



## Terms of Service and Subscription Agreement

# COX Online Backups

## TERMS OF SERVICE and SUBSCRIPTION AGREEMENT



## Terms of Service and Subscription Agreement

NOTE TO SUBSCRIBER: CAREFULLY READ THE FOLLOWING LEGAL AGREEMENT.

1. USE OF THIS Service (the "Service") consists of the right of a Subscriber of the Service ("Subscriber") to electronically transmit and store computer data using either a private data communications network, or the Internet into a location maintained by COX Online Backups – a division of COX Technologies, LLC ("COX Online Backups") and to retrieve said data should they be required. The Service is made available by COX Online Backups to Subscriber during the period Subscriber maintains a paid subscription to the Service. Subscriber must be a currently licensed user of COX Online Backups's software for Services where software is required to provision access.
2. These terms and any additional Operating Rules published by COX Online Backups from time to time constitute the entire and only agreement (collectively, the "Agreement") between COX Online Backups and Subscriber (including Subscriber's designated users) with respect to the Service and supersede all other communications and agreements with regard to the subject matter hereof. Upon notice published over the Service, COX Online Backups may modify this Agreement, the Operating Rules or prices, and may discontinue or revise any or all other aspects of the Service at its sole discretion and without advance notice. Unless otherwise agreed, Subscriber's right to use the Service or to designate users is not transferable and is subject to any limits established by COX Online Backups.
3. Subscriber shall pay in advance any registration or service fees and other charges incurred by Subscriber or Subscriber's designated users at the rates in effect for the billing period in which those charges are incurred. For situations where credit card payment is utilized, Subscriber shall maintain a current authorization for COX Online Backups to debit Subscriber's credit card account for such amounts. In addition, Subscriber shall provide COX Online Backups a current street address and Internet e-mail address for future communications and shall notify COX Online Backups of any change of address. Subscriber shall pay all applicable taxes related to use of the Service by Subscriber or Subscriber's designated users. For situations where the Subscriber's credit card issuing financial institution has been notified of a payment dispute, said Subscriber agrees that proof of Service usage by Subscriber constitutes Subscriber authorization to submit payment request to Credit Card issuing financial institution. COX Online Backups may, in addition, at its sole discretion and without notice to the Subscriber, (a) suspend its performance under this Agreement and deny Subscriber's and Subscriber's designated users' access to and use of the Service until Subscriber is back in good standing, or (b) terminate this Agreement and Subscriber's and Subscriber's designated users' access to and the use of the Service. Further, COX Online Backups may cancel the Service to Subscriber without cause upon thirty (30) days prior written notice. Subscriber must provide COX Online Backups with written notice of Subscriber's intent to terminate use of the Service. At the time of cancellation, the Subscriber's access to any of Subscriber's data stored by the Service may be permanently terminated. COX



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Online Backups will not provide a refund for any unused portion of the Services paid in advance by Subscriber.

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5. Subscriber shall not use the Service for storage, possession or transmission of any information, the possession, creation or transmission of which violates any state, local or federal law, including without limitation, stolen materials, obscene materials or child pornography. SUBSCRIBER'S BACKUP FILES MAINTAINED BY COX Online Backups ARE SUBJECT TO EXAMINATION BY LAW ENFORCEMENT OFFICIALS OR OTHERS WITHOUT SUBSCRIBER'S CONSENT UPON PRESENTATION TO SUBSCRIBER OR COX ONLINE BACKUPS OF A SEARCH WARRANT OR SUBPOENA.

6. Subscriber agrees to indemnify COX Online Backups against liability for use of Subscriber's account which liability is a direct result of Subscriber's misuse or negligent use of its account(s).

7. COX Online Backups may make copies of all files stored as part of the back up and recovery of servers utilized in connection with some of the Services. COX Online Backups is not obligated to archive such copies and will utilize them only for backup purposes. They will not be accessible to Subscriber.

8. Subscriber is responsible for and must provide all telephone and other equipment and services necessary to access the Service. Subscriber should maintain a primary electronic file of all materials stored in the Service. Subscriber should not utilize the service as a substitute for primary electronic file maintenance. COX Online Backups is a secondary backup service only. Subscriber is responsible for primary backups which are outside of COX Online Backups. Subscriber is also responsible to verify backups have completed and to develop a restore policy and method of testing that policy.



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10. The provisions of paragraphs 4, 6, 7, and 9 are for the benefit of Subscriber and its respective Suppliers, Licensors, Employees, and Agents; and each shall have the right to assert and enforce such provisions directly on its own behalf.

11. This agreement is, and shall be governed by and construed in accordance with the law of the State of Nevada applicable to agreements made and performed in Nevada.

12. Notwithstanding any acknowledgment of a Subscriber purchase order by COX Online Backups, any provision or condition in any purchase order, voucher, letter or other memorandum of the Subscriber which is in any way inconsistent with, or adds to, the provisions of this agreement is null and void. Neither the course of conduct between parties nor trade practice shall act to modify the provisions of this Agreement. If any provision of this Agreement is determined to be invalid, all other provisions shall remain in full force and effect. The provisions of paragraph 9 and 12 and all obligations of and restrictions on Subscriber and its designated users shall survive any termination of this Agreement.



## Terms of Service and Subscription Agreement

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## SOFTWARE LICENSE AGREEMENT



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