distribution**

- 9.1. Bak2Bak have multiple shipping options available which will be available to all deliveries through our freight optimisation software. Bak2Bak's default choice in freight will be the most cost effective for THE CLIENT unless they are directed otherwise.
- 9.2. Bak2Bak shall complete any necessary documentation required by THE CLIENT's nominated shipping service provider to enable shipment of the product. This includes but is not limited to preparing, printing and affixing address labels to specification and signing of shipment manifests.
- 9.5. Bak2Bak will as far as practicable ship orders received within 24 hours of receipt of those orders from THE CLIENT within normal business operating hours.
- 9.6. Bak2Bak will allow orders to be collected by customers from its Warehouse facility. There is a charge associated with function and this appears on THE CLIENT's quote.
- 9.7. Bak2Bak shall confirm the identity of all customers collecting goods from the Warehouse and shall not release any product to a customer for pickup unless it matches the records of the order for release.

- 9.8. Bak2Bak shall keep proper records of any items distributed by way of customer collection as outlined in this Document
- 9.9. Any freight sent on behalf of THE CLIENT using a Bak2Bak shipping provider is subject to the specific terms and conditions relating to that provider. These terms and condition change from time to time and are subject to General Carrier clauses. Full terms and conditions for each provider is available upon request.

#### **10. Shipment Error and Damage Tolerance Levels**

- 10.1. Both parties agree to the acceptable tolerance levels as detailed in Clauses 11 and 12 in relation to the performance of services under this document.
- 10.2. All noted damages and picking errors shall be recorded on a weekly basis. At the end of each week reconciliation shall occur, applying tolerance limits to the recorded errors. Any compensation relating to the errors incurred above the tolerance allowance shall be liable against Bak2Bak as a credit against the next week's invoice.
- 10.3. All occurrences of damage and picking errors are subject to a degree of good faith between both parties. Responsibility cannot be taken for damages later identified, which were the cause of shipping from Bak2Bak, or claimed picking errors where it is reasonably proven otherwise.

#### **11. Picking Errors**

- 11.1. THE CLIENT shall notify Bak2Bak of any identified picking errors as they become recognised. Any picking error that occurred through a fault of Bak2Bak processing shall be deemed a picking error by Bak2Bak.
- 11.2. The tolerance level for order picking errors is - 5 items for every 1000 items picked. (99.95% Accuracy)
- 11.3. Rectification of confirmed picking errors will be done at Bak2Bak's cost, including:
- a) Reshipment of the correct product to a customer at the cost of Bak2Bak
  - b) Cost of return shipment to retrieve a product from a customer
  - c) Compensation for the landed cost of the product where it cannot be retrieved from the customer or it is retrieved in a used or damaged state – this cost only becomes a liability of Bak2Bak once the tolerance level in Clause 10 of this document has been exceeded.
- 11.4. THE CLIENT shall provide direction to Bak2Bak as to the course of action to take in response to any picking errors.

#### **12.W&D Damage**

- 12.1. Any damage to products that occurred in the Bak2Bak W&D shall be deemed damage incurred by Bak2Bak, Bak2Bak shall notify THE CLIENT in writing within 24 hours of any product damage occurring in the W&D
- 12.2. The tolerance level for W&D product damage is - 5 item for every 1000 items picked.
- 12.3. Should the tolerance level be exceeded, Bak2Bak shall be liable to compensate THE CLIENT for the landed cost of that item and to provide a charge free storage area for those damaged items until THE CLIENT can inspect those items and provide direction as to their disposal or transfer.

#### **13. Insurances**

- 13.1. Unless otherwise agreed THE CLIENT shall take out and maintain insurance cover for Fire, Loss, Theft or Damage to the Products whilst in the care, custody and control of Bak2Bak, its subcontractors or agents. Bak2Bak agrees to participate and adhere to such insurances in force for THE CLIENT products during the term of this Terms and Conditions.
- 13.2. Bak2Bak's custody of THE CLIENT products commences on receipt / delivery of product to the W&D and ends when an outgoing product order is collected by THE CLIENT's shipping service provider or customer or is dispatched by Bak2Bak shipping provider.
- 13.3. Bak2Bak shall always maintain and provide the following levels of insurance for the Warehouse and the THE CLIENT products therein during this Document;
- a) Public Liability Insurance to a limit of 20 million Dollars
  - b) Workers compensation Insurance
  - b) Indemnity insurance to a limit of 50 million Dollars
- 13.4. Bak2Bak shall provide upon request a certificate of currency for the above-mentioned insurances specified in this Document identifying the location of the Warehouse relating to the provision of services under this Document.
- 13.5. Bak2Bak shall notify THE CLIENT within 24 hours of any material alteration to the terms of the policy (only where such alteration in Bak2Bak reasonable opinion may impact on its performance of the Services) or material decreases in the amount or level of cover for which insurance is provided.

- 13.6. Bak2Bak shall make a written statement within 24 hours to any relevant authority such as the Police of any happening or event which may give rise to a claim against its insurance by THE CLIENT.
- 13.7. Bak2Bak shall notify THE CLIENT within 24 Hours of any happening or event which may give rise to any claim, demand, proceeding, damage, cost or charge whatsoever arising out of the Services provided
- 13.8. Bak2Bak will also provide within 7 days a complete statement detailing product damage or theft and the product SKUs and quantities affected. Access will also be provided to THE CLIENT to make any inspection of product after such an event
- 13.9. It is clearly detailed that Bak2Bak is not a freight company, and does not accept or warrant any loss of or damage during the transit of Products THE CLIENT shall understand that Products are shipped without insurance or warranty unless specifically discussed and agreed otherwise, or on a case-by-case basis and at the cost of THE CLIENT

#### 14. Liabilities and Indemnification

- 14.1. Bak2Bak shall be liable for loss or damage occurring to the Products as from the moment of acceptance of the Products as evidenced by a signed waybill or similar document and whilst under Bak2Bak care or control caused directly by any negligent act or omission by Bak2Bak, its agents, employees or representatives, except to the extent that such claims, losses, costs, liabilities and expenses are caused or contributed to by any actions or omissions of THE CLIENT, its agents, employees, representatives or invitees.
- 14.2. If any of the Products shall be lost or damaged whilst under the care, custody or control of Bak2Bak, Bak2Bak shall immediately inform THE CLIENT by notice in writing giving such particulars as are available and any further information as may be reasonably required by THE CLIENT whether or not Bak2Bak is responsible for such loss or damage.
- 14.3. Bak2Bak's liability under this clause will take into account the tolerance allowances specified in this Document;
  - a) Exclude any damage either caused or materially contributed to by a design, manufacturing or packaging fault or defect or caused by contamination leakage or discharge from any other THE CLIENT product (except where that damage resulting directly from a negligent act or omission of Bak2Bak)
  - b) Exclude any claim alleging loss or damage which is not provided in writing within 60 days of THE CLIENT being notified in writing of the alleged loss of damage
- 14.4. Each party shall indemnify the other in respect of claim of losses or damages arising from physical injury or death to the extent that the injury, death, or damage is not caused or contributed to by the negligence, wilful misconduct or other fault on the part of the party claiming to be indemnified
- 14.5. Notwithstanding anything to the contrary in this Terms and Conditions, neither party shall be liable to the other for any loss of income or contracts, loss of profit (direct or indirect) or for any incidental, indirect, special or consequential loss or damage arising out of or in connection with this W&D Document
- 14.6. The liability of THE CLIENT under this Document is limited to the charges payable for the provision of services under this Document. The limitation of liability contained in this Document is a fundamental part of the basis of THE CLIENT's bargain hereunder, and THE CLIENT would not enter into this Document absent of such limitation.

#### 15. General

- 15.1. **Update/Review:** Bak2Bak may review and update these Terms and Conditions from time to time with THE CLIENT advised of these changes at that time.
- 15.2. **Relationship:** Bak2Bak and THE CLIENT have relationship of independent contractors acting for their own accounts and neither is authorized to make any commitment or representations, express or implied, or incur expense on the other's behalf unless authorized to do so by the other in writing. No agency, partnership, joint venture or other joint relationship is created hereby and neither Bak2Bak nor its agents have any authority of any kind to bind THE CLIENT in any respect whatsoever.
- 15.3. **Survival:** In the event that any one or more of the provisions of this Document shall be found to be illegal or unenforceable, then notwithstanding, this Document shall remain in full force and effect, and such term or provision shall be deemed stricken. Any terms of this Terms and Conditions, which appear on a reasonable interpretation to be intended to survive the termination or expiration of this Terms and Conditions, shall accordingly survive.
- 15.4. **Licenses and Regulation:** In the performance of this Terms and Conditions Bak2Bak shall comply, and shall cause its personnel and its subcontractors to comply with all laws and regulations and other provisions in force in Australia. Bak2Bak shall take all reasonable and necessary precautions for the prevention of accidents and delays. Bak2Bak shall have all permits and licenses in place necessary for the proper execution of the Services as described in this Terms and Conditions.

- 15.5. **Advertisement:** Bak2Bak shall not use the name, logo, trademark, or any reference of or to THE CLIENT or the brands THE CLIENT market and distribute on behalf of its third-party merchant suppliers in Australia and New Zealand either directly or indirectly in publicity releases, advertising, case studies, sales literature or references nor disclose, advertise or publish the existence or the terms and conditions of this Document, financial or otherwise, without the prior written consent of THE CLIENT
- 15.6. **Assignment:** Neither party hereto shall assign any of its rights or obligations under this Terms and Conditions to any third party without the prior written consent of the other party. Any attempt to assist or transfer any of the rights, duties or obligations under this contract shall be null and void.
- 15.7. **Force Majeure:** Neither party shall be liable for any failure to perform solely caused by a Force Majeure Event and in the event that either party is prevented from performing or is unable to perform any of its obligations under this Document due to a Force Majeure Event, its performance shall be excused, and the time for performance shall be extended for the period of delay or inability to perform due to such Force Majeure Event, provided that such party shall give prompt written notice thereof the other party describing (1) the Force Majeure Event, (i) the obligations which it is unable to perform due to such Force Majeure Event, and (ii) giving a projection of the expected period of delay or inability to perform due to such Force Majeure Event, and such party shall have used reasonable commercial efforts to mitigate its effects, use and to cure any non-performance. Regardless of the excuse of a Force Majeure, if a party is not or is not expected to be able to perform any material obligation under this Terms and Conditions due to a Force Majeure Event for a period of thirty (30) days more, the other party may terminate this Terms and Conditions notwithstanding the rights of THE CLIENT ownership of product or claim on that product therein.
- 15.8. **Governing Law:** This document is governed by the laws of the state of Western Australia.
- 15.9. **Protection of Information:** The parties agree to hold information regarding any commercial terms and pricing as confidential and exercise all due care to ensure; (i) not to disclose or use the Confidential Information for any other purpose except as necessary for the purposes of and consistent with these terms and conditions without limitation if required to be disclosed under any law, governmental rule or regulation or court order (ii) to limit access to Confidential Information only to its employees on a need to know/use basis, and (iii) not to sell, transfer, publish, disclose or otherwise make available the whole or any part of the Confidential Information to any third party or persons not permitted by these terms and conditions without the disclosing Party's prior written consent.

## 16. Term and Termination

- 16.1. Initial term of service is for a period not less than 12 months from the date of signing.
- 16.2. Prior to the end of the 12 month period, Bak2Bak will approach THE CLIENT to establish a new term. Without such new agreement, Bak2Bak will continue on a month-to-month basis unless and until terminated by a Notice Period not less than 1 month written notice, which either party may give to the other.
- 16.3. At any point during their working relationship both parties may mutually agree to terminate their agreement upon written confirmation between parties with a Notice Period not less than 1 month written notice.
- 16.3.1 In the instance that THE CLIENT instigates termination of this agreement AND fails to provide 1 months written notice then Bak2Bak reserves the right to charge THE CLIENT by way of an Early Departure fee commensurate with the prior 13 weeks' average invoice value minus postage multiplied by the number of weeks prior to the end of the month notice period.
- 16.3.2 In the instance Bak2Bak instigates termination of this agreement, THE CLIENT may proceed to depart without penalty or additional fees for Early Departure.
- 16.4. During the Notice Period all rights and duties of the parties under the terms and conditions of this Terms and Conditions shall continue including, without limitation, Bak2Bak's obligation to deliver the Services and THE CLIENT obligations in regard to payment of any monies owed.
- 16.5. At the termination of this working relationship, Bak2Bak will provide a statement of product inventory, quantities, and locations. The parties shall good faith, actively and fully cooperate with one another for the purpose of making the separation of their relationship smooth and efficient. The parties shall assist and co-operate with one another to facilitate the transfer, at such time as THE CLIENT may determine, of all Products and other THE CLIENT property including THE CLIENT specific data to a new site and new warehouse operator as notified by THE CLIENT.
- 16.6. The final withdrawal of stock from Bak2Bak's warehouse will be conducted under the same structure and charging as the delivery of stock to Bak2Bak and will attract the same fee structure as the "Receipt" and "Putaway" functions combined as listed in the quote.
- 16.7. Prior to the exit of THE CLIENT and its associated stock, outstanding invoices must be paid in full unless express written approval is supplied by Bak2Bak to waive an invoice in part or full. Until such point that this occurs stock will be held under the care and control of Bak2Bak