

**SERVICE TERMS**  
**FOR**  
**EVOLV PRODUCTS**

PLEASE READ THESE SERVICE TERMS FOR EVOLV PRODUCTS (THE “**SERVICE TERMS**”) CAREFULLY AS THEY GOVERN YOUR ACCESS TO, REGISTRATION FOR AND/OR USE OF ANY PRODUCTS (“**EVOLV PRODUCTS**”) PURCHASED BY YOU (“**You**”, “**Your**” OR “**CUSTOMER**”) FROM AN AUTHORIZED RESELLER OF EVOLV PRODUCTS (“**EVOLV PARTNER**”). PLEASE DO NOT USE EVOLV PRODUCTS IF YOU DO NOT AGREE TO THESE TERMS. Evolv and Customer are hereinafter sometimes referred to individually as a “**Party**” and collectively as “**Parties**”.

BY ACCESSING, REGISTERING FOR AND/OR USING EVOLV PRODUCTS: (1) CUSTOMER REPRESENTS IT HAS READ AND UNDERSTANDS THESE SERVICE TERMS; AND (2) CUSTOMER ACCEPTS AND AGREES TO THESE SERVICE TERMS WITH EVOLV, WHICH MAY BE UPDATED BY EVOLV FROM TIME TO TIME.

IN THE EVENT THAT CUSTOMER HAS ENTERED INTO THE CUSTOMER GENERAL TERMS (“**General Terms**”) WITH EVOLV, THESE SERVICE TERMS SHALL NOT APPLY.

**1. DEFINITIONS**

- (a) **Agreement** means (i) these Service Terms, including the DPA (as defined herein), (ii) the applicable Order Document(s), and (iii) the applicable Product Schedule(s). In the event of any inconsistencies or conflict between these documents, the conflict shall be resolved in the following order of priority: (1) the applicable Order Document, (2) the applicable Product Schedule(s), (3) these Service Terms, and (4) Documentation.
- (b) **Anonymized Data** means data or information derived from Personal Data that is in anonymized and/or aggregated form, from which individual identifiers have been removed by Evolv such that the data can in no way be relinked specifically to any individual.
- (c) **Documentation** means the published manuals, operating documents, instructions and/or other processes or directions provided or made available to Customer regarding the use, operation, and maintenance of the Evolv Products.
- (d) **Equipment** means any equipment, hardware, personal screening products, or related physical accessories provided to Customer pursuant to an Order Document.
- (e) **Fee(s)** means the fees set forth in the applicable Order Document.
- (f) **Indemnitees** of a Party means its officers, directors, employees, subcontractors, and other agents, representatives and assigns.
- (g) **Order Document** means an order form mutually executed by Customer and Evolv Partner. Each Order Document is entered into pursuant to, and governed by, these Service Terms.
- (h) **Personal Data** means the same meaning as set out in applicable Data Protection Laws with the same or equivalent terms, and the following words and expressions shall have the following meanings unless the context otherwise requires.
- (i) **Product** means any Equipment and/or Software set forth in an Order Document.
- (j) **Professional Services** means the support and maintenance, implementation, deployment, training and other types of professional services for Products provided by Evolv or its agents. The Professional Services available for each Product, if any, are set forth in the applicable Product Schedule(s).
- (k) **Product Schedule(s)** means the use rights and other terms, including legal terms and exhibits, applicable to a Product and/or Professional Services, as updated from time to time, which are published at <https://legal.evolvtechnology.com/customers>.
- (l) **Software** means proprietary software of Evolv and its licensors whose access and use by Customer are governed by the applicable Product Schedule(s).

**2. CUSTOMER REPRESENTATIONS AND WARRANTIES**

Customer represents and warrants as follows:

- (a) Customer has the full power, authority, and legal right to execute, deliver, and perform under the terms of the Agreement.
- (b) The Agreement has been duly executed and delivered and constitutes a legal, valid, and binding obligation of Customer, enforceable in accordance with its terms.
- (c) The Products will be used in accordance with the Documentation and only in the ordinary course of Customer’s business and for Customer’s sole benefit by competent, qualified and trained Customer authorized agents or employees. Customer will not itself or allow assist or enable any third party, directly or indirectly, to test, analyze, disassemble, decompile, decode, adapt, reverse engineer or otherwise attempt to derive or gain access to the Products or any components thereof without Evolv’s prior written consent.

(d) Customer will comply with all laws, rules, and regulations applicable to the use, operation, and maintenance of the Products.

(e) The Parties agree that (i) this grant of access and use is not a sale of the Software (notwithstanding use of words such as “sale,” “sell” or “purchase”) and that no rights to any Software or intellectual property rights therein are sold, and (ii) the Software cannot be licensed, accessed or used on a standalone basis.

### 3. EVOLV DISCLAIMER

EVOLV MAKES NO, AND DISCLAIMS ALL, REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING OUT OF CUSTOM, DEALING, TRADE OR USAGE. NO STATEMENT BY EVOLV’S EMPLOYEES, CONTRACTORS, AGENTS OR REPRESENTATIVES SHALL BE DEEMED TO BE A WARRANTY BY EVOLV FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY ON THE PART OF EVOLV. EXCEPT AS EXPRESSLY STATED IN THIS SECTION 3, EVOLV DOES NOT REPRESENT OR WARRANT THAT THE PRODUCTS WILL ELIMINATE OR PREVENT OCCURRENCES OF THE EVENTS OR THREATS THEY ARE INTENDED TO DETECT OR AVERT (INCLUDING, BUT NOT LIMITED TO, TORTS, WEAPONS OR EXPLOSIVES DETECTION OR OTHER CRIMINAL OR TERRORIST ACTIVITIES (COLLECTIVELY, “**INCIDENTS**”)), FUNCTION FOR THEIR INTENDED PURPOSE, MEET CUSTOMER’S NEEDS, PREVENT ANY ACTS OR INCIDENTS FROM OCCURRING OR CAUSING HARM OR DAMAGE (INCLUDING, BUT NOT LIMITED TO, CUSTOMER’S PREMISES, EMPLOYEES OR GUESTS, VISITORS OR OTHER THIRD PARTIES), OPERATE UNINTERRUPTED OR ERROR FREE, OR THAT THE SOFTWARE WILL BE FREE FROM ERRORS OR DEFECTS, OR THAT ANY ERRORS WILL BE CORRECTED. EVOLV MAKES NO GUARANTY OR WARRANTY THAT THE PRODUCTS WILL DETECT, MITIGATE, ELIMINATE, PREVENT OR AVERT INCIDENTS OR THEIR CONSEQUENCES OR THAT THE PRODUCTS MAY NOT BE COMPROMISED OR CIRCUMVENTED. IN ADDITION TO THE FOREGOING DISCLAIMERS, EVOLV CANNOT CONTROL HOW THE PRODUCTS ARE USED AND, ACCORDINGLY, DOES NOT WARRANT OR REPRESENT, EXPRESSLY OR IMPLICITLY, THAT USE OF THE PRODUCTS WILL COMPLY WITH OR CONFORM TO THE REQUIREMENTS OF FEDERAL, STATE OR LOCAL STATUTES, ORDINANCES, REGULATIONS OR LAWS, OR THAT USE OF THE PRODUCTS WILL NOT VIOLATE THE PRIVACY RIGHTS OF THIRD PARTIES. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR USING THE PRODUCTS IN FULL COMPLIANCE WITH APPLICABLE LAW, GOVERNMENTAL RULES AND REGULATIONS, AND THE RIGHTS OF THIRD PERSONS.

### 4. CONFIDENTIALITY

(a) The Parties agree not to permit access to or disclose the other Party’s Confidential Information to any person or entity, except to its authorized directors, officers, employees, advisors, agents and contractors who are bound by confidentiality agreements with terms no less restrictive than those of this Section 4 and who need to use or have access to the other Party’s Confidential Information in order to perform the Agreement, and neither Party may use the other Party’s Confidential Information for any purpose other than to perform the Agreement. A receiving Party shall use at least the same degree of care in protecting the other Party’s Confidential Information as such Party generally exercises in protecting its own proprietary and confidential information and shall inform its authorized recipients having access to the Confidential Information of its confidential nature. In no event shall a Party use less than a reasonable degree of care in protecting the other Party’s Confidential Information. “Confidential Information” includes, without limitation, all information relating to the disclosing Party’s business plans, technologies, research marketing plans, customers, technology, employee and organizational information, product designs, product plans, know-how, and financial information, which, when provided by one Party to the other in connection with the Agreement: (i) are clearly identified as “Confidential” or “Proprietary” or are marked with a similar legend; (ii) are disclosed orally or visually, identified as Confidential Information at the time of disclosure and confirmed as Confidential Information in writing within thirty (30) days of disclosure; or (iii) a reasonable person would understand to be confidential or proprietary at the time of disclosure. For the avoidance of doubt, Documentation, Order Documents, pricing, discounting, performance or other testing results/metrics, and the terms of the Agreement constitute Evolv’s Confidential Information. Notwithstanding the foregoing, the receiving Party shall have no obligation of confidentiality with respect to any information of the disclosing Party which the receiving Party can demonstrate by competent evidence: (A) is already known to the receiving Party at the time of disclosure; (B) is or subsequently becomes publicly available through no wrongful act of the receiving Party; (C) is rightfully disclosed or provided to the receiving Party by a third party without restriction; or (D) is developed independently by the receiving Party without use of or access to the disclosing Party’s Confidential Information as shown by the receiving Party’s business records kept in the ordinary course.

(b) In addition to the foregoing disclosure exceptions, the receiving Party may disclose the other Party’s Confidential Information to the extent (i) required by law or court order, provided that the receiving Party provides the disclosing Party reasonable advanced notice of its intended disclosure to the extent permissible under applicable law, and reasonably cooperates with the disclosing Party, at its request and expense, to limit or oppose the disclosure; or (ii) required in connection with financing activities and/or due diligence requests, provided that the recipient is contractually bound to use at least the same degree of care, and in no event less than a reasonable degree of care, in protecting the Confidential Information as the receiving Party hereunder.

### 5. DATA

(a) Customer acknowledges and agrees that Evolv may collect (A) technical, performance and operational data generated by Customer’s use of the Products (which, in each case, does not include any Personal Data) (the “**Performance Data**”), and (B) certain categories of Personal Data.

(b) Customer acknowledges and agrees that Evolv may use Performance Data and Anonymized Data for Evolv’s business purposes, which may include, but are not limited to, (A) improving the performance, features, and capabilities of the Products; (B) facilitating the provision of updates, support, and other services to the Products; and (C) creating, developing, operating, delivering, and improving the Products and Professional Services.

(c) Data Processing Addendum. The data processing addendum (the “**DPA**”) shall govern Evolv’s processing of any Personal Data that may be required in connection with Evolv’s provision of Products to Customer under the Agreement. A copy of the DPA is available at <https://legal.evolvtechnology.com/customers>.

(d) Ownership of Personal Data. As between Evolv and Customer, all Personal Data shall remain the sole property of Customer.

## 6. INDEMNIFICATION AND LIMITATION OF LIABILITY

### 6.1 Indemnification

(a) Customer Indemnification. Customer shall indemnify, defend and hold Evolv and its Indemnitees harmless from and against all damages, fines, penalties, liability, judgments, amounts paid in settlement and the costs and expenses incident thereto (including reasonable attorney fees) (“Losses”) resulting from any third party suit, demand or claim (“Claim”) arising out of or in connection with (i) Customer’s (or its subcontractor’s, agent’s, officer’s, director’s, customer’s, representative’s or employee’s) use, operation, possession, purported ownership, or control of the Products (including without limitation Losses relating to property damage, theft, personal injury, and death) or (ii) Customer’s violation of these Service Terms or the applicable Product Schedule(s), or any applicable law or governmental rule or regulation.

(b) Notwithstanding anything to the contrary herein, with respect to: (i) any Claim brought against Evolv and its Indemnitees that (A) seeks non-monetary relief; (B) involves criminal or quasi-criminal allegations or regulatory enforcement actions; (C) involves or relates to current customers, suppliers or other parties material to the conduct of the business of Evolv; or (D) if successful, would set a precedent that would materially interfere with, or have a material adverse effect on, the business or financial condition of Evolv or (ii) any Claim brought against Evolv and its Indemnitees with respect to which Customer: (A) notifies Evolv that it refuses to assume the defense or (B) does not promptly assume the defense in accordance with these Service Terms, Evolv at its election shall have sole control of the defense and in any event shall have sole control of the settlement of such Claim, and Evolv’s reasonable costs and expenses incurred in such defense and settlement shall be deemed Losses indemnifiable by Customer hereunder.

### 6.2 Disclaimers

CUSTOMER ACKNOWLEDGES AND AGREES THAT NEITHER EVOLV NOR ITS PRODUCTS CAN ELIMINATE, PREVENT, OR MITIGATE, IN WHOLE OR IN PART, THE THREATS OR EVENTS THAT THE PRODUCTS AIM TO DETECT AND PREVENT (INCLUDING, BUT NOT LIMITED TO, DETECTION OF WEAPONS OR EXPLOSIVES AND THE PREVENTION OF TORTIOUS CRIMINAL OR TERRORIST INCIDENTS) AND THAT EVOLV, AND ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, OR AGENTS, SHALL NOT BE HELD LIABLE FOR ANY FAILURE TO DETECT SUCH THREATS (WHETHER DUE TO PRODUCT FAILURE, HUMAN ERROR, CUSTOMER’S OPERATING OR SENSITIVITY SETTINGS, ENVIRONMENT, OR EXTERNAL FORCES OUTSIDE OF EVOLV’S CONTROL) OR PREVENT SUCH EVENTS. EVOLV, AND ITS OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, OR AGENTS ALSO SHALL NOT BE HELD RESPONSIBLE FOR NON-PRODUCTIVE TIME OR PRODUCT DOWN TIME FOR ANY REASON, OR FOR ACTS BY THIRD PARTIES THAT CAUSE HARM OR DAMAGE. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF ITS PERSONNEL, CONTRACTORS, AND AGENTS, INCLUDING THOSE RESPONSIBLE FOR OPERATING THE PRODUCTS AND FOR THE SECURITY OF CUSTOMER’S PREMISES, PERSONNEL, AND VISITORS. MOREOVER, EVOLV SHALL NOT BE CONSIDERED AN INSURER AND THE FEES IT CHARGES FOR THE PRODUCTS AND PROFESSIONAL SERVICES ARE INTENDED TO REFLECT THE VALUE PROVIDED TO CUSTOMER AND NOT THE VALUE OF CUSTOMER’S PREMISES WHERE THE PRODUCTS AND PROFESSIONAL SERVICES ARE PROVIDED, ITS CONTENTS OR ANY LOSSES ASSOCIATED WITH PERSONAL INJURY OR DEATH, AND THAT CUSTOMER IS RESPONSIBLE FOR OBTAINING ANY INSURANCE COVERING PERSONAL INJURY OR DEATH AND REAL OR PERSONAL PROPERTY LOSS OR DAMAGE IN, ABOUT, ON OR TO THE CUSTOMER PREMISES WHERE THE PRODUCTS AND PROFESSIONAL SERVICES ARE PROVIDED.

### 6.3 Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER AGREES THAT EVOLV SHALL NOT BE LIABLE FOR SPECIFIC PERFORMANCE OR FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES OF ANY NATURE, INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM OR CAUSED BY THE LOSS OF USE OF THE PRODUCTS, LOSS OF PROFITS, LOSS OF DATA OR USE OF DATA, INTERRUPTION OF BUSINESS, INCIDENTS (INCLUDING, BUT NOT LIMITED TO, TORTS, WEAPONS OR EXPLOSIVES DETONATION OR OTHER CRIMINAL OR TERRORIST ACTIVITIES), OR LOST REVENUES, EVEN IF EVOLV IS AWARE OF THE POSSIBILITY OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EVOLV’S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, SHALL NOT EXCEED THE TOTAL FEES PAID BY CUSTOMER TO EVOLV UNDER THE ORDER DOCUMENT GIVING RISE TO THE LIABILITY DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO THE DAMAGES.

## 7. MISCELLANEOUS

7.1 Governing Law/Dispute Resolution. The Agreement is governed by and shall be interpreted and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to conflict of laws principles. If any claims, actions or dispute arise out of, or relate to this Agreement (each, a “Dispute”), the Parties agree to endeavor in good faith to resolve the Dispute through discussion within thirty (30) days after written notice is given by either Party of a request for discussion. If not so resolved, either Party may submit the Dispute to mediation administered by the American Arbitration Associations under its Commercial Financial Disputes Mediation Rules, before resorting to arbitration. Thereafter, any unresolved Dispute shall be resolved by binding arbitration before a single arbitrator and administered by the American Arbitration Association in Boston, Massachusetts in accordance with its expedited Commercial Arbitration Rules and the results of such arbitration shall be binding and kept confidential. Any award or order rendered by the arbitrator may be confirmed as a judgment or order in any state or federal court of competent jurisdiction. The costs of any arbitration proceedings shall be shared equally by both Parties. If a Party fails to proceed with arbitration, unsuccessfully challenges the arbitrator’s award, or fails to comply with arbitrator’s award, the other Party is entitled of costs of suit including a reasonable attorney’s fee for having to compel arbitration or defend or enforce the award. Notwithstanding the foregoing, the Parties agree that any Dispute seeking (i) to enforce or protect, or concerning the validity of, any intellectual property rights, (ii) to collect unpaid Fees, or (iii) to prevent immediate harm through injunctive relief, are not subject to the above provisions concerning arbitration, and may be pursued in a court of competent jurisdiction in the Commonwealth of Massachusetts.

7.2 Waiver. If one Party fails to enforce a provision of the Agreement, it shall not be precluded from enforcing the same provision at another time. All rights and remedies, whether conferred hereunder, or by any other instrument or law, unless otherwise expressly stated herein, are cumulative.

**7.3 Binding Agreement; No Assignment.** The Agreement will be binding upon and enforceable only by the Parties, their respective successors, and permitted assigns. Customer may not assign or transfer any interest in or obligation under the Agreement without the prior written consent of Evolv and any attempt at assignment or transfer without such consent shall be void and of no force or effect. Such consent from Evolv shall not be unreasonably withheld, but shall, at a minimum, be subject to any potential assignee's or transferee's written agreement to honor the terms of the Agreement.

**7.4 Entire Agreement.** No terms and conditions stated in a Customer purchase order, Customer payment system, or other Customer originated instrument or document shall be incorporated into or form any part of the Agreement, and all such terms and conditions shall be null and void.

**7.5 Independence of Parties.** The Agreement shall not be construed as creating any agency, joint venture, partnership or similar relationship between the Parties. The status of Evolv and its personnel is and will be that of independent contractors of Customer and will not, at any time or for any purpose, be deemed employees or agents of Customer.

**7.6 Invalidity; Unenforceability.** If any provision of the Agreement shall be declared invalid or unenforceable under applicable law or by a court decision, such invalidity or unenforceability shall not invalidate or render the Agreement unenforceable, but rather the Agreement shall be construed as if not containing the invalid or unenforceable provision. However, if such provision is an essential element of the Agreement, the Parties shall promptly attempt to negotiate a substitute therefor that preserves, to the fullest extent possible, the respective rights and obligations imposed on each Party under the Agreement as originally executed.

**7.7 Survival.** In addition to those provisions which by their nature are intended to survive any termination or expiration of the Agreement, Sections 4 (Confidentiality), 6 (Indemnification and Limitation of Liability), and Section 7 (Miscellaneous) of these Service Terms shall specifically survive such termination or expiration.

**7.8 Force Majeure.** Neither Party shall be liable to the other, following notice thereof, for any failure or delay in performance of its obligations (except for required payments) for any cause that is beyond the reasonable control of such Party for the duration of such force majeure event, which may include denial-of-service attacks, a failure by a third party hosting provider, telecommunication or utility provider, strikes, shortages, riots, fires, acts of God, war, terrorism, and governmental action.