

Last Updated: 20 August 2024

DEVICIE TERMS OF SERVICE

These Terms of Service (the “**Agreement**”) are entered into and agreed upon by you, either an individual or an entity (“**You**” or “**Your**”) and the Devicie entity identified in the Sales Order Form (“**Devicie**”). This Agreement is made and entered into as of the earlier of the first date that You first accept this Agreement, either by executing a Sales Order Form that references this Agreement or by receiving or utilizing the Services as defined below (“**Effective Date**”).

BY ACCEPTING THIS AGREEMENT, EITHER BY INDICATING YOUR ACCEPTANCE, BY EXECUTING A SALES ORDER FORM THAT REFERENCES THIS AGREEMENT, OR BY RECEIVING OR UTILIZING THE SERVICES (AS DEFINED BELOW), YOU AGREE TO ALL THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT OR DO NOT WISH TO BECOME A PARTY TO THIS AGREEMENT, YOU SHOULD NOT ACCESS OR USE THE SERVICES.

This Agreement is a legally binding contract between You and Devicie. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind that entity to this Agreement.

1. DEFINITIONS.

1.1 Agreement means the Devicie Terms of Service, the Support Services Terms and Conditions, Professional Services Terms and Conditions, the Sales Order Form, Devicie’s invoices for charges due from You in accordance with the Sales Order Form or any other documents incorporated by reference in this Agreement.

1.2 Client(s) means, if You are an MSP, Your customer(s).

1.3 Devicie Content means, if applicable, Devicie marketing documents and other content that are made available by Devicie on Devicie’s website or otherwise from time to time for MSPs to use in connection with selling to Clients their services that utilize the Services.

1.4 Devicie Data means any information, data, technology and materials other than the Services that Devicie makes available in connection with the Services, including any Documentation, sample code, software libraries and other related technology and materials.

1.5 Devicie Marks means the trademarks and service marks that are specifically approved by Devicie for MSPs to use in connection with selling to their Clients their services that utilize the Services.

1.6 Documentation means the then-current official user documentation prepared and provided by Devicie to You on the use of the Services accessible at support.devicie.com, which documentation Devicie may update from time to time.

1.7 MSP means a managed service provider.

1.8 Premium Support means Premium Support purchased by You as set forth in the Sales Order Form.

1.9 Professional Services means professional services (excluding Support) and any deliverables, as applicable, provided by Devicie and described in the applicable Sales Order Form.

1.10 Sales Order Form means the Devicie order form or other Devicie ordering document that specifies Your purchase of the Services, including specified Support, Premium Support or Professional Services if any, pricing, and other related information.

1.11 Services means the cloud offering services hosted by Devicie for managing and analyzing Your and if applicable Your Client's IT systems, as described at www.devicie.com and accessed via the website at dashboard.devicie.com or such other site that may be designated by Devicie from time to time including the Documentation and Support, Premium Support and Professional Services where applicable.

1.12 Support means the maintenance or support provided by Devicie or its designated agents for the Services as set forth in this Agreement.

1.13 Term means the term specified in the Sales Order Form during which You may use the Services, including any renewal terms.

1.14 User means an individual authorized by You to use the Services and Documentation, for whom You have purchased a subscription or to whom You have supplied user access credentials necessary to access and use the Services. User(s) may only include Your employees, consultants, and contractors, and if applicable, Your Clients.

1.15 Your Data means data, files, or information, accessed, used, communicated, processed, stored, or submitted by You or Your Users in connection with Your or Your User's use of the Services.

2. PROVISION OF SERVICES.

2.1 Services. Devicie will provide You with the specific Services identified on the applicable Sales Order Form. Subject to the terms of this Agreement, including payment of fees, Devicie hereby grants You, during the Term, a limited, non-exclusive, non-transferable right to access and use the Services solely for Your internal business purposes, and if applicable to manage and analyze data of Your Clients as an MSP who have entered into a valid written managed services agreement with You ("**Managed Services Agreement**"). This includes the right to install and use any software, in executable form, that Devicie may make available to You to access or use the Services.

2.2 Your Users. You may provide, make available to, or permit Your Users to use or access the Services in whole or in part. As part of the Service, You are provided with access to a user administration interface that allows You to manage Your Users and Your Clients. You acknowledge that You are responsible for the creation of Your Users and Your Client accounts and for managing your access credentials provided for the Services.

2.3 Usage. Your use of the Services is limited to the units, license type, quantities and/or metrics stated in the Sales Order Form. Devicie may monitor usage of the Services by Your Users at any time. In addition, Devicie, or its designated representatives, will have the right upon reasonable notice, during regular business hours, to access and review your books and records for the purpose of verifying Your compliance with the terms and conditions of this Agreement, including any usage limitations.

2.4 Services Delivery; Updates and Modifications. You agree that Devicie may deliver the Services to You with the assistance of its affiliates, licensors, and service providers. You further agree that Devicie may update or modify the Services (and respective Documentation) at any time to reflect changes in, among other things, laws, regulations, technology, industry practices, patterns of system use, or availability of a third-party program provided that any updates or modifications will not materially reduce the level of performance, functionality, or security of the Services during the Term.

2.5 Evaluation or Beta Services. Devicie may make certain Services or features available to You for evaluation or beta purposes only ("**Evaluation Services**"). If the Evaluation Services are provided to You, Devicie grants to You a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use the Evaluation Services, internally solely for testing and evaluation purposes (an "**Evaluation License**"), subject to this Agreement and Your continuous compliance with its terms. The Evaluation Services shall terminate on the end date of the pre-determined evaluation period or immediately upon notice from Devicie, in its sole discretion. Devicie is not obligated to correct any bugs, defects, or errors in the Evaluation Services or otherwise support or maintain the Evaluation Services. Notwithstanding any other provision contained herein, the Evaluation Services are provided to You "AS IS" and without indemnification, liability, support, or statutory, express, or implied warranty of any kind. Except to the extent such terms conflict with the

specific Evaluation License terms set forth in this Section, all other terms of this Agreement shall apply to the Evaluation Services provided under an Evaluation License.

2.6 Support. Devicie shall, during the Term, provide You with Support in accordance with Devicie's then-current Support Services Terms and Conditions, which Devicie may revise and update from time to time and are incorporated into this Agreement by reference provided that such updates will not reduce Support levels.

2.7 Premium Support. You may purchase Premium Support under the Agreement. Premium Support is described in the applicable Sales Order Form and is subject to the Devicie then-current Premium Support Terms and Conditions which are incorporated into this Agreement by reference.

2.8 Professional Services. You may purchase Professional Services under the Agreement. Professional Services are described in the applicable Sales Order Form and are subject to the Devicie then-current Professional Services Terms and Conditions which are incorporated into this Agreement by reference.

3. RESTRICTIONS; OBLIGATIONS.

3.1 Restrictions. Except as permitted herein, You shall not (and shall not allow any third party, including without limitation any of Your Users to): (i) decompile, disassemble, reverse engineer, attempt to identify source code, modify or create a derivative work of the Services; (ii) copy, reproduce, republish, transmit or make available the Services; (iii) sell, resell, rent, lease, license, sublicense, assign, distribute or transfer the Services to a third party; (iv) use the Services to develop or operate competitive products or services; (v) purchase the Services for purposes of or disclosure of information regarding the availability, performance or functionality of the Services to a third party, including any benchmarking; (vi) remove, alter or obscure any proprietary rights notices contained in the Services; (vii) attempt to gain unauthorized access to or circumvent any technical limitations on the use of the Services; (viii) use the Services to store or transmit malicious code, Trojan horses, malware, spam, viruses or other destructive technology; (ix) disrupt or interfere with the security, integrity or availability of the Services or any third parties' use of the Services; (x) perform any attack, scan, test, probe or penetration other security assessment of the Services hosted in Devicie's third party cloud environments; (xi) license or purchase the Services if You or Your Users are a direct competitor (or an agent of a direct competitor) of Devicie; or (xii) use the Services in a way that violates the terms of the Agreement, the rights of others or any applicable law.

3.2 Your Obligations. You acknowledge, agree, and warrant that: (i) You are and will be responsible for keeping Your account information, billing information, passwords, User access credentials and technical data accurate, complete, secure and current for as long as You subscribe to the Services; (ii) You are and will be responsible for Your and Your Users' activity and compliance with this Agreement and with all applicable laws and regulations. If You become aware of any violation, You will immediately terminate the offending party's access to the Services and notify Devicie; (iii) You will use the Services only in accordance with the applicable Documentation; (iv) You will install the latest version of the Services on devices accessing or using the Services; (v) You are legally able to process and provide Your Data to Devicie and its affiliates, including obtaining appropriate consents or rights for such processing; and (vi) You have the right to access and use Your infrastructure, including any system or network, to obtain or provide the Services and will be solely responsible for the accuracy, security, quality, integrity, and legality of the same.

3.4 MSPs. If You are an MSP, You further acknowledge, agree, and warrant that: (i) You have sufficient technical infrastructure, knowledge, and expertise to perform the services You provide for Your Clients; (ii) You will provide all sales, problem resolution, and support services to Your Clients; (iii) You will be responsible for billing, invoicing, and collection for Your Clients; (iv) You will operate at Your own expense and risk under Your own name as an MSP; (v) You have validly obtained any and all consents required from Your Clients to access, store, process, use and/or otherwise transmit Your Clients' information, data and other materials, including without limitation personal data, by and to the Services; (vi) the Managed Services Agreement with each of Your Clients contains provisions regarding confidentiality, disclaimer of warranties, limitation of liability and protection of intellectual property rights, that are at least as protective as the corresponding provisions of this Agreement; and (vii) You will defend, indemnify and hold Devicie harmless from and against all losses resulting from or arising out of its breach of this provision.

3.5 Injunctive Relief. Any breach of this Section 3 will be considered a material breach, and You will be liable for any breach of this Agreement by any of Your Users. The parties agree that, in addition to any other relief to which the non-

breaching party may be entitled, any material breach of this Section 3 will cause irreparable injury and the non-breaching party may seek injunctive relief in a court of competent jurisdiction without the need of posting bond.

4. PROPRIETARY RIGHTS.

4.1 Devicie Ownership. You acknowledge and agree that all right, title and interest in and to the Services, including any and all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied therein or associated therewith (including without limitation all enhancements, modifications, derivative works and information collected and analyzed in connection with the Services) are and shall remain with Devicie or Devicie's licensors', and Devicie in no way conveys any right or interest in the Services other than a limited right to use, as set forth in this Agreement. Devicie also retains ownership of all right, title and interest in and to all know-how related to the Services. All rights to the Services not expressly granted to You under this Agreement are reserved by Devicie. Devicie also retains ownership of all right, title and interest in and to all Devicie's Data. During the Term, Devicie grants You a limited, non-exclusive, non-transferable, royalty-free right to use, display, transmit, and distribute Devicie's Data solely in connection with Your permitted use of the Services.

4.2 Ownership of Your Data. You and Your Users retain all right, title, and interest in and to all copyright, trademark, patent, trade secret, intellectual property, and other proprietary rights in and to Your Data. You grant to Devicie, its affiliates and its service providers a worldwide, limited license to use and process Your Data during the Term solely to provide the Services and as expressly permitted under the Agreement. Devicie's right to access and use the same are limited to those expressly granted in this Agreement. No other rights with respect to Your Data are implied.

4.3 Feedback. From time to time, You may provide to Devicie comments, suggested improvements, and other feedback about the use, operation, functionality, and features of the Services (collectively, the "**Feedback**"). If You provide any Feedback, You hereby grant to Devicie a non-exclusive, transferable, irrevocable, worldwide, royalty-free license (with rights to sublicense) to make, use, sell, offer to sell, reproduce, modify, distribute, make available, publicly display and perform, disclose and otherwise commercially exploit the Feedback without restriction, compensation or other obligation to You.

4.4 License to Devicie Content and Marks. This paragraph applies to You only if You are an MSP. Subject to the terms of this Agreement and Your continuous compliance with the same, Devicie hereby grants to You a personal, limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use, reproduce and distribute the Devicie Content and Devicie Marks in Your marketing and advertising materials that are provided to Your Clients. Except with Devicie's prior written consent, no right to modify or prepare derivative works of the Devicie Content (including any translation into another language) is granted to You. If Devicie notifies You that Your use of the Devicie Content is not in compliance with this Agreement, then You shall promptly take such reasonable corrective action as reasonably directed by Devicie. Devicie is the sole and exclusive owner of the Devicie Marks and is also the owner of all goodwill associated with the Devicie Marks. You shall do nothing inconsistent with such ownership, either during the Term of this Agreement or afterwards. Without limitation, You shall not attempt to register the Devicie Marks or any similar marks in any jurisdiction or challenge Devicie's ownership of the Devicie Marks. Your use of the Devicie Marks shall be on behalf, and inure to the benefit, of Devicie.

5. TERM AND TERMINATION.

5.1 Term. Unless terminated earlier in accordance with this Section, this Agreement will begin on the Effective Date and will continue until the end of the period specified in the applicable Sales Order Form (the "**Initial Term**"). You authorize Devicie to automatically renew the applicable Services upon the expiration of the Initial Term (each a "**Renewal Term**", and collectively with the Initial Term, the **Term**) unless either party provides the other with written notice of intent to terminate thirty (30) days prior to the end of the then current Term. The Renewal Term will be the same length as the Initial Term unless otherwise specified by Devicie at the time of renewal.

5.2 Suspension. Devicie may immediately suspend or terminate Your access to the Services upon notice if: (i) You have not paid past-due fees; or (ii) Devicie reasonably believes that You have materially breached the Agreement. Devicie is not responsible for any liability or damage suffered by You as a result of any suspension or termination in accordance with this Agreement.

5.3 Termination. Either party may terminate this Agreement (i) immediately in the event of a material breach of this Agreement or any such Sales Order Form by the other party that is not cured within thirty (30) days of written notice from the other party; or (ii) immediately if the other party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within ninety (90) days of filing. All rights and obligations of the parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement.

5.4 Effect of Termination. Termination shall not relieve You of the obligation to pay any fees or other amounts accrued or payable to Devicic through the end of the current Term. You shall not receive a credit or refund for any fees or payments made prior to termination. Upon termination or expiration of this Agreement, Devicic will stop providing the applicable Services and You agree to immediately (i) cease using and accessing the Services, (ii) return or destroy all copies of Services and other Devicic Content and Confidential Information in your possession or control; and (iii) where applicable download or retrieve Your Data within five (5) days of such termination or expiration. Following termination, Devicic shall have no obligation with respect to storage of Your Data and may, in its sole discretion, permanently delete Your Data in accordance with its internal policies and procedures.

5.5 Surviving Provisions. Sections 1, (Definitions), 4.1 (Devicic Ownership) 4.2 (Ownership of Your Data) 5.4 (Effect of Termination) 6-8 (Fees and Payment; Taxes, Protection of Your Data and Confidential Information) 9 (Disclaimer), 10 (Indemnification), 11 (Limitation of Liability), and 13 (General), shall survive any termination or expiration of this Agreement, along with any other provisions which by their express terms do survive or by their nature should survive.

6. FEES AND PAYMENT; TAXES.

6.1 Fees and Payment. All Sales Order Forms will be considered final upon acceptance and execution by Devicic. You agree to pay Devicic for Services and expenses incurred on the basis and at the rates specified in each Sales Order Form, or if no rate is specified, Devicic's then-current rate. All fees are non-cancellable and non-refundable. All fees will be due and payable as set forth in the Sales Order Form. If the Sales Order Form does not contain payment terms, payment is due in advance, thirty (30) days after receipt of invoice. Devicic reserves the right to change the rates, applicable charges and usage policies and to introduce new charges by providing You at least thirty (30) days' prior written notice of the change, but any such modifications will not apply until the start of Your next renewal Term.

6.2 Late Payment. If You fail to pay as required, Devicic shall be entitled, at its sole discretion, to: (i) suspend provision of the Services upon notice; (ii) charge You an interest rate designated by Devicic at the time of invoice up to the maximum rate permitted by applicable law; and/or (iii) suspend or terminate this Agreement.

6.3 Additional Services. For certain Services, You may elect to expand or add additional Services in-product; such orders shall be equivalent to a Sales Order Form. In addition, in some cases You may be able to exceed your purchased parameters and agree to pay for such overages in arrears. If You exceed the purchased capacity designated in Your Sales Order Form, You will be charged additional fees, which will be reflected and payable in Your next invoice.

6.4 Taxes. All fees are exclusive of taxes, and You shall pay or reimburse Devicic for all taxes arising out of transactions contemplated by this Agreement. If You are required to withhold any tax for payments due, You shall gross up Your payments to Devicic so that Devicic receives the amount due in full, free of any deductions. As reasonably requested, You will provide documentation to Devicic showing that taxes have been paid to the relevant taxing authority. "Taxes" means any sales, VAT, use, and other taxes (other than taxes on Devicic's income), export and import fees, customs duties and similar charges imposed by any government or other authority.

6.5 Authorized Resellers and Digital Marketplaces. If You purchase Services through a Devicic authorized reseller or a Digital Marketplace, this Agreement will govern use of those Services. Your payment obligations for the Services will be with the authorized reseller or Digital Marketplace, as applicable, not Devicic. You will have no direct fee payment obligations to Devicic for those Services. However, in the event that You fail to pay the Digital Marketplace for your Services, Devicic retains the right to enforce Your payment obligations and collect directly from You. Any terms agreed to between You and the authorized reseller that are in addition to this Agreement are solely between You and the authorized reseller and Digital Marketplace, as applicable. No agreement between You and an authorized reseller or Digital Marketplace is binding on Devicic or will have any force or effect with respect to the rights in, or the operation,

use or provision of, the Services. **“Digital Marketplace”** means an online or electronic marketplace operated or controlled by a third party where Devicie has authorized the marketing and distribution of its Services.

7. DATA; PROTECTION OF YOUR DATA.

7.1 Your Data Restrictions. You and Your Users will not use the Services to upload or otherwise transmit, display or distribute any of Your Data that: (i) is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, libelous, invasive of another’s privacy, hateful, pornographic, or obscene; (ii) infringes the intellectual property rights or any other rights of any third party; (iii) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) interferes with or disrupts the Services or networks connected to the Services; or (v) violates this Agreement or any applicable law.

7.2 Your Data Obligations. You hereby grant to Devicie a non-exclusive, worldwide, royalty-free, fully-paid, transferable right to use, process and transmit Your Data as necessary to provide and optimize the Services. You further agree that Devicie will process configuration, performance, usage, and consumption data about You and Your Users use of the Services to assist with the necessary operation and function of the Services and to improve the Services pursuant to the Devicie Privacy Notice. You agree that You and Your Users are responsible for maintaining and protecting backups of Your Data directly or indirectly processed using the Services and that Devicie is not responsible for exportation of, the failure to store, the loss, or the corruption of Your Data. You agree to obtain and maintain all rights and permissions necessary for You to transmit Your Data to the Services, make Your Data available to Devicie and its service providers in connection with Your use of the Services, and to grant Devicie the rights to use and process Your Data provided under this Agreement.

7.3 Health Information. Unless Your Sales Order Form expressly states that You are purchasing a subscription to the Services for use with protected health information (as defined in the Health Insurance Portability and Accountability Act of 1996, as amended and supplemented, known as **“HIPAA”**) or payment card information, You acknowledge and agrees that You will not access or store any protected health information (as defined in HIPAA) or any payment card information or other financial information protected under the Gramm-Leach-Bliley Act within the Services.

7.4 Protection of Data. Each party will comply with its respective obligations under applicable data protection laws, and each party will maintain a reasonable security program in accordance with industry standards that is designed to protect the security of, and prevent unauthorized access to, Confidential Information and Your Data. Such security program will include implementation of appropriate administrative, technical and physical safeguards. You agree to: (i) change passwords and other access credentials related to the Services on a regular basis and immediately upon becoming aware of any unauthorized access to, or use or compromise of the Services, and require Your Users and Your Clients to do the same; and (ii) promptly apply any updates, upgrades, modifications or other enhancements that Devicie determines are necessary to maintain the security, confidentiality, integrity, availability or performance of the Services, and require Your Users and Your Clients to do the same. To the extent applicable, the parties shall process personal data in accordance with Devicie’s Data Processing Addendum, which is incorporated by reference.

8. CONFIDENTIAL INFORMATION.

8.1 Confidential Information. As used in this Agreement, **“Confidential Information”** means any nonpublic information or materials disclosed under this Agreement by either party to the other party, either directly or indirectly, in writing, orally, or by inspection of tangible objects, which a reasonable person (having regard to the nature of the information or the circumstances surrounding the disclosure of the information) would regard as having a confidential character, or the disclosing party clearly identifies as confidential or proprietary. Confidential Information includes Your Data, and Devicie’s Confidential Information includes the Services, and any information or materials relating to the Services (including pricing), or otherwise. Confidential Information may also include confidential or proprietary information disclosed to a disclosing party by a third party.

8.2 Obligations; Permitted Use and Disclosure. The receiving party will: (i) hold the disclosing party’s Confidential Information in confidence and use reasonable care to protect the same; (ii) restrict disclosure of such Confidential Information to those employees or agents with a need to know such information and who are under a duty of confidentiality respecting the protection of Confidential Information substantially similar to those of this Agreement; and

(iii) use Confidential Information only for the purposes for which it was disclosed, unless otherwise set forth in this Agreement. The restrictions will not apply to Confidential Information, excluding personal data, to the extent it: (i) is (or through no fault of the recipient, has become) generally available to the public; (ii) was lawfully received by the receiving party from a third party without such restrictions; (iii) was known to the receiving party without such restrictions prior to receipt from the disclosing party; or (iv) was independently developed by the receiving party without breach of this Agreement or access to or use of the disclosing party's Confidential Information.

8.3 Required Disclosure. The recipient may disclose Confidential Information to the extent the disclosure is required by law, regulation, or judicial order, provided that the receiving party will provide to the disclosing party prompt notice, where permitted, of such order and will take reasonable steps to contest or limit the steps of any required disclosure. The parties agree that, in addition to any other relief to which the non-breaching party may be entitled, any material breach of this Section 8 will cause irreparable injury and the non-breaching party may seek injunctive relief in a court of competent jurisdiction without the need of posting bond. The obligations set forth in this Section shall survive for three (3) years after the Term or termination of this Agreement except with respect to trade secrets disclosed hereunder which shall remain subject to this obligation indefinitely.

9. LIMITED WARRANTY

9.1 Warranty. Devicie warrants that during the Term for the applicable Services, the Services will conform, in all material respects, with the Documentation. For any breach of this warranty, Devicie will, at no additional cost to You, provide remedial services necessary to enable the Services to conform to the warranty. You will provide Devicie with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedies set out in this section are Your sole remedies for breach of this warranty. This warranty will only apply if the Services have been utilized by You in accordance with the Sales Order Form and this Agreement.

9.2 WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES, DOCUMENTATION, DEVICIE CONTENT, DEVICIE MARKS, SUPPORT, AND ALL OTHER PRODUCTS AND SERVICES PROVIDED HEREUNDER OR MADE AVAILABLE UNDER THIS AGREEMENT, INCLUDING THIRD PARTY HOSTED SERVICES OR SOFTWARE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, DEVICIE DISCLAIMS AND EXCLUDES ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, RELIABILITY, SECURITY, LOSS OR CORRUPTION OF DATA, CONTINUITY, OR ABSENCE OF DEFECT RELATING TO THE SERVICES OR THE RESULTS OF THE SAME. DEVICIE DOES NOT WARRANT THAT THE SERVICES, INCLUDING ANY SPECIFICATIONS OR FUNCTIONS CONTAINED IN THEM, WILL MEET YOUR REQUIREMENTS, THAT THE SERVICES WILL BE ERROR-FREE, OR THAT DEFECTS IN THE SERVICES WILL BE CORRECTED. DEVICIE SPECIFICALLY DISCLAIMS RESPONSIBILITY FOR THIRD-PARTY PRODUCTS AND SERVICES WITH WHICH YOU MAY UTILIZE THE SERVICES AND SOFTWARE, AND YOU SPECIFICALLY DISCLAIM AND WAIVE ANY RIGHTS AND CLAIMS AGAINST DEVICIE WITH RESPECT TO SUCH THIRD-PARTY PRODUCTS AND SERVICES.

10. INDEMNIFICATION.

10.1 Devicie Indemnification. Devicie agrees to indemnify and defend You and Your respective officers, directors and employees from and against any unaffiliated third-party suit or proceeding alleging that the Services infringe any patent, trademark or copyright, or misappropriate a trade secret, of that third party ("**Devicie Indemnified Claim**"). Devicie will indemnify You from the damages finally awarded against You to that third party by a court of competent jurisdiction or agreed to by Devicie in settlement. If the Services are held to infringe, Devicie will, at Devicie's own expense, in Devicie's sole discretion, use commercially reasonable efforts either (a) to procure a license that will protect You against such claim without cost to You; (b) to replace the Services with non-infringing Services without material loss of functionality; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement or the applicable Sales Order Form and refund to You any prepaid unused fees paid to Devicie for the terminated Services. Devicie's obligations under this Section 10 do not apply to any claim based on (i) use of the Services in violation of this Agreement or applicable law; (ii) use of the Services after Devicie notifies You to discontinue use because of an infringement claim; (iii) any claim relating to any third party products or services or Your Data; (iv) modifications to the Services made by anyone other than Devicie (where the claim would not have arisen but for such modification); (v) the combination, operation, or use of the Services with software or equipment which was not provided by Devicie, to the extent that Your liability for such claim would have been avoided in the absence of such combination, operation, or use; (vi) compliance by Devicie with

Your custom requirements or specifications if and to the extent such compliance with Your custom requirements or specifications resulted in the infringement. This Section 10 sets forth Your sole and exclusive remedy and Devicie's entire liability for any Devicie Indemnified Claim.

10.2 Your Indemnification. You agree to indemnify, defend, and hold harmless Devicie and its affiliates, and its and their directors, officers, employees, and agents from and against any claims, liabilities, damages, costs, and expenses (including attorneys' fees and expenses) arising out of or due to: (i) allegations or claims related to Your Data or Devicie's use of Your Data; (ii) You (or Your User's) breach of this Agreement; or (iii) You (or Your User's) use or misuse of the Services or Devicie Content in violation of third party rights, including any intellectual property or privacy rights, or any applicable laws.

10.3 Indemnification Procedure. Each party's obligations under this Section 10 apply only if the indemnified party: (i) promptly notifies the indemnifying party of the claim in writing; (ii) allows the indemnifying party to solely control the defense of the claim and any settlement negotiations provided that the indemnifying party shall not settle any claim without the indemnified party's prior written consent (such consent not to be unreasonably withheld or delayed); and (iii) reasonably cooperates with the indemnifying party in response to requests for assistance.

11. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (I) IN NO EVENT WILL DEVICIE OR ITS AFFILIATES, OR ITS OR THEIR DIRECTORS, EMPLOYEES, OR AGENTS HAVE ANY LIABILITY, CONTINGENT OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, STATUTORY OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO LOST PROFITS, LOST OR CORRUPTED DATA, LOSS OF GOODWILL, EQUIPMENT FAILURE OR MALFUNCTION, PROPERTY DAMAGE OR ANY OTHER ECONOMIC DAMAGES OR LOSSES ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SERVICES OR PERFORMANCE OF THE SERVICES, DEVICIE CONTENT, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, INDEMNITY OR OTHERWISE) UPON WHICH ANY SUCH LIABILITY IS BASED; AND (II) THE TOTAL CUMULATIVE LIABILITY OF DEVICIE AND ITS AFFILIATES, AND ITS AND THEIR DIRECTORS, EMPLOYEES, AND AGENTS, AND THE SOLE REMEDY AVAILABLE TO YOU FOR ANY AND ALL CLAIMS AND DAMAGES UNDER THIS AGREEMENT, WHETHER ARISING BY STATUTE, CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SERVICES, DEVICIE CONTENT, DEVICIE MARKS, OR ANY OTHER PRODUCTS OR SERVICES PROVIDED HEREUNDER SHALL BE LIMITED TO TERMINATION OF THIS AGREEMENT AND DAMAGES NOT TO EXCEED THE TOTAL AMOUNT PAYABLE OR PAID TO DEVICIE UNDER THIS AGREEMENT. The limitations in Section 11 (Limitations of Liability) will not apply to: (1) either party's obligations in Section 10 (Indemnification); (2) either party's violation of the other party's intellectual property rights; (3) Your payment obligations under Section 6 (Fees and Payment); (4) Your violation of Section 3.1 (Restrictions); or (5) any liability that cannot be excluded under applicable law.

12. THIRD PARTY PROGRAMS. You may receive access to third-party software programs through the Services, or third-party programs may be bundled with the Services. These third-party software programs are governed by their own license terms, which may include open source or free software licenses, and those terms will prevail over this Agreement as to Your use of the third-party software programs. Devicie makes no representation or warranty concerning third party programs and has no obligation or liability with respect to any third party programs. Nothing in this Agreement limits You or Your User's rights under, or grants You or Your User rights that supersede, the terms of any such third party software program.

13. GENERAL.

13.1 Notices. All notices will be in writing. The parties agree that electronic communications will satisfy applicable legal notice requirements, including that the notice be in writing. Notice will be deemed given on the next business day after the notice is sent. Devicie will send notices to You at the email address indicated on the Sales Order Form or updated through Your account. It is Your responsibility to keep Your email address for notices valid and current to receive notices. All notices to Devicie shall be sent to: accounts@devicie.com.

13.2 Entire Agreement; Precedence. This Agreement constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all prior or contemporaneous communications, agreements and understandings, written or oral, with respect to the subject matter hereof. Any additional terms included in a

purchase order or other business form provided by You will be for administrative purposes only, will have no legal effect and will not supersede, amend or supplement the terms of the Agreement. You agree that your purchase of the Services is not contingent on the delivery of any future functionality or features, or dependent on any oral or written statements made by Devicie regarding future functionality or features. In the event of a conflict, the order of precedence will be: (1) the Agreement; and (2) the Sales Order Form.

13.3 Assignment. This Agreement shall be binding upon and for the benefit of each party and their permitted successors and assigns. Either party may assign this Agreement and all Sales Order Forms as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. Except as expressly stated in this Agreement, neither party may otherwise assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other party, and any attempted assignment or delegation without such consent will be void.

13.4 Export Control Laws. You will comply with all applicable export laws and regulations of the United States and any other country ("**Export Laws**") where Your Users use any of the Services. You certify that You are not on any of the relevant U.S. government lists of prohibited persons, including the Treasury Department's List of Specially Designated Nationals and the Commerce Department's List of Denied Persons or Entity List. You will not export, re-export, ship, transfer or otherwise use the Services in any country subject to an embargo or other sanction by the United States, including, without limitation, Iran, Syria, Cuba, the Crimea Region of Ukraine, Sudan and North Korea, and You will not use the Services for any purpose prohibited by the Export Law.

13.5 Modifications. Except as Devicie is otherwise permitted to do so under this Agreement, this Agreement shall not be amended or modified except in a writing signed by authorized representatives of each party.

13.6 Severability. If any provision of this Agreement is held to be unenforceable, illegal, or void, that shall not affect the enforceability of the remaining provisions. The parties further agree that the unenforceable provision(s) shall be deemed replaced by a provision(s) that is binding and enforceable and that differs as little as possible from the unenforceable provision(s), with considerations of the object and purpose of this Agreement.

13.7 Waiver. The delay or failure of either party to exercise any right provided in this Agreement shall not be deemed a waiver of that right.

13.8 Force Majeure. Except for the obligation to make payments, non- performance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

13.9 Construction. Paragraph headings are for convenience and shall have no effect on interpretation.

13.10 Governing Law. Each party agrees to the applicable governing law set out below without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts below with respect to any dispute, claim, action, suit or proceeding (including non-contractual disputes or claims) arising out of or in connection with this Agreement, or its subject matter or formation. To the extent not prohibited by applicable law, each of the parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

Devicie entity entering into Agreement:	With Principal Office at:	Choice of Law	Exclusive Jurisdiction
Devicie Pty Ltd	320/1 Bryant Drive, Mariners Centre of Excellence Building, Tuggerah NSW 2259	New South Wales, Australia	New South Wales, Australia

Devicie NA Inc.	8 The Green, Dover, DE 19904	State of Delaware	Kent County, Delaware, USA
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13.11 Third Party Rights. Other than as expressly provided herein, this Agreement does not create any rights for any person who is not a party to it, and no person not a party to this Agreement may enforce any of its terms or rely on an exclusion or limitation contained in it.

13.12 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

13.13 Marketing. You agree that Devicie may use Your trade names, trademarks or service marks and You agree further to perform reasonable best efforts to obtain the right for Devicie to use Your Clients' trade names, trademarks or service marks, in each case in connection with the performance of the Services, and in Devicie's promotional materials, notices, and advertisements.

13.14 United States Government Restricted Rights. This provision applies only if You are accessing or otherwise using the Services on behalf of the United States Government or a state or local government entity located in the United States (collectively, the "**Government**"). Any technical data or Services which are licensed to the Government, its agencies and/or instrumentalities as a result of this Agreement are commercial technical data or commercial computer software developed exclusively at private expense as defined in FAR 2.101 or DFARS 252.227-7014 as applicable. For Technical data, use, duplication or disclosure by the Government is subject to restrictions as set forth in DFARS 202.227-7015 and this Agreement. For Services and any software contained therein, in accordance with FAR 12-212 or DFARS 227-7202, as applicable, use duplication or disclosure by the Government is set forth in this Agreement. No other rights are granted. Use of the Services and/or any technical data provided with such Services shall be deemed acceptance of this clause by You.

13.15 Australian Consumer Law (applies only if your Sales Order Form is with Devicie Pty Ltd). Nothing in the Agreement is intended to exclude, restrict or modify the application of the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 of Australia ("ACL"). To the fullest extent permitted by law, Devicie's liability for any breach of a consumer guarantee implied by the ACL (and which cannot be excluded) will be limited to any one or more of the following (as determined by Devicie in its absolute discretion): (1) in the case of goods, the replacement repair or payment of the cost of replacement or repair of the goods; and (2) in the case of services, supplying the services again or payment of the cost.