

Terms and Conditions

May 5, 2026

These Terms and Conditions (“Terms”) apply to you and your use of the Evolving Solutions, Inc.’s (“Evolving”, “our”, or “we”) website(s), any content provided through our website(s), (collectively our “Materials”) or when incorporated into any SOW or Order (as defined below) for our Services or Products. If you, or your employer, are a customer of ours under a Master Sales Agreement or another definitive agreement (“Agreement”), the terms of such Agreement shall control in the event of any conflict with these Terms. If you provide us with any information or content through our website(s), such information will be subject to the terms of our Privacy Policy. You should carefully read these Terms before accessing or using our Materials, as all such access or use is subject to these Terms. If you do not agree to these Terms, do not use our Materials. We may modify these Terms from time to time, and such modifications will be effective upon posting for any subsequent use or access of our Materials after such date. For the avoidance of doubt, the version incorporated into the SOW or Order will not be subject to change unless expressly written in an amendment to the SOW or Order.

1. Services; Products.

- (a) You may request that we provide professional services (“Services”) in a statement of work (“SOW”); each SOW will be subject to these Terms unless an Agreement has been separately entered into between you and us. Evolving will provide (and will ensure that any Evolving Personnel will provide) all Services (including any Deliverables (as defined below) as expressly named in the applicable SOW) in accordance with any specifications set forth therein. Evolving shall be permitted to provide Services using Evolving’s employees, agents, affiliates or subcontractors (collectively “Evolving Personnel”) provided that all such Evolving Personnel are subject to these Terms or materially equivalent terms, including without limitation an obligation to protect Confidential Information (as defined herein) and acknowledging that Work Product is owned by Evolving. Evolving shall remain liable for the acts of Evolving Personnel in the performance of Services hereunder. Evolving shall be solely liable for payments to any Evolving Personnel. Notwithstanding the foregoing: (i) if so specified and agreed to in the applicable SOW, Evolving and you agree that you may be invoiced by and make payment directly to an Evolving affiliate, and (ii) if mutually agreed to, you may enter into a SOW directly with such Evolving affiliate (including the right to directly invoice you under such SOW).
- (b) In the event that Evolving will be providing managed services as part of the Services as specified in the applicable SOW, you acknowledge and agree that: (i) you shall be responsible for complying with any hardware, Internet access or other requirements specified in the applicable SOW which relate to the proprietary software or tools used by Evolving in the provision of such Services (collectively “Evolving Tools”); (ii) Evolving’s sole liability for any disruption of or impact to your systems for such Evolving Tools is to remove and or modify the Evolving Tools from your systems; (iii) any use right and/or license grant for Evolving Tools is solely for the duration of the provision of such Services and upon termination of the applicable SOW for such Services, your use and/or license rights to the Evolving Tools are terminated and Evolving Personnel are permitted to access your systems to ensure such Evolving Tools have been removed.
- (c) You will be solely responsible for the management of your systems administration, data back-up, data recovery, and disaster recovery measures. Evolving will not be responsible or held liable for your internal processes and procedures to insure the management, administration, protection, loss, confidentiality, or security of your data or information.

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- (d) “Products” shall mean the certain hardware Products (“Hardware”) or software Products (“Software”) (collectively the “Products”) as specified in purchase order which upon acceptance by Evolving shall be an “Order” which will be considered subject to these Terms unless an Agreement has been separately entered into between you and us. Additional terms and conditions applicable to Orders for Products will be attached to our quote for such Products as Exhibit A.

2. Price, Payment, Taxes.

- (a) You agrees to pay the fees and/or expenses as set forth in the SOW(s) or Order(s). You will be liable for the shipping costs and any Product related import/export costs and tariffs for Product Order(s) Termination of the SOW or Order for any reason shall not affect the your continuing obligation to pay all fees and costs invoiced by Evolving Solutions under the SOW or Order prior to the termination. Unless otherwise indicated in the Order(s) or SOW(s), all payments and other financial requirements required shall be in the currency of United States Dollars (USD). In the event that you dispute all or a portion of any invoice, you shall notify Evolving in writing within the thirty (30) day payment period with sufficient detail for Evolving to understand the dispute and shall timely pay for the undisputed portion of the invoice. Evolving reserves the right to assess interest on any past due undisputed amounts owed at a rate of one and ½ percent (1.5%) per month. If undisputed amounts remain past due for more than fifteen (15) days, in addition to the right to assess late interest, Evolving may, at its sole discretion, either stop providing Services and/or Products until such past due amounts have been paid and/or provide you with notice of material breach. In the event of your default of any provision of these Terms and/or the applicable SOW or Order, in addition to any other remedies to which Evolving may be entitled, you shall pay all of Evolving Solutions’ costs and expenses of enforcing these Terms, including all reasonable attorney’s fees and expenses, whether incurred prior to or after commencement of any lawsuit.
- (b) You will, in addition to all other amounts payable to Evolving under the applicable SOW or Order, remit directly to the appropriate tax authorities, or pay to or reimburse Evolving, as applicable, all applicable taxes, assessments, duties, permits, fees and other charges of any nature or kind (“Taxes”), however designated, assessed or levied, including, but not limited to sales and use taxes, value added taxes, personal property taxes, and withholding taxes, but not including taxes based on the net income of Evolving. Such amounts shall also include without limitation any penalties, interest, fees or other expenses, if any, incurred as the result of any such Taxes not being paid at the time or in the manner required by the law that are the result of your action or inaction. If you are exempt from sales or use Taxes, then you must provide a valid and executed exemption certificate or direct pay permit to Evolving. Failure to provide such exemption certificate, for whatever reason, will result in tax being charged to you, as applicable.

3. Warranties; Warranty Disclaimer; Limitation of Liability and Damages Cap.

- (a) Evolving represents and warrants that: (i) it has the full right and authority to provide the Products to you; (ii) it has the full right and authority to enter into and perform the Services in accordance with this Agreement and each SOW; (iii) it will provide the Services in a professional and/or workmanlike manner, and (iii) the execution and performance of the SOW will not breach, conflict with or interfere with any other agreement between Evolving and any third party. You represent and warrant that: (iv) you have the full right and authority to enter into the SOW or Order; and (v) the execution and performance of the SOW or Order will not breach, conflict with or interfere with any other agreement between you and any third party.

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- (b) Any warranties that run with the Products are those given by the Manufacturer or Licensor, as applicable, as set forth in Exhibit A to the Order. Evolving does not warrant the usability, functionality, or reliability of any Products. You understand that Evolving is not the manufacturer or licensor of the Products purchased by you and the only warranties offered for the Products are those of the Manufacturer or Licensor, not Evolving. In purchasing the Products, you are relying on the Manufacturer's specifications only, and are not relying on any statements or specifications representing the Products that may be provided by us.
- (c) Unless expressly stated otherwise in the SOW, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. EVOLVING DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS OR ENDORSEMENTS OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE OR NON-INFRINGEMENT, OR ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH REGARD TO THE SERVICES. EVOLVING NEITHER WARRANTS THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, OR ERROR FREE, NOR DOES EVOLVING MAKE ANY WARRANTY AS TO ANY RESULTS THAT MAY BE OBTAINED BY USE OF THE SERVICES. Some jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to you.
- (d) LIMITATION OF LIABILITY. NEITHER PARTY OR ITS OFFICERS, DIRECTORS, OR EVOLVING PERSONNEL, WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, GENERAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS INCURRED AS A RESULT OF LOSS OF TIME, LOSS OF SAVINGS, LOSS OF PROPERTY, LOSS OF DATA OR LOSS OF PROFITS, BUSINESS INTERRUPTION, LITIGATION, OR ANY OTHER PECUNIARY LOSS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE SERVICES OR PRODUCTS, WITH THE DELAY OR INABILITY TO USE THE SERVICES OR PRODUCTS, OR WITH THE PROVISION OF OR FAILURE TO MAKE AVAILABLE ANY CONTENT CONTAINED ON OR PROVIDED THROUGH THE SERVICES WHICH MAY ARISE IN CONNECTION WITH THE SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN APPRISED OF, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING OR WHETHER CLAIMS ARE BASED OR REMEDIES ARE SOUGHT IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, PRODUCTS LIABILITY OR OTHERWISE.
- (e) OTHER THAN FOR YOU'S OBLIGATION TO PAY INVOICED AMOUNTS, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING UNDER OR WITH RESPECT TO THIS SOW EVER EXCEED THE FEES YOU INVOICED FOR THE SERVICES PERFORMED IN THE SIX (6) MONTHS PRIOR TO THE DATE OF THE EVENT GIVING RISE TO SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION (WHETHER IN CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY, MISREPRESENTATION AND/OR OTHER TORTS). THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THESE LIMITS. Evolving shall not be liable for damages that could have been avoided by your use of reasonable diligence. Notwithstanding any terms to the contrary, the limitations on damages in this paragraph shall not apply to your breach of the below Non-Solicitation provision.
- (f) The parties acknowledge and agree that the limitations of liability set forth in this section are fundamental elements of the SOW and/or Order the Services or Products would not be provided to

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you absent such limitations of liability. You acknowledge and accept the reasonableness of the disclaimers and limitations of liability in this section.

4. Independent Contractor.

Evolving agrees that its Services are provided as an independent contractor and that Evolving Personnel who work on the Services shall be employees and or contractors under written contract with Evolving and shall not be deemed employees of yours for any reason. Further, neither party shall have the authority to bind the other party or to assume or create any obligation or responsibility, express or implied, on behalf of the other party or in the other party's name.

5. Non-solicitation.

You agree that during the term of the SOW and for a period of two (2) years after the termination or expiration of the SOW, you shall not (without the prior written consent of Evolving), on your own behalf or on behalf of any other person or entity, directly or indirectly employ or retain, or solicit the employment or retention of, any Evolving Personnel. You and Evolving further agree that, if you breach this covenant of non-solicitation, damages will be impossible to ascertain and in addition to any other remedies which Evolving may have at its disposal, you will pay to Evolving agreed and liquidated damages (and not as a penalty), a sum equal to one half (½) of the annualized direct and indirect compensation at the time of the breach for such Evolving Personnel.

6. Confidentiality; Intellectual Property.

- (a) All processes, documents, data, plans, material, policies, formulas, and specifications, pertaining to either party's business, in addition to any confidential information exchanged previously under any confidentiality agreement executed between the parties, which is obtained by the other party ("Receiving Party") or furnished to the Receiving Party in connection with the Receiving Party's obligations hereunder (collectively "Confidential Information") shall be maintained by the Receiving Party in strict confidence and shall not be disclosed to any person or entity for any reason or used by the Receiving Party except as necessary for it to perform its obligations hereunder. You acknowledge that Evolving's Confidential Information includes these Terms and the SOW, as well as Evolving Tools, and the pricing on all Orders or quotes from Evolving. You further agree that you shall not copy, analyze, reverse engineer, or decompile any Evolving Confidential Information without the express authorization of Evolving. Confidential Information shall not include: (i) information which is in the public domain at the time of disclosure or which becomes part of the public domain after disclosure through no fault of the Receiving Party; (ii) information which the Receiving Party can prove was supplied to the Receiving Party by a third party without an obligation of confidentiality; or (iii) was independently developed by the Receiving Party without use of or access to the Disclosing Party's Confidential Information.
- (b) The Receiving Party acknowledges and agrees that as a result of any breach of its confidentiality obligations under these Terms, the Disclosing Party may suffer irreparable harm such as financial harm and other significant loss and damage, and that in any such case, monetary damages alone may be an insufficient remedy. The Receiving Party acknowledges and agrees that, in addition to any other remedy which may be available in law or equity, the Disclosing Party shall be entitled to seek immediate injunctive relief in any court of competent jurisdiction to enforce obligations under these Terms and to prevent any further breach, without the necessity of proving actual damages and without the necessity of posting bond or making any undertaking in connection therewith. The Receiving Party may disclose Confidential Information if such disclosure is ordered by a court of

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competent jurisdiction or other governmental entity with subpoena power, but only as required by and to the extent of such order or subpoena and provided that the Receiving Party immediately notifies the Disclosing Party of such order or subpoena so that, prior to disclosure, an appropriate protective agreement or order can be sought by the Disclosing Party.

- (c) You acknowledge and agree that any and all intellectual property authored, prepared, created, made, delivered, conceived, altered, modified or reduced to practice by Evolving, prior to, independently of, and/or in the course of providing the Services, including all intellectual property rights related thereto (collectively, "Work Product") is the sole and exclusive property of Evolving absent an express consent by Evolving to the contrary in the applicable SOW. To the extent any concepts, ideas, or other of your prepared materials are based on or derivative to Evolving's Work Product, you hereby irrevocably assign any and all right, title and interest in and to such derivative materials to Evolving.
- (d) In the event that Evolving consents to provide you with a specified deliverable which is to be owned by you (each a "Deliverable"), such Deliverable will be expressly specified, including any acceptance criteria, in the applicable SOW and expressly named as a Deliverable under the applicable SOW. Upon acceptance of the Customer Deliverable and payment in full for all fees due for the Deliverable, Evolving hereby assigns and transfers to Customer all right, title and interest in such accepted and fully paid for Deliverable. For the avoidance of doubt, unless expressly identified as a Deliverable in a SOW, the Work Product developed by Evolving under this Agreement will not be deemed "work made for hire" as defined in 17 U.S.C. § 101 and will be the sole and exclusive property of Evolving.
- (e) The intellectual property rights for all Products is as set forth in Exhibit A to the Order and the license granted by the Licensor or the normal use rights granted by the Manufacturer.

7. Termination.

- (a) Evolving or you shall have the right to terminate the SOW for convenience upon thirty (30) days' notice.
- (b) Evolving or you shall have the right to terminate the SOW for cause: (i) if the other party fails to perform any material term or condition therein, including remitting payment when due, and does not remedy the failure within thirty (30) days after the receipt of written notice of such default given by the non-defaulting party, or (ii) the other party becomes insolvent, files, or has filed against it a petition under applicable bankruptcy or insolvency laws which is not dismissed within sixty (60) day; proposes any dissolution, composition, or financial reorganization with creditors; makes an assignment for the benefit of creditors; or if a receiver, trustee, conservator, liquidator, or similar agent is appointed or takes possession with respect to any property or business of the defaulting party.
- (c) An Order may not be cancelled once placed unless the applicable Manufacturer or Licensor expressly consents to the same.
- (d) Any termination or cancellation shall not relieve you from your obligations to pay Evolving all undisputed fees earned up to the effective date of such termination plus any additional amounts set forth in any SOW or Order still active.

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8. Indemnification.

You expressly agree to defend, indemnify, and hold harmless Evolving, its affiliates, officers, directors and Evolving Personnel from any claims, losses, liabilities, expenses, costs, suits, or damages, including reasonable legal fees and claims of infringement (hereafter the “claims”), arising from or in connection with:

- (a) Your breach of the SOW or Order.
- (b) Any claims of intellectual property infringement related to the Services and arising by or through you.
- (c) Any claims of injury to persons, properties or the environment based on either strict liability in tort, negligence, breach of warranties or violations of any regulatory law or requirement, or:
- (d) Any failure by you to comply fully with all applicable laws.

The obligations in this Section shall survive termination of the SOW or Order.

9. General.

- (a) Governing Law; Jurisdiction. The SOW or Order shall be governed and construed in accordance with the laws of the State of Minnesota, including all matters of construction, validity, enforcement, and performance, without regard to its conflict of law provisions. The parties hereby consent to the exclusive jurisdiction of the Minnesota State and Federal courts over matters arising in Hennepin County, Minnesota for all purposes.
- (b) Force Majeure. Except for your payment obligations hereunder, neither party will be liable for, nor will either party be considered in breach of the SOW or Order due to, failure to perform its obligations as a result of a cause beyond its control, including any natural calamity, act of God or a public enemy, act of any military, civil or regulatory authority, change in any law or regulation, disruption or outage of communications, power or other utility, failure to perform by any supplier or other third party, or other cause with could not have been prevented with reasonable care. In the event any force majeure event affects Evolving’s ability to deliver Services then the fees for such Services due during such period may be waived upon request and the term of the SOW shall be extended by an equal period. Notwithstanding any terms to the contrary, if Evolving’s inability to deliver Services due to a force majeure event continues for more than ten (10) consecutive business days, then you may, without penalty, terminate the SOW upon notice immediately and Evolving will promptly refund to you all prepaid fees under such SOW calculated from the date of the force majeure event.
- (c) Severability. Each provision of these Terms is severable and if any provision shall be finally determined to be invalid, illegal or unenforceable (“invalid”) in any jurisdiction, the remaining provisions shall not be affected thereby, nor shall said provision be invalid in any other jurisdiction.
- (d) Successors and Assigns. Except as limited by the assignment provisions hereof, these Terms shall be binding upon and inure to the benefit of the parties hereto and their respective partners, legal representatives, successors and assigns. You may not assign this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Evolving, and any attempted assignment without Evolving’s prior written consent shall be null and void.

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- (e) No Waiver. Either party's failure to enforce any provision of these Terms or to require performance by the other party shall not be construed as a waiver of such provision nor affect the validity of the Terms or any part thereof, or either party's right to enforce any provision thereafter.
- (f) Entire Agreement. These Terms and the related SOW or Order, including any attached exhibits and schedules specified therein, supersede all prior or contemporaneous written or oral agreements and understandings relating to the subject matter hereof. Neither party is entitled to rely on any representation of any officer, employee or agent of the other party which is not expressly set forth in the SOW or Order.
- (g) Notices. All notices, requests and other communications shall be in writing and shall be provided to the addresses for each party set forth in the SOW or Order, including as to Evolving a copy to legal@evolvingsol.com.