



Software as a Service Subscription Agreement

This Software as a Service (SaaS) Subscription Agreement, ("**Agreement**"), is entered into between Devlos Software Inc. c.o.b. Soluno, an Ontario corporation ("**Provider**") and "**Customer**", and together with Provider, the "**Parties**", and each, a "**Party**".

WHEREAS, Provider provides access to its software-as-a-service offerings to its customers;

WHEREAS, Customer desires to access certain software-as-a-service offerings described herein, and Provider desires to provide Customer access to such offerings, subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions set out herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

"**Access Credentials**" means any user name, identification number, password, licence or security key, security token, personal identification number (PIN) or other security code, method, technology, or device used alone or in combination, to verify an individual's identity and authorization to access and use the Services.

"**Action**" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, investigative, regulatory, or other, whether at Law, in equity, or otherwise.

"**Affiliate**" of a Person means any other Person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the first Person.

"**Agreement**" has the meaning set forth in the preamble.

"**Authorized Users**" means Customer's employees, consultants, contractors, and agents (a) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the Services has been purchased hereunder.

"**Business Day**" means any day other than a Saturday, Sunday or any other day on which banks located in Canada are authorized or required by Law to be closed for business.

"**Confidential Information**" has the meaning set forth in 9.1.

"Control" (and the terms **"Controlled by"** and **"under common Control with"**) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Customer" has the meaning set forth in the preamble.

"Customer Data" means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from Customer or an Authorized User by or through the Services. For the avoidance of doubt, Customer Data does not include Resultant Data or any other information reflecting the access or use of the Services by or on behalf of Customer or any Authorized User.

"Customer Failure" has the meaning set forth in Section 4.2.

"Customer Systems" means Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party services.

"Disclosing Party" has the meaning set forth in 9.1.

"Documentation" means any manuals, instructions or other documents or materials that Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features or requirements of the Services or Provider Materials, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.

"EULA" means end user licence agreement.

"Fees" has the meaning set forth in Section 7.1.

"Force Majeure Event" has the meaning set forth in Section 14.1.

"Governmental Authority" means any federal, provincial, territorial, municipal, or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations, or orders of such organization or authority have the force of Law), or any arbitrator, court, or tribunal of competent jurisdiction.

"Governmental Order" means any order, writ, judgment, injunction, decree, stipulation, award, or determination entered by or with any Governmental Authority.

"Harmful Code" means any software, hardware, or other technology, device, or means, including any virus, trojan horse, worm, backdoor, malware, or other malicious computer code, the purpose or effect of which is to: (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any: (i) computer,

software, firmware, hardware, system, or network; or (ii) application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Services or Provider Systems as intended by this Agreement. Harmful Code does not include any Provider Disabling Device.

"Indemnatee" has the meaning set forth in Section 12.3.

"Indemnitor" has the meaning set forth in Section 12.3.

"Initial Term" has the meaning set forth in Section 10.1.

"IP Rights" means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights Laws, and all similar or equivalent rights or forms of protection in any part of the world.

"Law" means any statute, ordinance, regulation, rule, code, constitution, treaty, common law, Governmental Order, or other requirement or rule of law of any Governmental Authority.

"Losses" mean all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable legal fees, disbursements, and charges, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"Person" means an individual, corporation, partnership, unlimited liability company, Governmental Authority, unincorporated organization, trust, association, or any other entity.

"Personal Information" means any information that relates to an individual person and identifies or can be used to identify, locate, or contact that individual alone or when combined with other personal or identifying information that is or can be associated with that specific individual, including, but not limited to (a) first and last name; (b) home or other physical address, including street name and name of city or town and/or province or territory; (c) email address or other online information, such as a user name and password; (d) telephone number; (e) government-issued identification or other number; (f) financial or payment card account number; (g) date of birth; or (h) health information, including information regarding the individual's medical history or mental or physical condition, or medical treatment or diagnosis by a health care professional; and (i) any information that is combined with any of (a) through (h) above.

"Process" means to take any action or perform any operation or set of operations that the SaaS Services are capable of taking or performing on any data, information, or other content, and **"Processing"** and **"Processed"** have correlative meanings.

"Provider" has the meaning set forth in the preamble.

"Provider Disabling Device" means any software, hardware or other technology, device, or means (including any back door, time bomb, time out, drop dead device, software routine, or other disabling device) used by Provider or its designee to disable Customer's or any Authorized User's access to or use of the Services automatically with the passage of time or under the positive control of Provider or its designee.

"Provider Indemnatee" has the meaning set forth in Section 12.2.

"Provider Materials" means the Services, Specifications, Documentation and Provider Systems and any and all other information, data, documents, materials, works and other content, devices, methods, processes, hardware, software, and other technologies, and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Provider or any Subcontractor in connection with the Services or otherwise comprise or relate to the Services or Provider Systems. For the avoidance of doubt, Provider Materials include Resultant Data and any information, data, or other content derived from Provider's monitoring of Customer's access to or use of the Services, but do not include Customer Data.

"Provider Personnel" means all individuals involved in the performance of Services as employees, agents, or independent contractors of Provider or any Subcontractor.

"Provider Systems" means the information technology infrastructure used by or on behalf of Provider in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Provider or through the use of third-party services.

"Receiving Party" has the meaning set forth in Section 9.1.

"Representatives" means, with respect to a Party, that Party's and its Affiliates' respective employees, officers, directors, consultants, agents, and legal advisors.

"Resultant Data" means data and information related to Customer's use of the Services that is used by Provider in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

"Services" means the software-as-a-service offering.

"Specifications" means the specifications for the Services.

"Subcontractor" has the meaning set forth in Section 2.6.

"Support Services" has the meaning set forth in Section 5.2.

"Taxes" means any commodity tax, including sales, use, excise, value-added, goods and services tax, HST, provincial sales tax, consumption, or other similar tax, including penalties and interest, imposed, levied, or assessed by any Governmental Authority.

"Third-Party Materials" means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to Provider.

2. Services.

2.1 Access and Use. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, Provider hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 15.7) right to access and use the Services during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use.

2.2 Documentation Licence. Provider hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable (except in compliance with Section 15.7) licence to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.

2.3 Service and System Control. Except as otherwise expressly provided in this Agreement, as between the Parties:

- (a) Provider has and will retain sole control over the operation, provision, maintenance, and management of the Provider Materials; and
- (b) Customer has and will retain sole control over the operation, maintenance, and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the Provider Materials by any Person by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any:
 - (i) information, instructions, or materials provided by any of them to the Services or Provider;
 - (ii) results obtained from any use of the Services or Provider Materials; and
 - (iii) conclusions, decisions, or actions based on such use.

2.4 Reservation of Rights. Nothing in this Agreement grants any right, title, or interest in or to (including any licence under) any Intellectual Property Rights in or relating to, the Services, Provider Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Services, the Provider Materials, and the Third-Party Materials are and will remain with Provider and the respective rights holders in the Third-Party Materials.

2.5 Changes. Provider reserves the right, in its sole discretion, to make any changes to the Services and Provider Materials that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of Provider's services to its customers, (ii) the

competitive strength of or market for Provider's services, or (iii) the cost efficiency or performance of the Services; or (b) to comply with applicable Law.

2.6 Subcontractors. Provider may, from time to time, in its discretion engage third parties to perform Services (each, a "**Subcontractor**").

2.7 Suspension or Termination of Services. Provider may, directly or indirectly, and by use of a Provider Disabling Device or any other lawful means, suspend, terminate, or otherwise deny access to, or use of, all or any part of the Services or Provider Materials by Customer, any Authorized User or any other Person, without incurring any resulting obligation or liability, if: (a) Provider receives a Governmental Order that expressly or by reasonable implication requires Provider to do so; or (b) Provider believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with, any material term of this Agreement, accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any material instruction or requirement of the Specifications, (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services, or (iii) this Agreement expires or is terminated. This Section 2.7 does not limit any of Provider's other rights or remedies, whether at Law, in equity, or under this Agreement.

3. Use Restrictions; Service Usage and Data Storage.

3.1 Use Restrictions. Customer shall not, and shall not permit any other Person to, access or use the Services or Provider Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party licence agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

- (a) copy, modify, or create derivative works or improvements of the Services or Provider Materials;
- (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Services or Provider Materials to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Services or Provider Materials, in whole or in part;
- (d) bypass or breach any Provider Disabling Device, security device, or protection used by the Services or Provider Materials or access or use the Services or Provider Materials other than by an Authorized User through the use of their own then-valid Access Credentials;

- (e) input, upload, transmit, or otherwise provide to or through the Services or Provider Systems any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- (f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Services, Provider Systems, or Provider's provision of services to any third party, in whole or in part;
- (g) remove, delete, alter, or obscure any trademarks, Specifications, Documentation, EULA, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Services or Provider Materials, including any copy thereof;
- (h) access or use the Services or Provider Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any IP Right or other right of any third party, or that violates any applicable Law;
- (i) access or use the Services or Provider Materials for purposes of competitive analysis of the Services or Provider Materials, the development, provision or use of a competing software service or product, or any other purpose that is to the Provider's detriment or commercial disadvantage;
- (j) otherwise access or use the Services or Provider Materials beyond the scope of the authorization granted under this Section 3.1.

4. Customer Obligations.

4.1 Customer Systems and Cooperation. Customer shall at all times during the Term:

- (a) set up, maintain, and operate in good repair and in accordance with the Specifications all Customer Systems on or through which the Services are accessed or used;
- (b) provide Provider Personnel with such access to Customer's premises and Customer Systems as is necessary for Provider to perform the Services in accordance with the Specifications; and
- (c) provide all cooperation and assistance as Provider may reasonably request to enable Provider to exercise its rights and perform its obligations under and in connection with this Agreement.

4.2 Effect of Customer Failure or Delay. Provider is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").

4.3 Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 3.1, Customer shall, and shall cause its Authorized

Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services and Provider Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify Provider of any such actual or threatened activity.

5. Service Levels.

5.1 Service Levels. Subject to the terms and conditions of this Agreement:

- (a) Provider will use commercially reasonable efforts to make the Services available 24 hours per day, 7 days per week, except for significant downtime (of which Provider will give commercially reasonable electronic notice) and any unavailability caused by any Force Majeure event, any Internet service provider failure or delay, any Non-Devlos Software Inc application, or any denial of service attack, for which Provider may or may not provide notice.

5.2 Service Support. Provider will use commercially reasonable efforts to provide technical support services to Customer and Customer's authorized users (the "**Support Services**"). Provider's standard support is available Monday through Friday from 8:30 a.m. - 8:00 p.m. Eastern Standard Time, excluding major holidays which include Christmas Day and New Years Day.

6. Data Privacy and Security.

6.1 Information Security Obligations. Provider will employ security measures in accordance with applicable Law.

6.2 Customer Control and Responsibility. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Services; (c) Customer Systems; (d) the security and use of Access Credentials of Customer and its Authorized Users; and (e) all access to and use of the Services and Provider Materials directly or indirectly by or through the Customer Systems or its or its Authorized Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

6.3 Access and Security. Customer shall employ all physical, administrative, and technical controls, screening, and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to, or use of, the Services; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the Services.

7. Fees and Payment.

7.1 Fees. Customer shall pay Provider the fees set forth in the Order (the "Order") in accordance with this Section. Customer will pay certain non-refundable fees for the Services in the amount set forth in the Order (the "Service Fees") and according to the billing frequency stated therein. Service Fees are due and payable on the date of the invoice. Service Fees are charged on a per authorized user basis. Service Fees are non-refundable if you terminate your subscription early.

7.2 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer is responsible for all HST, goods and services tax, provincial sales tax, service, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, provincial, or territorial governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Provider's income.

7.3 Payment. Customer shall pay all Fees on or before the due date set forth in the Order, based on the billing frequency specified in the Order. Customer shall make all payments hereunder in Canadian dollars by cheque or credit card. Customer shall make payments to the address or account specified in the Order or such other address or account as Provider may specify in writing from time to time.

7.4 Late Payment. If Customer fails to make any payment when due, then, in addition to all other remedies that may be available:

- (a) Provider may charge interest on the past due amount at the maximum rate of ten percent (10%) per annum;
- (b) Customer shall reimburse Provider for all costs incurred by Provider in collecting any late payments or interest, including legal fees, court costs, and collection agency fees; and
- (c) if such failure continues for thirty (30) days following written notice thereof, Provider may suspend performance of the Services until all past due amounts have been paid, without incurring any obligation or liability to Customer or any other Person by reason of such suspension.

7.5 No Deductions or Set-Offs. All amounts payable to Provider under this Agreement shall be paid by Customer to Provider in full without any set-off, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

7.6 Fee Increases. Provider may increase Fees, at Provider's sole discretion, by providing commercially reasonable written notice to Customer before the fee increase.

8. Intellectual Property Rights.

8.1 Provider Materials. All right, title, and interest in and to the Provider Materials, including all IP Rights therein, are and will remain with Provider and, with respect to Third-Party Materials, the applicable third-party providers own all right, title, and interest,

including all IP Rights, in and to the Third-Party Materials. Customer acknowledges and agrees that it has no right, licence, or authorization with respect to any of the Provider Materials or Third-Party Materials (including any IP Rights therein) except as expressly set forth in Section 2.1 or the applicable third-party licence, in each case subject to Section 3.1. All other rights in and to the Provider Materials and Third-Party Materials are expressly reserved by Provider and the respective third-party licensors. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Provider an assignment of all right, title, and interest in and to the Resultant Data, including all IP Rights relating thereto.

8.2 Customer Data. As between Customer and Provider, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Customer Data, including all IP Rights relating thereto, subject to the rights and permissions granted in Section 8.3.

8.3 Consent to Use Customer Data. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data as are necessary or useful to Provider, its Subcontractors, and the Provider Personnel to enforce this Agreement and exercise Provider's, its Subcontractors', and the Provider Personnel's rights and perform Provider's, its Subcontractors', and the Provider Personnel's obligations hereunder.

9. Confidentiality.

9.1 Confidential Information. In connection with this Agreement each Party (as the "**Disclosing Party**") may disclose or make available Confidential Information to the other party (as the "**Receiving Party**"). Subject to Section 9.2 "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including, but not limited to, information consisting of, or relating to, the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Without limiting the foregoing, all Provider Materials are the Confidential Information of Provider and the financial terms of this Agreement are the Confidential Information of each of the Parties.

9.2 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records:

- (a) was rightfully known to the Receiving Party without restriction on use or disclosure before such information's being disclosed or made available to the Receiving Party in connection with this Agreement;
- (b) was or becomes generally known by the public other than by non-compliance with this Agreement by the Receiving Party or any of its Representatives;
- (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or

- (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

9.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- (b) except as may be permitted by and subject to its compliance with Section 9.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 9.3; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 9.3;
- (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its most sensitive information and in no event less than a reasonable degree of care; and
- (d) ensure its Representatives' compliance with, and be responsible and liable for, any of its Representatives' non-compliance with, the terms of this Section 9.

9.4 Compelled Disclosures.

- (a) If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information, then, to the extent permitted by applicable Law, the Receiving Party shall promptly, and before such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 9.3; and
- (b) If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 9.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

10. Term and Termination.

10.1 Initial Term. The initial term of this Agreement commences as of the subscription start date as specified on the Order and, unless terminated earlier under any of this Agreement's express provisions, will continue in effect as specified on the Order from such date (the "**Initial Term**"). Any adjustment to the subscription start date requires approval from Provider and is subject to a \$1,000.00 CAD service fee which will be included as an addition to the Order.

10.2 Renewal. This Agreement will automatically renew for additional successive one (1) year terms or for one (1) month increments (based on subscription term length identified in the Order) unless earlier terminated under this Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least thirty (30) days before the expiration of the then-current term (each, a "**Renewal Term**" and, collectively, together with the Initial Term, the "**Term**").

10.3 Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

- (a) Provider may terminate this Agreement, effective on written notice to Customer, if Customer:
 - (i) fails to pay any amount when due hereunder, and such failure continues more than thirty (30) days after Provider's delivery of written notice thereof; or
 - (ii) breaches any of its obligations under Section 3.1 (Use Restrictions) or Section 9 (Confidentiality).
- (b) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach:
 - (i) is incapable of cure; or
 - (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; and
- (c) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party:
 - (i) fails to pay its debts generally as they become due or otherwise acknowledges its insolvency;
 - (ii) ceases to carry on business in the ordinary course;
 - (iii) makes a general assignment for the benefit of its creditors;

- (iv) has issued against it a bankruptcy order or otherwise becomes subject to any involuntary proceeding under any domestic or foreign bankruptcy law;
- (v) commences or institutes any application, proceeding, or other action under any Law relating to bankruptcy, insolvency, winding-up, reorganization, administration, plan of arrangement, relief or protection of debtors, compromise of debts, or similar Laws, seeking: (A) to have an order for relief entered with respect to it; (B) to adjudicate it as bankrupt or insolvent; (C) reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition, compromise, arrangement, stay of proceedings of creditors generally, or other relief with respect to it or its assets or debts; or (D) appointment of a receiver, interim receiver, receiver and manager, trustee, custodian, conservator, or other similar official for it or for all or any substantial part of its assets.

10.4 Effect of Termination or Expiration. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

- (a) all rights, licences, consents, and authorizations granted by either Party to the other hereunder will immediately terminate;
- (b) Provider shall immediately cease all use of any Customer Data or Customer's Confidential Information and:
 - (i) within thirty (30) days return to Customer, or at Customer's written request destroy, all documents and tangible materials containing, reflecting, incorporating, or based on Customer Data or Customer's Confidential Information; and
 - (ii) permanently erase all Customer Data and Customer's Confidential Information from the Provider Systems, *provided that*, for clarity, Provider's obligations under this Section 10.4(b) do not apply to any Resultant Data;
- (c) Customer shall immediately cease all use of any Services or Provider Materials and:
 - (i) within thirty (30) days return to Provider, or at Provider's written request destroy, all documents and tangible materials containing, reflecting, incorporating, or based on any Provider Materials or Provider's Confidential Information;
 - (ii) permanently erase all Provider Materials and Provider's Confidential Information from all computer systems that Customer directly or indirectly controls; and

- (iii) for Customers that install Provider's software-as-a-service on-premise locally, certify to Provider in a statutory declaration of a senior officer of Customer that it has complied with the requirements of this Section 10.4(c);
- (d) notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control:
 - (i) the Receiving Party may retain the Disclosing Party's Confidential Information in its then current state and solely to the extent and for so long as required by applicable Law;
 - (ii) Provider may retain Customer Data in its then current state and solely to the extent and for so long as required by applicable Law;
 - (iii) Provider may also retain Customer Data in its backups, archives, and disaster recovery systems until such Customer Data is deleted in the ordinary course; and
 - (iv) all information and materials described in this Section 10.4(d) will remain subject to all confidentiality, security, and other applicable requirements of this Agreement;
- (e) Provider may disable all Customer and Authorized User access to the Hosted Services and Provider Materials;
- (f) if Provider terminates this Agreement under Section 10.3(a) or Section 10.3(b) all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Customer shall pay such Fees, together with all previously accrued but not yet paid Fees and Reimbursable Expenses, on receipt of Provider's invoice therefor.

10.5 Survival. The rights and obligations of the parties set forth in this Section 10.5, and Section 3.1 (Use Restrictions), Section 9 (Confidentiality) Section 10.4 (Effect of Termination or Expiration), Section 11 (Representations and Warranties), Section 12 (Indemnification), Section 13 (Limitation of Liability), and Section 15 (Miscellaneous), and any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

11. Representations and Warranties.

11.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

- (a) it is formed and validly existing in the jurisdiction of its formation;

- (b) it has all required power and capacity to enter into this Agreement, to grant the rights and licences granted under this Agreement and to perform its obligations under this Agreement;
- (c) the execution of this Agreement by its Representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action; and
- (d) when executed and delivered by each of the Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

11.2 Additional Provider Representations, Warranties, and Covenants. Provider represents, warrants, and covenants to Customer that it will perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement.

11.3 Additional Customer Representations, Warranties, and Covenants. Customer represents, warrants, and covenants to Provider that Customer owns or otherwise has, and will have, the necessary rights and consents in and relating to the Customer Data so that, as received by Provider and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate, or otherwise violate any IP Rights, or any privacy or other rights of any third party or violate any applicable Law.

11.4 DISCLAIMER OF CONDITIONS AND WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 11.1, SECTION 11.2, AND SECTION 11.3, ALL SERVICES AND PROVIDER MATERIALS ARE PROVIDED "AS IS" AND PROVIDER HEREBY DISCLAIMS ALL CONDITIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, PROVIDER MAKES NO CONDITION OR WARRANTY OF ANY KIND THAT THE SERVICES OR PROVIDER MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL (a) MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS; (b) OPERATE WITHOUT INTERRUPTION; (c) ACHIEVE ANY INTENDED RESULT; (d) BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES; OR (e) BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

12. Indemnification.

12.1 Provider Indemnification. Provider shall indemnify, defend, and hold harmless Customer and Customer's officers, directors, employees, agents, permitted successors, and permitted assigns (each, a "**Customer Indemnatee**") from and against any and all Losses incurred by such Customer Indemnatee arising out of or relating to any Action by a third party (other than an Affiliate of Customer) to the extent that such Losses arise from any allegation in such Action that Customer's or an Authorized User's use of the Services (excluding Customer Data and Third-Party Materials) in compliance with this Agreement (including the Specifications) infringes an IP Right protected in Canada. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any:

- (a) access to, or use of, the Services or Provider Materials in combination with any hardware, system, software, network, or other materials or service not provided or authorized in the Specifications or otherwise in writing by Provider;
- (b) modification of the Services or Provider Materials other than: (i) by or on behalf of Provider; or (ii) with Provider's written approval in accordance with Provider's written specification; or
- (c) failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Customer by or on behalf of Provider.

12.2 Customer Indemnification. Customer shall indemnify, defend, and hold harmless Provider and its Subcontractors and Affiliates, and each of its and their respective officers, directors, employees, agents, successors, and permitted assigns (each, a "**Provider Indemnatee**") from and against any and all Losses incurred by such Provider Indemnatee in connection with any Action by a third party (other than an Affiliate of a Provider Indemnatee) to the extent that such Losses arise out of or relate to any:

- (a) Customer Data, including any Processing of Customer Data by or on behalf of Provider in accordance with this Agreement;
- (b) any other materials or information (including any documents, data, specifications, software, content, or technology) provided by or on behalf of Customer or any Authorized User, including Provider's compliance with any specifications or directions provided by or on behalf of Customer or any Authorized User to the extent prepared without any contribution by Provider;
- (c) allegation of facts that, if true, would constitute Customer's breach of any of its representations, warranties, covenants, or obligations under this Agreement; or
- (d) negligence or more culpable act or omission (including recklessness or wilful misconduct) by Customer, any Authorized User or any third party on behalf of Customer or any Authorized User, in connection with this Agreement.

12.3 Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified under

Section 12.1 or Section 12.2, as the case may be. The Party seeking indemnification (the "**Indemnatee**") shall cooperate with the other Party (the "**Indemnitor**") at the Indemnitor's sole cost and expense. The Indemnitor shall immediately take control of the defence and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnatee's failure to perform any obligations under this Section 12.3 will not relieve the Indemnitor of its obligations under this Section 12 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnatee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

12.4 Mitigation. If any of the Services or Provider Materials are, or in Provider's opinion are likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party IP Right, or if Customer's or any Authorized User's use of the Services or Provider Materials is enjoined or threatened to be enjoined, Provider may, at its option and sole cost and expense:

- (a) obtain the right for Customer to continue to use the Services and Provider Materials as contemplated by this Agreement;
- (b) modify or replace the Services and Provider Materials, in whole or in part, to seek to make the Services and Provider Materials (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Services and Provider Materials, as applicable, under this Agreement; or
- (c) by written notice to Customer, terminate this Agreement with respect to all or part of the Services and Provider Materials, and require Customer to immediately cease any use of the Services and Provider Materials or any specified part or feature thereof.

THIS SECTION 12 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF (INCLUDING THE SERVICES AND PROVIDER MATERIALS) INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY THIRD PARTY IP RIGHT.

13. Limitations of Liability.

13.1 EXCLUSION OF DAMAGES. IN NO EVENT WILL PROVIDER OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE, OR LOSS, INTERRUPTION, OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA; (d) BREACH OF DATA OR SYSTEM SECURITY; OR (e)

CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, AGGRAVATED, PUNITIVE, OR EXEMPLARY DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

13.2 CAP ON MONETARY LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY OF PROVIDER AND ITS LICENSORS, SERVICE PROVIDERS, AND SUPPLIERS UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, EXCEED AN AMOUNT EQUAL TO THAT ACTUALLY PAID TO PROVIDER FOR THE SERVICES GIVING RISE TO THE CLAIM IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR OMISSIONS GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

14. Force Majeure.

14.1 No Breach or Default. In no event will Provider be liable or responsible to Customer, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including, without limitation:

- (a) acts of God;
- (b) flood, fire, earthquake, tsunami, or explosion;
- (c) epidemics, pandemics, including the 2019 novel coronavirus disease (COVID-19) pandemic;
- (d) war, terrorism, invasion, riot, or other civil unrest;
- (e) actions, embargoes, or blockades in effect on or after the date of this Agreement;
- (f) national or regional emergency;
- (g) strikes, labour stoppages or slowdowns, or other industrial disturbances;
- (h) passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition, or any complete or partial government shutdown;

- (i) national or regional shortage of adequate power or telecommunications or transportation facilities;

(each of the foregoing, a "**Force Majeure Event**").

14.2 Affected Party Obligations. A Party whose performance is affected by a Force Majeure Event shall give notice to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

14.3 Non-Affected Party. During the Force Majeure Event, the non-affected Party may similarly suspend its performance obligations until such time as the affected Party resumes performance.

15. Miscellaneous.

15.1 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

15.2 Public Announcements. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement, or otherwise use the other Party's trademarks, trade dress, brand names, logos, corporate names, and domain names, or other similar designations of source, sponsorship, association, or origin, in each case, without the prior written consent of the other Party.

15.3 Notices. Except as otherwise expressly set forth in this Agreement, All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email (in either case, with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the day after the date mailed, by certified or registered mail by the Canada Post Corporation, return receipt requested, postage prepaid. Such communications must be sent to the address indicated below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 15.3).

Provider:

Email: sales@soluno.legal
Address: 9201 Spectrum Center Blvd., Suite 100, San Diego, CA
92123
Attention: Devlos Software Inc.

15.4 Interpretation. For purposes of this Agreement: (a) the words "include", "includes", and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein", "hereof", "hereby", "hereto", and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices attached to, this Agreement; (y) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein. Unless otherwise stated, all dollar amounts referred to in this Agreement are stated in Canadian currency.

15.5 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

15.6 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency or conflict between the terms and provisions of this Agreement and those of any exhibits, schedules, attachments, or appendices (other than an exception expressly set forth as such therein) and any other documents incorporated herein by reference the following order of precedence shall govern: (a) first, this Agreement, excluding its exhibits, schedules, attachments, and appendices; (b) second, the exhibits, schedules, attachments, and appendices to this Agreement as of the Effective Date; and (c) third, any other documents incorporated herein by reference.

15.7 Assignment. Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of Law, or otherwise, without Provider's prior written consent, which consent Provider shall not unreasonably withhold or delay. No delegation or other transfer will relieve Customer of any of its obligations or

performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 15.7 is void.

15.8 Successors and Assigns. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective successors and assigns.

15.9 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

15.10 Amendments and Modifications. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by an authorized representative of each Party hereto. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

15.11 Waiver. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

15.12 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

15.13 Governing Law. This Agreement and all exhibits and schedules attached hereto and all matters arising out of or relating to this Agreement are governed by and construed in accordance with the Laws of the Province of Ontario and the federal laws of Canada applicable therein, without giving effect to any choice or conflict of law provision or rule (whether of the Province of Ontario or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the Province of Ontario.

15.14 Choice of Forum. Any legal suit, action, litigation, or proceeding of any kind whatsoever in any way arising out of, from or relating to this Agreement, including all statements of work, exhibits, schedules, attachments, and appendices attached to this Agreement, the services provided hereunder, and all contemplated transactions, shall be instituted in the courts of the Province of Ontario, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, litigation, or proceeding.

Service of process, summons, notice, or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action, litigation or other proceeding brought in any such court. Each Party agrees that a final judgment in any such suit, action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

15.15 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 9 (Confidentiality) or, in the case of Customer, Section 3.1 (Use Restrictions), Section 4.3 (Corrective Action and Notice), or Section 6.2 (Customer Control and Responsibility) would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the non-breaching Party will be entitled to seek equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.