

XO Cloud Vault Services Terms and Conditions

The Services referenced in this exhibit are offered to Customer by XO Communications, Services LLC. These terms and conditions apply to XO's provision and Customer's use of XO Cloud Vault Services (the "Services") and is hereby incorporated into and made part of the XO Cloud Solutions Services Agreement set forth at www.terms.xo.com. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Services Agreement.

1. Service Description. Cloud Vault Service is an enterprise-class data backup and recovery solution. Additional product descriptions are set forth at www.xo.com/compute.

2. Termination.

(a) **Procedure.** If Customer elects to terminate Service for convenience, in whole or in part, or if Customer elects not to renew Service, in whole or in part, for a subsequent Service Term, it must provide XO with written notice of its request to disconnect Service(s) at support@xo.com. Such notice must identify with specificity the Service(s) to be disconnected and the requested effective date of disconnection, which date may not be less than thirty (30) days from the date notice is received by XO. Customer may not place a disconnection request more than ninety (90) days prior to an actual disconnection date and will be responsible for all charges incurred up to and including the date of disconnection. Any attempted termination via any other method or approach will not be effective. If Customer elects to terminate Service for convenience, it will be liable for all charges incurred up to the date of disconnections, as well as early termination charges set forth below.

(b) **Termination Rights and Penalties.** Either Party may terminate Customer's subscription at any time for any reason or no reason upon thirty (30) business days written notice to the other Party. Further, in addition to XO's termination rights set forth in the Agreement, XO may immediately terminate the Service upon written notice to Customer if Customer breaches its obligations under the Customer covenant or use restrictions in the End User License Agreement (including, but not limited to, violation of any of the terms, conditions or restrictions in a manner that implicates XO's or its supplier's Intellectual Property rights). If Service is terminated after it has been activated, including termination of Services by XO due to Customer's non-payment of charges due under the Agreement, Customer shall be liable for all charges which Customer agrees is reasonably associated with the service ordering and installation, as well as the monthly recurring charges (MRC) or Cloud Services Commit associated with the Services for the remaining Service Term.

3. Limitations and Additional Requirements.

(a) Customer is solely responsible for the encryption and additional backing up of all Customer data. XO does not have or need access to any Customer data.

(b) XO will not be liable for any losses or damages, including but not limited to loss of Customer data, due to any changes made by Customer to its backup configuration or other use of the Service.

(c) XO will notify Customer when manual software updates are required. The notification shall be sent to the email address provided on Customer's account. XO will not be liable for any

losses or damages resulting from Customer's failure to perform updates. Further, XO may, in its sole discretion, perform updates as needed to protect XO's network and servers.

(d) Customer must respond in a timely manner to email alerts from XO monitoring. XO reserves the right to shut down or restart Customer's failed backups or data restoration attempts in the event Customer does not respond to XO alerts and escalations. XO will not be liable for any losses or damages incurred by Customer due to Customer's failure to respond to XO alerts.

(e) Customer agrees to use one of the provided encryption protocols for all customer backup activities. It is Customer's responsibility to choose an encryption password and to maintain the password in a secure fashion. Customer acknowledges that XO cannot restore data for which the customer has lost the associated password.

4. Software License. As part of the provision of the Services, XO will provide Customer with the agent software (the "Software") for installation on Customer's End User's devices. End User's use of the Software is subject to the terms and conditions of the End User License Agreement ("EULA"), which is available within the StoreGrid application. The EULA is incorporated herein and it is Customer's obligation to ensure that its End Users comply with the terms of the EULA when utilizing the Service.

5. Customer Responsibilities.

(a) General Responsibilities. Customer will perform regular backups using the agent Software provided by XO to hardware that XO owns and maintains at one of XO's data centers. Customer acknowledges that XO's provision of the Services does not include the requirement or option to purchase the hardware utilized in connection with the Services, during or after termination of this Agreement. Customer will report any errors in executing such backups promptly by email to XO. Customer shall implement reasonable security and environmental precautions to ensure a high level of system availability and data protection and recovery.

(b) Customer Covenant. Customer further covenants that it shall not place any data on a backup server that: (a) infringes on the intellectual property rights of any third party or any rights of publicity or privacy; (b) violates any law, statute, ordinance or regulation (including without limitation the laws and regulations governing export control, unfair competition, antidiscrimination or false advertising); (c) is defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (d) is obscene, child pornographic or indecent; or (e) contains any viruses, trojan horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information. Customer shall defend, indemnify and hold XO and its third party suppliers harmless against any third party claim, action, suit or proceeding alleging any breach of the covenants contained herein.

6. Overage Charges. Pursuant to the terms set forth herein, Customer may use any and all of the Service resources available through the Service in any quantity and configuration chosen by Customer during the Service Term. In the event Customer's actual usage during a billing cycle exceeds the Monthly Commit Charges set forth on the Service Order, overage charges based on the usage rates set forth in the Service Order will apply.