



TERMS OF ONLINE SERVICE

IMPORTANT LEGAL NOTICE TO ALL USERS: CAREFULLY READ THE FOLLOWING TERMS BEFORE YOU START USING THE SERVICES, BECAUSE YOU WILL BE LEGALLY BOUND TO THEM. THESE TERMS CONTAIN A MANDATORY ARBITRATION CLAUSE.

BY ACCEPTING THESE TERMS, CONFIRMING AN ORDER OR USING A SERVICE GOVERNED BY THESE TERMS, YOU AGREE TO BE BOUND BY THESE TERMS AND REPRESENT THAT YOU HAVE THE LEGAL CAPACITY TO ENTER INTO THIS AGREEMENT OR THE AUTHORITY TO BIND YOUR ORGANIZATION TO THESE TERMS AND ORDER. IF YOU DO NOT AGREE TO THESE TERMS, IN ALL OR IN PART, PLEASE DO NOT USE THE SERVICES.

These Terms of Online Service, together with the Addendums, your Orders and the Documentation (collectively the "Terms" or "Agreement") are entered into between Devolutions inc. ("Devolutions", "us", "we", "our") and the person or Organization ("Customer", "you", "your") agreeing to the Terms, and govern your access to and use of our online services listed in our services annex below ("Services"). These Terms also apply to all your Users who access or use the Services.

1. Definitions

The following terms shall have the following meanings:

Addendums: means the Support Level Addendum, the Data Processing Addendum and any other addendum that may be issued by Devolutions from time to time in respect of a Service.

Data: means any content and data which you or your Users upload, store, retrieve or otherwise make available through the Services.

Documentation: means the user manuals, guides, policies and other technical documentation and specifications published or developed by Devolutions in respect of the Services (as amended or updated from time to time), including those which are made available at <https://helpcloud.devolutions.net>.

Feedback: means any suggestion, recommendation, feedback or idea for modifying or improving the Services which is communicated to us by you or a User from time to time.

Organization: means, without limitation, any partnership, limited liability company, corporation, association, trust, joint venture, organization (incorporated or not), governmental authority or other legal entity.

Personal Data: means any information relating to an identified or identifiable natural person, i.e. a natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Updates: means any new version of the Services and any update, upgrade, improvement, patch, revision, supplement, modification, enhancement, translation, feature, add-on, tool, functionality, maintenance or fixe developed and incorporated into the Services by Devolutions from time to time.

User: means, in the case of an individual accepting this Agreement on his or her own behalf, such individual, or, in the case of an Organization, an individual who is authorized or invited by such Organization to use a Service in accordance with the Agreement. Users may include, for example, the Organization's employees, consultants, contractors and agents who have been authorized to use the Services.



Works and Content: means collectively the Services, their Updates, the Documentation and all derivative works therefrom (whether originating from or developed by us, you or a User), including all configurations, features, functionalities, interfaces, content, graphics, button icons, logos, marks, scripts, artworks, pictures, computer codes, designs, applications, data, texts or files integrated into the Services, as well as any presentation, arrangement, coordination, enhancement and selection thereof within the Services.

2. Right to Access and Use the Services

- (a) Conditional Right. Customer and Users agree to access and use the Services in accordance with these Terms for their personal use or their own business purposes only. This limited, non-exclusive and revocable right of access and use is conditional upon the payment of applicable subscription fees and Customer's and Users' compliance with these Terms.
- (b) Subscriptions and Renewals. Some Services may be accessed or used on a subscription basis only ("**Subscription**"). If you purchased a Subscription, you will be billed in advance on a recurring and periodic basis, whether monthly or yearly depending on the applicable Service ("**Subscription Period**"). In the case of Devolutions® Password Hub, your Subscription will automatically renew under the same conditions at the end of each Subscription Period unless you cancel it in accordance with these Terms. You may cancel your Subscription renewal either through your Customer Portal (accessible at <https://login.devolutions.com>) or by contacting our sales team at sales@devolutions.net. The cancellation of your Subscription does not affect your obligation to pay the subscription fees for the then-current Subscription Period and no refund will be applicable. If we allow you to reactivate your Subscription after its termination, you agree that you will be bound by the Terms effective as of such reactivation date.
- (c) Limitations. Your use of the Services may be subject to certain limitations on the number of authorized Users, entries or data sources, depending on the type of Subscription purchased. The Services may not be accessed or used in excess of the number of authorized Users under your Subscription, and a User password may not be shared with other persons. You may modify these limitations by placing a new Order or modifying your existing Subscription. Unless otherwise specified in the applicable Order, any modification to your Subscription will be charged at our then-current rates, prorated for the remainder of your then-current Subscription Period. In the case of Devolutions® Password Hub subscriptions, if the number of Users exceeds the authorized limit, your Subscription and payable fees will be adjusted automatically at your next billing cycle without the need to notify us, and you hereby authorize us to adjust your Subscription and fees accordingly without prior notice or validation with you.
- (d) Administrators and Users. Some Services may allow you to designate certain Users as service administrators with privileged control and monitoring rights. This may include inviting Users to use the Services, setting User usage permissions and managing their access to Data. You are solely responsible for whom you allow to become service administrators and any actions they take under such status. You will obtain and maintain all required consents from Users to allow such actions by your service administrators. You are also responsible for understanding the settings and controls for each Service you use, for controlling whom you allow to become a User, and for their compliance with these Terms, even if they are not from your Organization. We may display additional terms applying specifically to Users when they create their Account or register for a product or Service.
- (e) Changes to Services. We reserve the right to modify, upgrade or improve our Services or to add or remove any feature thereof as we deem appropriate and at our sole discretion; provided, however, that we will not remove or materially reduce a core feature of a Service without providing you a prior written notice.
- (f) Free Services, Trials and Beta Services. Devolutions may, in its sole discretion and at any time, offer Services free of charge or for trial purposes, in all or in part, including Free Trials and Beta Services as defined below (collectively, the "**Free Services**"). Except as otherwise set forth in this Subsection 2(f), these Terms apply to your access and use of the Free Services and may be subject to additional terms. We reserve the right to limit, modify or terminate your right to use Free Services at any time and for any reason at our sole discretion, without liability to you. If you are using a Service on a trial basis ("**Free Trial**"), your Free Trial will terminate (i) at the end



of the Free Trial period stated in your Order or, if no date is specified, 30 days after the grant of your Free Trial, or (ii) upon the conversion of your Free Trial to a Subscription. You may be required to provide limited contact information (including billing information) in order to sign up for a Free Trial. If you provide billing information, we will not charge you until the Free Trial period has expired. Upon expiration, unless you cancelled your Subscription before then, you will be automatically charged the applicable Fees based on the type of Subscription selected or used. Devolutions may also from time to time offer you free access to beta services prior to their official release ("**Beta Services**"). You understand and agree that Beta Services are still under development, may be inoperable or incomplete, or may contain unknown bugs, errors or other defects. You acknowledge that your decision to use Beta Services is made at your sole option and own risk, and that we have no obligation to provide technical support. We do not guarantee that any bug, error or other defect will be corrected, and you acknowledge that we may discontinue at any time the provision of Beta Services or never make them generally available. To the maximum extent permitted by applicable law, Section 10(a) ("Limited Warranty") of these Terms do not apply to your use of Free Services, which are provided "AS-IS", and we disclaim any liability, indemnities or warranties, whether express, implied, statutory or otherwise. You hereby waive the exercise of any right, claim, recourse or remedy against Devolutions in connection with your use of Free Services.

- (g) Software Requirements. The access to certain Services may require the download and installation of one of our software or application on your computer or device. Separate license, subscription or maintenance fees may apply in respect of such software in addition to your Subscription fees, and their use is governed by separate software license agreements.
- (h) Restrictions. Your right to use the Services are subject to the restrictions set forth below. By using our Services, you agree on behalf of yourself and your Users not to: (i) allow the access or use of a Service to any unauthorized person; (ii) sell, resell, license, assign, share, sublicense, distribute, make available, rent or lease any Service, (iii) use a Service to store or transmit infringing, libelous, tortious or unlawful data; (iv) use a Service in a way that may infringe the intellectual property, privacy or other rights of third parties; (v) reverse engineer, disassemble, compile or decompile a Service; (vi) modify, copy, translate, alter, improve or create derivative works of a Service, or otherwise use or access a Service to develop competitive products or services; (vii) knowingly or negligently use a Service in a way that interferes with or disrupts its performance, its access by others or our networks; (viii) use the Services to send unauthorized or unsolicited advertising or spam, or to collect data without proper authorization.
- (i) Domain Name Ownership. Where you are required to specify a domain name for the activation or configuration of a Service, you represent that you own or control that domain and that you have the right to use it for such purpose. If you do not own or control the domain you specify, then we will have no obligation to provide you with the Service.
- (j) Links to Other Websites and Use of Third-Party Features. The Services may contain links to third-party websites or allow you to integrate with third-party applications or services ("**Third-Party Services**"). You acknowledge and agree that we are not responsible for and do not endorse such Third-Party Services, that your use of or connection with Third-Party Services is made at your sole option and risk, and that such use (and the third parties' use of any of your Data) is governed solely by the terms and conditions applicable to these Third-Party Services. To the extent applicable, you acknowledge that we may have to allow the third party providers to access or use your Data as required for the interoperation of their Third-Party Services with our Services, which may include transmitting, transferring, modifying or deleting your Data or storing your Data on systems belonging to such third party providers. We are not responsible for any access to or use of your Data by third party providers or their Third-Party Services, or for their security or privacy practices. It is your responsibility to carefully review their terms and conditions in order to validate their practices, commitments and obligations towards you.

3. Devolutions® Cloud Account

- (a) Creation of Account. The creation of a free Devolutions® Cloud account ("**Account**") is required to access and use the Services. Accounts may be created and accessed by logging at <https://login.devolutions.com>. The



Account also gives access to our Customer Portal, which allows Users to manage their Account and their Subscriptions. You agree to provide complete and accurate information when creating your Account or subscribing to a Service and to update such information in a timely manner as appropriate. Failure to do so constitutes a breach of the Terms and may entitle us to cancel or suspend your Account or Subscription without advance notice or liability.

- (b) Terms of Use. While logged into your Account, you agree to comply with our Website Terms of Use available at <https://devolutions.net/legal> and which are incorporated herein by this reference. You are solely responsible for all use of your Accounts by you and your Users.
- (c) Security of Your Account. You agree to use your Account and the Services in a safe and secure manner, in accordance with the security recommendations and guidelines issued by Us. Without limiting the foregoing, you are responsible for safeguarding the password that you use to access your Account and the Services and you agree to notify us promptly upon becoming aware of any breach of security or unauthorized access to your Account. You acknowledge that you are solely responsible for the activity that occurs under your password or on your Account and we disclaim any liability for any loss, damage or unauthorized access resulting from your failure or negligence to comply with your security obligations provided in these Terms. If we have reasonable concerns about the security of your Account, or if we reasonably determine that the security of our Services or infrastructure may be the object of malicious activities, we reserve the right to temporarily suspend the access to your Accounts or the Services until we resolve the security concerns. We will notify you of any such suspension or other action as promptly as possible and we may also post relevant information on our status webpage (<https://status.devolutions.info>) and our social media accounts. Should you have any security-related concerns about your Account or the Services, we invite you to contact our technical support team or to consult our Commitment to Security available at <https://devolutions.net/legal>.

4. Orders, Fees and Payment

- (a) Orders. You may ask for a quote or subscribe to a Service using our online store (<https://store.devolutions.net>) or by contacting our sales team at sales@devolutions.net (“**Order**”). You agree that your Orders are not contingent on the delivery of any future features, or dependent on any oral or written public comments made by us regarding potential features that may be added to the Services. Unless otherwise specified, all amounts on the Orders and related invoices are expressed in US Dollars.
- (b) Fees and Payment. You agree to pay all applicable fees in accordance with the terms indicated on your invoice. Payment of Subscription fees are made in advance for the whole Subscription period. Except as otherwise specified herein, payment obligations are non-cancelable and any and all payments made to us for a Subscription or a Service are non-refundable. A valid payment method is required to process your payments. If you pay with a credit card, you agree that your credit card information and related personal data be provided to our third-party payment processor to process your payment. You are responsible for providing complete and accurate billing and contact information to us and to keep such information current. By submitting such payment information, you automatically authorize us or our third-party payment processor, as applicable, to charge you for all fees stated on your invoice through your selected payment instrument. You are responsible to pay any and all transaction fees and currency conversions charged by your financial institution or intermediaries.
- (c) Resellers. If you confirm an Order or purchase a Subscription through an authorized reseller (a “**Reseller**”), you will pay the applicable fees to the Reseller as agreed between you and the Reseller, instead of paying us. The Order will state the details of your transaction with us as communicated by the Reseller to us on your behalf, and we are not responsible for any inaccuracy or error committed by the Reseller when confirming your Order. You hereby authorize the Reseller to communicate your information to us for the purpose of processing your Order, which may include your personal name or the name of your Organization, your email address, your physical address and/or your phone number. Your information will be processed in conformity with our Privacy Policy available at <https://devolutions.net/legal>. Resellers are not authorized to modify these Terms or make any promises or commitments on our behalf, and we are not bound by any obligations to you other than as set forth in these Terms. If you are entitled to a refund under these Terms, then unless we otherwise specify, we will



refund any applicable fees to the Reseller directly and the Reseller will be solely responsible for refunding the appropriate amounts to you.

- (d) **Payment Default.** We reserve our right to suspend or terminate a Subscription or your access to the Services without advance notice or liability if at any time we determine that your payment information is not current or accurate or if your payment is overdue (including if the payment obligation rests with your Reseller). You agree to reimburse us for all overdraft charges and other reasonable costs and expenses incurred in connection with the collection of your overdue or returned payments.
- (e) **Fee Changes.** We may at our sole discretion and at any time change or update our Subscription fees, and any such change will become effective as of your next applicable billing cycle. We will notify you in advance of any such fee changes, whether through your Customer Portal or by email, and you may terminate your Subscription before your next billing cycle if you do not agree with our new fees. If you continue to use our Services after the fee change becomes effective, you will be deemed to have agreed to pay the Subscription fees as modified.
- (f) **Taxes.** Our prices as displayed on our website do not include any taxes, levies, duties or similar fees imposed by any governmental entity or collecting agency based on the Services, including, for example, value-added, sales, use or withholding taxes. Applicable taxes will be added on your Order and invoice, and you agree to pay any such amounts to us in full without any right of set-off or deduction.

5. Updates and Customer Support

- (a) **Updates.** We will make available to you all Updates to the Services during your Subscription Period without additional cost (subject to our right to update our Subscription fees at any time as provided in Subsection 4(e) above).
- (b) **Customer Support.** Your level of customer support will be based on the support plan selected with your Subscription. No customer support will be offered or provided after the expiration of your Subscription, except to reactivate your Subscription or to retrieve your Data as provided in Subsection 13(e) hereunder. Our support services are governed by the terms of our Support Level Addendum available at <https://devolutions.net/legal>, which Addendum is incorporated to these Terms by this reference.

6. Customer and User Data

- (a) **Protection and Processing of Your Data.** We will maintain administrative, physical, and technical safeguards in accordance with industry standards to keep your Data safe and secure and to protect its confidentiality and integrity. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification, deletion or disclosure of your Data by our personnel except (a) to provide the Services and to address technical problems, (b) as compelled by law or a judicial order, or (c) as expressly permitted in this Agreement or otherwise instructed by you in writing. We never sell, rent, or lease your Data to any third party and we do not share your Data with any third party other than for the purposes of providing you or improving the Services or to resolve any issues or problems with our Services (and you hereby acknowledge and agree that your Data may be transferred to such third-party service providers for such purposes).
- (b) **Ownership of Your Data.** You retain all right, title and interest in and to your Data. You hereby grant us a non-exclusive, worldwide, sub-licensable and limited term license to access, use, process, store, copy, distribute, display and retrieve your Data for the purposes of providing you the Services, processing your support requests or otherwise in accordance with your specific instructions.
- (c) **Your Data Compliance Obligations.** You represent and warrant that (i) you and your Users have obtained all necessary rights, releases and permissions to submit or upload the Data to the Services and to grant the rights granted to us in these Terms, (ii) the collection, submission, processing or storage of such Data with the Services does not and will not infringe on any laws or any third-party intellectual property, privacy or other rights. We have no obligation to monitor any Data uploaded to the Services. Nonetheless, if we deem such action necessary



based on your violation of these Terms, we reserve our right to remove your Data from the Services or suspend your access to the Services without liability. We will use reasonable efforts to provide you with advance notice of such actions when practicable, but if we determine that your actions endanger the operation of the Services or their use by other users, we may suspend your access or remove your Data immediately without notice.

- (d) Data Processing Addendum. If you submit Personal Data to the Services that are subject to the territorial scope of Regulation (EU) 2016/679 (General Data Protection Regulation) or any successor legislation, the terms of our Data Processing Addendum (available at <https://devolutions.net/legal>) also apply to the processing of such Data.

7. Proprietary Rights and Licenses

- (a) Reservation of Rights. Subject to the limited rights expressly granted hereunder, we reserve all of our right, title and interest in and to the Works and Content, including any and all related intellectual property rights. No rights in the Works and Content are granted to you or to any User hereunder other than as expressly set forth herein. You agree that the Works and Content are protected by copyright, trademark, patent and other intellectual property laws and that any misappropriation or violation thereof by you or any User will entitle us to claim damages and be indemnified by you pursuant to those laws.
- (b) Feedback. You grant us, for yourself and on behalf of your Users, a perpetual, irrevocable, worldwide, sublicensable and transferable license to freely use, copy, disclose, license, distribute, exploit and commercialize in any manner any and all Feedback that you or your Users communicate to us, without any compensation or restriction. To the extent we use a Feedback to create or develop an Update, you acknowledge and agree that any such Update (including all related intellectual property rights) shall be our sole and exclusive property, and that no Feedback will be considered your confidential information.

8. Authorization

You hereby consent and authorize us to display and reproduce on our website your tradename, trademark and/or logo for the sole purpose of disclosing the fact that you are using our Services. You also expressly authorize us to use your logo displayed on our website as an external link to your website. These authorizations granted to us may be cancelled and revoked by you at any time by sending us an email request at infos@devolutions.net. We will make all reasonable efforts to remove your tradename, trademark and/or logo and any external link to your website within a reasonable time following the receipt of your withdrawal request, as applicable.

9. Indemnification

You will defend, indemnify and hold harmless us (and our officers, directors, agents and employees) from and against any and all costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees and costs) resulting from any claims, demands, suits or proceedings arising from or related to your breach of the Agreement or any claims or disputes brought by your Users in connection with their use of the Services (a "**Claim**"). We will (i) promptly give you written notice of the Claim, (ii) give you all reasonable assistance and collaboration at your request and your sole expense, and (iii) give you sole control of the defense and settlement thereof, except that you may not settle any Claim unless it unconditionally releases us of all liability and that we may join in the defense with our own attorneys, at our sole option and our sole expense.

10. Limited Warranty

- (a) Limited Warranty. We warrant that during your Subscription Period the Services will perform materially in accordance with their description, features and operations under normal use (the "**Limited Warranty**"). Minor discrepancies shall not be treated as a non-conformance with our Limited Warranty.
- (b) Exclusions. The Limited Warranty will not apply (and you hereby waive any related right or claim against us) if the non-conformance occurs by reason or in the course of any of the following situations: (i) computer deficiencies or improper operation or maintenance of your computer devices; (ii) misuse, abuse, accident,



neglect, theft, vandalism, acts of God, power failures or surges, battery failures, internet or wi-fi failures or insufficient internet or wi-fi network; (iii) any negligent, wrongful, malicious or illegal acts or omissions committed by you, your Users or any third party, or any other causes beyond our reasonable control; (iv) any non-conformance not made known to us within your Subscription Period; (v) your failure to use up-to-date tools for detecting and patching security vulnerabilities; (vi) the Services are not used in accordance with the Documentation, this Agreement or any written recommendation, instruction or security guidelines issued by us from time to time; (vii) the Services are used with incompatible or non-supported technologies, hardware or software; or (viii) planned downtime for which you will have received reasonable advance notice.

- (c) **Remedies.** Our sole liability and your sole and exclusive remedies under the Limited Warranty shall be, at our exclusive option, to either (i) make such corrections, modifications or adjustments to the Services as may be necessary to conform with the Limited Warranty; or (ii) terminate the non-conforming Services and refund the prepaid Subscription fees on a pro rata basis from the date on which you notified us of the non-conformance.
- (d) **Disclaimers.** EXCEPT FOR THE EXPRESS LIMITED WARRANTY SPECIFIED ABOVE AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS" AND WE DISCLAIM ANY AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED (WHETHER ARISING BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE) AS TO ANY MATTER, INCLUDING, WITHOUT LIMITATION, WARRANTY OF TITLE OR NONINFRINGEMENT OF THIRD PARTY RIGHTS, IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, INTEGRATION, OR FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. YOU UNDERSTAND THAT USE OF THE SERVICES NECESSARILY INVOLVES TRANSMISSION OF YOUR DATA OVER NETWORKS THAT WE DO NOT OWN, OPERATE OR CONTROL, AND WE ARE NOT RESPONSIBLE FOR ANY OF YOUR DATA LOST, ALTERED OR INTERCEPTED ACROSS SUCH NETWORKS. WE CANNOT GUARANTEE THAT OUR SECURITY PROCEDURES WILL BE ERROR-FREE, THAT TRANSMISSIONS OF YOUR DATA WILL ALWAYS BE SECURE OR THAT UNAUTHORIZED THIRD PARTIES WILL NEVER BE ABLE TO DEFEAT OUR SECURITY MEASURES OR THOSE OF OUR THIRD PARTY SERVICE PROVIDERS. YOU ASSUME THE ENTIRE RISK AND RESPONSIBILITY AS TO PERFORMANCE AND FOR SELECTING THE SERVICES TO ACHIEVE YOUR REQUIREMENTS OR INTENDED RESULTS AND OBJECTIVES, WHETHER OR NOT DISCLOSED TO US. WE MAKE NO REPRESENTATION AND GIVE NO WARRANTY THAT ALL ERRORS OR DEFECTS WILL BE CORRECTED OR THAT THE SERVICES WILL BE TIMELY, ERROR-FREE, VIRUS-FREE OR UNINTERRUPTED.

11. **Limitations of Liability**

- (a) **Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF DEVOLUTIONS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR YOUR USE OF THE SERVICES EXCEED YOUR SUBSCRIPTION FEES PAID FOR THE SUBSCRIPTION PERIOD DURING WHICH THE EVENT LEADING TO SUCH LIABILITY OCCURRED. YOU ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 11(a) IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION FEES PAID, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT, TORT OR BREACH OF STATUTORY DUTY, BUT WILL NOT LIMIT YOUR PAYMENT OBLIGATIONS PURSUANT TO THIS AGREEMENT. IN THE EVENT THAT ANY DISCLAIMER, EXCLUSION OR LIMITATION IN THIS AGREEMENT CANNOT BE EXCLUDED OR LIMITED ACCORDING TO APPLICABLE LAW, THEN ONLY SUCH DISCLAIMER, EXCLUSION OR LIMITATION SHALL NOT APPLY AND ALL THE REMAINING DISCLAIMERS, EXCLUSIONS AND LIMITATIONS PROVIDED HEREIN SHALL REMAIN VALID AND ENFORCEABLE. WITHOUT LIMITING THE FOREGOING, DEVOLUTIONS SHALL NOT BE LIABLE IN RESPECT OF ANY DAMAGE CAUSED BY YOUR FAILURE TO IMPLEMENT ADEQUATE INTERNAL SECURITY PRACTICES AND PROCEDURES.



- (b) Exclusion of Indirect and Consequential Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL A PARTY BE LIABLE TO THE OTHER PARTY FOR (i) ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES, (ii) DAMAGES FOR OR RELATED TO BUSINESS INTERRUPTION OR LOSS OF INCOME, GOODWILL OR PROFITS, (iii) DAMAGES RELATED TO PRIVACY OR SECURITY BREACHES OR LOSS, CORRUPTION OR RECOVERY OF DATA, FILES OR COMPUTER PROGRAMS, WHETHER ARISING OUT, IN EACH CASE, OF THE USE OF OR THE INABILITY TO USE THE SERVICES, THE PROVISION OF OR THE FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES, OR ANY BREACH OF CONTRACT, ANY TORT, OR ANY BREACH OF STATUTORY DUTY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Term and Termination

- (a) Term of the Agreement. This Agreement becomes effective on the date you first accept it or that you start using a Service, as applicable, and continues until you cease to use the Services or until it is terminated in accordance with these Terms, as the case may be.
- (b) Termination for Cause. A party may terminate this Agreement (including all related Subscriptions) if the other party (i) fails to cure any material breach of these Terms within 30 days after written notice, or (ii) ceases its operations or becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Notwithstanding the foregoing, we may terminate the Agreement (including all related Subscriptions) without prior notice if you breach any of your obligations under Sections 2(h) ("Restrictions"), 3 ("Devolutions Cloud Account"), 6(c) ("Your Data Compliance Obligations"), or 13(e) ("Export Administration").
- (c) Termination for Convenience. You may choose to cancel your Subscription and terminate these Terms at any time for any reason through your Customer Portal or upon written notice to us. Upon any such termination (i) you will not be entitled to a refund of any pre-paid Subscription fees and (ii) if you have not already paid all applicable fees for the then-current Subscription Term, any such fees that are outstanding will become immediately due and payable.
- (d) Effects of Termination. If you terminate this Agreement in accordance with Subsection 12(b) ("Termination for Cause"), we will refund you any prepaid Subscription fees on a pro rata basis from the effective termination date to the remaining of your Subscription Period. If this Agreement is terminated by us in accordance with the same Subsection 12(b), or if you elect to terminate your Subscription for convenience pursuant to Subsection 12(c), you will not be entitled to a refund of any pre-paid fees (and if you have not already paid all applicable fees for the then-current Subscription Period, any such fees that are outstanding will become immediately due and payable).
- (e) Portability of and Access to Your Data. We will keep your Data for a period of thirty (30) days after the termination of your Subscription, after which period we will have no obligation to maintain, provide or make available any of your Data, except as otherwise compelled by applicable law. You will be entitled to retrieve or export your Data during such 30-day period by contacting our customer support at ticket@devolutions.net.
- (f) Surviving Provisions. Notwithstanding anything to the contrary herein, any and all provisions of these Terms that must necessarily survive to fulfill the essential purposes of the Agreement and to give full effect to the parties' intents expressed herein shall survive the termination of this Agreement.

13. General Provisions

- (a) Notices. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after sending by first class mail or courier, or (c) the day of sending by email.



- (b) Amendments to the Agreement. We reserve the right to amend or update these Terms from time to time and to publish any updated version on our website. To the extent we consider, in our sole discretion, that a modification is material as regards your rights and obligations, we may notify you directly or post a notice on our website informing that the Agreement has been modified. Except as otherwise indicated below, modifications to our Terms will become effective at the next renewal of your Subscription Period, unless you elect not to renew your Subscription as permitted under these Terms. Notwithstanding the foregoing, modifications to our Terms will become immediately effective in connection with your use of our Free Services or as required under certain situations, such as compliance with applicable laws or the introduction of a new feature to our Services (in which case you will be notified accordingly). If you do not agree to the new terms of the Agreement, in whole or in part, you may cease using our Free Services or terminate your Subscription, as applicable. By continuing to access or use our Services after the modified Terms becoming effective, you agree to be bound by the Terms as then modified and to comply therewith.
- (c) Entire Agreement and Order of Precedence. This Agreement constitutes the entire agreement between you and Devolutions regarding your access to and use of the Services, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. You agree that any other terms or conditions stated in documents submitted by you when ordering or purchasing the Services will not apply and are null and void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the Order (but only for the specific Services described in the applicable Order), (2) the Agreement, (3) the Addendums, and (4) the Documentation.
- (d) Assignment. You may not assign, transfer or sublicense any of your rights or obligations hereunder, whether by contract, operation of law or otherwise, without our prior written consent, except if the assignment is made to an affiliated entity or as part of a corporate reorganization, consolidation, merger, acquisition or sale of all or substantially all of your business and assets. We have the right to assign at any time our rights and obligations hereunder (subject to providing a notice to you) and to perform all or any part of our obligations hereunder through third party subcontractors or sub-processors (subject to the terms of the Data Processing Addendum, to the extent applicable). Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's successors and permitted assigns.
- (e) Export Administration. The Services may be subject to export laws and regulations of Canada, U.S. and other jurisdictions, including those of your originating country. You agree to comply fully with such export laws and regulations to ensure that the Services are not: (i) used or exported, directly or indirectly, in violation thereof; or (ii) used or intended to be used for any purposes prohibited by such laws and regulations, including without limitation nuclear, chemical, or biological weapons proliferation. Without limiting the generality of the foregoing, You represent that you are not named on any Canadian or U.S. government denied-party list, and that you will not permit any third party to access or use the Services in a country subject to an embargo from Canada, the United States or your originating country.
- (f) Verification. Upon our written request, you will confirm to us in writing that the Services are being used in conformity with this Agreement and provide reasonable cooperation, information and documents in support of your confirmation. Should we discover any use of the Services in violation of these Terms, we reserve the right to terminate this Agreement in addition to such other rights and remedies that we may have herein or under applicable law.
- (g) Severability. If any provision of this Agreement is declared unlawful, void or unenforceable by a court having competent jurisdiction, then that provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the parties and the remainder of this Agreement shall continue to be in full force and effect.
- (h) Force Majeure. Neither party shall be deemed in default or otherwise liable for any delay in or failure of its performance under this Agreement (other than payment obligations) by reason of any event of force majeure or any other unforeseeable cause which is beyond the reasonable control of such party.

- (i) Failure to Exercise Rights. The failure of either party to exercise any of its rights under this Agreement shall not be deemed to be a waiver of such rights. No waiver of a breach of this Agreement will constitute a waiver of any other breach of this Agreement. In order to be valid, a waiver must be given explicitly in writing by an authorized representative of the party accepting to waive its right.
- (j) Election of Remedies. All rights and remedies, whether evidenced hereby or by law shall be cumulative and may be exercised singularly or concurrently unless otherwise stated herein. Failure of either party to enforce any provision hereof shall not prevent enforcement on any other occasion.
- (k) Dispute Resolution – MANDATORY ARBITRATION CLAUSE. The parties acknowledge and agree that any unresolved claim, dispute, or controversy (excluding any claims for injunctive relief) arising out of or in connection with this Agreement, or the breach or alleged breach thereof, will be treated under the exclusive auspices of arbitration by the Canadian Commercial Arbitration Centre, by means of arbitration and to the exclusion of courts of law, in accordance with its General Commercial Arbitration Rules then in force. Such arbitration shall be held in front of a sole arbitrator in Montreal, Province of Quebec, in the English language or any other language as may be mutually agreed. The decision of the arbitrator shall be final, binding and non-appealable. Each party will share equally the costs of arbitration (other than the costs and fees of their respective attorneys). Notwithstanding the foregoing, nothing herein shall be deemed as preventing a party from seeking injunctive relief or provisional or ancillary remedies from the courts as necessary to protect any of its proprietary interests, including to prevent the actual or threatened infringement, misappropriation or violation of its intellectual property rights, and the parties agree to submit exclusively to the courts having jurisdiction within the judicial district of Montreal, Province of Quebec, for any such proceedings. Each party hereby waives all defenses of lack of personal jurisdiction and *forum nonconveniens* in connection with any action brought in the foregoing courts.
- (l) Governing Law: Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the Province of Quebec, Canada, without reference to its conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded.
- (m) Language. The parties have expressly requested and required that this Agreement and all other related documents be drawn up in the English language. *Les parties conviennent et exigent expressément que cette Convention et tous les documents qui s'y rapportent soient rédigés en anglais*. In case of a disparity, incoherence or incompatibility between the provisions of the English language version of this Agreement and its version in any other languages, the provisions of the English language version shall prevail.



Annex – Services

The following Services are subject to the terms of this Agreement:

Free Services

- Devolutions® Custom Installer
- Devolutions® Online Drive
- Devolutions® Online Backup

Subscription-based Services

- Devolutions® Online Database
- Devolutions® Password Hub
- Wayk® Den