



# ExaVault Terms & Conditions

**Last Updated:** December 14, 2024

These Terms & Conditions ("Terms") set forth the terms and conditions that apply to your use of the ExaVault product and associated sites and services ("Product"). The Product is operated and offered by ExaVault, LLC ("ExaVault", "we", or "us").

If you are using the Product on behalf of an organization, you are agreeing to these Terms & Conditions for that organization and have the authority to bind that organization to these Terms & Conditions (in which event, "you" and "your" will refer to that organization) unless that organization has a separate paid contract in effect with us, in which event the terms of that contract will govern your use of the Product.

## 1. ExaVault Accounts

All of your registration, contact, and billing information must be correct and current. You are solely responsible for keeping such information correct and current.

You are the only person allowed to access and use the username and password associated with your ExaVault account. You shall notify us immediately of any unauthorized use of or activity on your account or of any other breach of security relating to the Product that is known or suspected by you.

You affirm that you and any and all users on your account are either 18 years of age or older, and are fully able and competent to enter into and abide by the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms & Conditions.

For security purposes, we only provide customer support to the people who are listed as administrators on the account.

## 2. Billing

The main method of payment accepted for paid accounts is placing a credit card number or linked PayPal account on file. Currently, we accept VISA, Mastercard, American Express, Discover, and PayPal. You agree to pay all charges in accordance with any cardmember agreement governing the use of your credit card.

The following additional payment methods are supported if you are pre-paying in advance for 12 months of service and are on a qualifying plan:

- Mailed Check (US Dollars only)
- ACH transfer (US Dollars only)
- SEPA transfer (Euro only)
- FPS (UK/GB Pound Sterling only)

ExaVault reserves the right to change the price or features of all services upon 30 days notice. Such notice will be provided by email and/or through the Product. If such a change takes place and you choose not to discontinue or downgrade your account, you will be responsible for the payment of your account at the new rate.

All invoices are due net 30, except for credit card payments, which are due upon receipt. Failure to pay any charges may result in the suspension or cancellation of your account.

Invoices are sent to the email on file.

Account prices are billed exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for any such tax, levy, or duty associated with your use of the Product.

ExaVault is required to collect sales tax in certain USA states that tax the type of services we provide and where we also meet certain sales thresholds or have a physical presence. If your primary billing address is in a state where ExaVault is required to collect sales tax, we will add the appropriate sales tax to your invoice and collect sales tax.

Customers who pay annually may request ExaVault to submit invoices via a third party vendor. Each such request will be considered on a case-by-case basis, and ExaVault may decline to use, or stop using, any such a third party vendor for any reason at any time. You will be responsible for any fees or expenses incurred by ExaVault in connection with such a third party vendor, and ExaVault may invoice you or use any payment method on file to recoup such fees and/or expenses. Additionally, such a third party vendor's terms and conditions shall in no way supersede these Terms & Conditions.

If you are on a free trial, then at the end of the trial period, if you previously provided your credit card information, you will be automatically subscribed. We will bill your credit card for the service plan you selected at registration.

## **3. Auto-Renewal & Terms**

**Accounts are billed in advance for the selected term and subscriptions will automatically renew until they are cancelled.**

### **For customers on a monthly term:**

Accounts on monthly terms will be charged on a calendar monthly basis or every 30 days, starting with the first day of paid service (“Product Date”). The charges will be for the monthly fee for the upcoming Usage Period (as defined below) and any addition or use beyond what was included in your agreement. Invoices are automatically charged to the payment method on file.

### **For customers on an annual term:**

Accounts on annual terms will be sent an invoice for the annual fee once every 360 days, starting with the first day of paid service (“Product Date”). Invoices could be sent up to 30 days in advance. If there is any addition or use beyond what is included in your agreement, an invoice will be sent at the end of that Usage Period. All invoices are due upon receipt, and will be automatically charged if there is a payment method on file.

### **Term:**

A Usage Period is calculated on a 30-day or calendar month basis. If your account is billed monthly, your Usage Period will coincide with your monthly billing term. If your account is billed annually, we divide your annual billing term into twelve Usage Periods. If your account is billed on some other interval, we will divide your billing term into Usage Periods.

Invoices for Usage are issued immediately at the end of each Usage Period and are due upon receipt, regardless of whether your account is otherwise prepaid for a longer term.

Each Usage Period is evaluated independently, and there is no “rollover” from one Usage Period to the next.

For billing purposes, your user count is simply the highest number of users reached at any point during the Usage Period.

## **4. Cancellation and Refund Policy**

You may cancel your account at any time. If you submit a termination request it must be submitted in writing, either directly via the ‘Request Cancellation’ feature of our Product, or via electronic mail sent to ExaVault’s support department ([support@exavault.com](mailto:support@exavault.com)) from the primary address on file for the account. For security purposes, we do not accept cancellation notices via phone.

If you are a new customer and cancel your account within ninety (90) days of initiating service with ExaVault, you are entitled to a full refund of all monies paid to ExaVault, less any overages or excess Usage (to which you remain responsible to pay). Please request a refund when cancelling in order for this to be processed simultaneously.

Refunds for any reason will not be granted if they are requested more than 30 days after account cancellation.

No refund will be given in any instance if ExaVault determines, in its sole and reasonable discretion, that you or any user on your account breached any part of these Terms & Conditions.

## **5. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES SHALL EXAVULT OR ITS AGENTS BE LIABLE FOR: (1) ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO THOSE THAT RESULT FROM THE USE OF, OR INABILITY TO USE THE PRODUCT, INCLUDING ANY HARDWARE. THIS LIMITATION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF EXAVULT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE; AND/OR (2) ANY CLAIM ATTRIBUTABLE TO ERRORS, OMISSIONS OR OTHER INACCURACIES OF THE PRODUCT. IN NO EVENT SHALL EXAVULT'S AGGREGATE LIABILITY EXCEED THE FEES (EXCLUDING USAGE CHARGES) PAID BY YOU TO EXAVULT IN THE PAST YEAR. FOR CLARITY, "PRODUCT" INCLUDES ANY CODE EXAMPLES CREATED OR PROVIDED BY EXAVULT, AS WELL ANY THIRD PARTY INTEGRATIONS WITH EXAVULT.

## **6. Disclaimer of Warranties**

The Product is provided on an "AS-IS, AS-AVAILABLE" basis. ExaVault does not warrant that the Product will be uninterrupted or error-free or that defects in it will be corrected. Use, including data storage and transfer, is at your own risk.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL MATERIALS, INFORMATION, SOFTWARE, PRODUCTS, HARDWARE, AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE PRODUCT IS PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE. THE PRODUCT IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR

NONINFRINGEMENT. EXAVALT AND ITS AGENTS DO NOT WARRANT THAT THE PRODUCT IS ACCURATE, RELIABLE OR CORRECT; THAT THE PRODUCT WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE PRODUCT IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOUR USE OF THE PRODUCT IS SOLELY AT YOUR RISK.

## 7. Acceptable Use

You are responsible for your own communications and for any consequences thereof. You will use the Product in compliance with all applicable local, state, national, and international laws, rules, and regulations, including any laws regarding the transmission of technical data exported to or from your country of residence.

Unless prohibited by law, you agree not to reverse engineer or decompile the Product, attempt to do so, or assist anyone in doing so.

You shall not, shall not agree to, and shall not authorize or encourage any third party to: (i) use the Product to distribute any content that is unlawful, defamatory, harassing, abusive, fraudulent, obscene, contains viruses or other malicious code, or is otherwise objectionable as reasonably determined by ExaVault; (ii) use the Product to distribute content that infringes upon another party's intellectual property rights or other proprietary, contractual or fiduciary rights or obligations; (iii) prevent or hinder other authorized individuals or entities from using the Product; (iv) use the Product to invade the personal privacy of other people (e.g. stalking or harassment); (v) use the Product for any fraudulent, illegal, or inappropriate purpose; and/or, (vi) use the Product in any manner ExaVault determines to be detrimental to the Product, users of the Product, the public, and/or ExaVault.

Violation of any of the foregoing or any other breach of these Terms & Conditions may result in immediate revocation of your account(s), and may subject you to state and federal penalties and other legal consequences. ExaVault reserves the right at all times to remove or refuse to distribute any content on the Product. ExaVault, also reserves the right to access, read, preserve, and disclose any information as it reasonably believes is necessary

to: (a) satisfy any applicable law, regulation, legal process or governmental request; (b) enforce these Terms & Conditions, including investigation of potential violations hereof; (c) detect, prevent, or otherwise address fraud, security or technical issues (including, without limitation, the filtering of spam); (d) respond to user support requests; and/or (e) protect the rights, property or safety of ExaVault, its users and the public. ExaVault will not be responsible or liable for the exercise or non-exercise of its rights under these Terms & Conditions.

ExaVault reserves the right to cancel or refuse to offer the Product to anyone at any time at its sole discretion. A pro-rated refund will be issued to paid account holders in the event of a cancellation without cause.

## **8. Intellectual Property**

Except where otherwise explicitly indicated, all materials contained on the Product are owned by ExaVault, including but not limited to, graphics, text, source code, the selection, arrangement and presentation of all materials, and the overall design of the Product. Without limiting the foregoing, ExaVault does not claim any ownership of any materials stored or transferred by you on or through the Product. Your stuff is your stuff.

Permission is granted to view and print materials from the Product for the non-commercial purpose of viewing, reading and retaining for reference. Any other copying, distribution, retransmission or modification of information or materials on this site, whether in electronic or hard copy form, without the express prior written permission of ExaVault, is strictly prohibited. Accordingly, you agree that you will not copy, reproduce, alter, modify, or create derivative works from the Product.

ExaVault and other names, trademarks, and/or service marks (including logos and designs) found on the Product are trademarks/service marks that identify ExaVault and the goods and/or services provided by ExaVault. Such marks may not be used under any circumstances without the prior written authorization of ExaVault. Such marks may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied,

imitated, or used, in whole or in part, without the prior written permission of the ExaVault.

We may use the name and marks of your company and screenshots from your website in the advertising, marketing, and promotion of ExaVault.

You assign ExaVault exclusive intellectual property rights to any questions, comments, suggestions, ideas, feedback or other information about the Product provided by you (“Submissions”). Submissions are non-confidential and shall become the sole property of ExaVault. ExaVault may, but it not obligated to, use and disseminate Submissions for any purpose, commercial or otherwise, without acknowledgment, compensation, or other consideration given or owed to you.

If you believe the Product has been used in a way that constitutes copyright infringement, please send a message and provide the required information.

## **9. Indemnification**

Upon request by ExaVault, you agree to defend, indemnify, and hold ExaVault, its affiliates, subsidiaries, successors, and assigns, and each of their respective employees, contractors, officers, directors, and agents harmless from all liabilities, claims, damages, losses, and expenses, including attorney’s fees, that arise from or relate to: (i) your use or misuse of the Product; (ii) your breach of these Terms & Conditions, or any other agreement with ExaVault relating to the Product; (iii) your illegal activity; and/or (iv) your negligence and/or willful acts or omissions. These indemnity obligations shall include any and all users on your account, with whom you will be jointly and severally liable.

## **10. Dispute Resolution and Jurisdiction**

ExaVault wants to address your concerns without needing a formal legal case. Before filing a claim against ExaVault, you agree to try to resolve the dispute



informally by contacting [dispute@exavault.com](mailto:dispute@exavault.com). ExaVault will try to resolve the dispute informally by contacting you via email. If a dispute is not resolved within 30 days of submission, you or ExaVault may bring a formal proceeding.

Any dispute arising under these Terms & Conditions that is not resolved informally as outlined above, will be subject to binding arbitration by a single arbitrator with the American Arbitration Association (AAA), in accordance with its relevant industry rules, if any. The parties agree that this Agreement will be governed by and construed and interpreted in accordance with the laws of the United States and the State of Delaware. The arbitration will be held in Delaware, United States. The Arbitrator will have the authority to grant injunctive relief and specific performance to enforce the terms of this Agreement. Judgment on any award rendered by the Arbitrator may be entered in any court of competent jurisdiction.

To the fullest extent permitted by applicable law, you and we agree that any Dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated, collective, or representative action. To the fullest extent permitted by applicable law, you further agree that you will not be a member of any putative or actual class in a class action brought by anyone else, nor will you seek to become a class representative. If any portion of this paragraph is found to be void or unenforceable as to a particular claim, then that claim (and only that claim) shall be resolved in federal court rather than in arbitration; if there is no federal jurisdiction, the case shall be resolved in Delaware state court.

In the event that you are able to sufficiently demonstrate that the costs of arbitration will be prohibitive as compared to costs of litigation, ExaVault may, but is not obligated to, mutually agree to have the arbitration conducted by telephone, based on written submissions, in person in the county where you live, or at another mutually agreed location.

Any cause of action or claim you may have with respect to the Product must be commenced within one (1) year after the claim or cause of action arises or it will be barred forever.

Notwithstanding the other provisions in this Section, if we have a reasonable basis to believe that you have in any manner violated or threatened to violate any of our intellectual property rights, we may bring suit in any state or federal court in the state of Delaware, rather than through arbitration. In such

instances, you agree that you will submit to the jurisdiction of the state and federal courts in the state of Delaware.

## 11. Third Party Hyperlinks

ExaVault may provide hyperlinks to third-party web sites as a convenience to users and visitors of the Product. ExaVault does not control third-party websites and is not responsible for the contents of any linked-to, third-party web sites or any hyperlink in a linked-to website. Similarly, ExaVault does not endorse, recommend or approve any third-party web site hyperlinked from the Product and will have no liability to any entity for the content or use of the content available through such hyperlink.

## 12. Entire Agreement and Priority

This document represents the entire agreement between the parties as it relates to your use of the Product. Notwithstanding the foregoing, to the extent any provision of these Terms & Conditions conflicts with another mutually executed document governing your use of the Product, then such other documents shall control.

## 13. Privacy

We care deeply about your privacy and the security of your data and will act in accordance with our [Privacy Policy](#). Please read it to understand how you are protected.

## 14. Additional Points

### A) Severability

If any provision of this Terms is found to be invalid by any court or tribunal having competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of this Terms, which shall remain in full force and effect. No waiver of any part of these Terms shall be deemed a further or continuing waiver of such term or any other term. Nothing in this Terms shall be deemed to confer any third-party rights or benefits.

## **B) Survival**

Sections 1-2, 5-11, & 14 will survive after these Terms terminate or your use of the Product ends.

## **C) Entire Agreement and Priority**

These Terms represents the entire agreement between the parties as it relates to your use of the Product. Notwithstanding the foregoing, to the extent any provision of these Terms conflicts with another mutually executed document governing your use of the Product - such as a Business Associate Agreement or Data Processing Addendum - then such other documents shall control.

## **D) Changes to these Terms**

ExpanDrive reserves the right to change these Terms at any time by posting new Terms at this location and alerting paying customers of such change via e-mail and/or through the Product. Any change(s) to these Terms will take effect thirty (30) days after such changes have been posted. Your continued use of the Product following such changes will indicate your acceptance of those changes. This document was last updated according to the date at the top of this page.

## **E) Assignment and Transfer**

We may assign, transfer, or otherwise dispose our rights and obligations under this contract, in whole or in part, at any time without notice. You may not assign this contract or transfer any rights to use the Product, unless we provide written consent for you to do so.