



RESOLVER INC. TERMS OF SERVICE

Ver.1.0.1a
Last Updated: 2016.DEC.28

Please read these Resolver Inc. ("**Resolver**") terms and conditions of use and service carefully. **THESE TERMS OF SERVICE MAY HAVE CHANGED SINCE YOUR LAST VISIT TO THIS PAGE (THE "SITE"). ALWAYS CHECK THE "LAST UPDATED" DATE ABOVE.**

These Terms of Service ,which include Order Forms, schedules, exhibits, addendums and statements of work ("**SOWs**") referred to or linked to hereto or incorporated herein (the "**Terms**"), create an agreement between the company, organization, legal entity or legal person listed on the Order Form ("**Customer**", "**You**" or "**Your**" and terms of similar meaning) and Resolver Inc. ("**Resolver**," "**We**," "**Our**" or "**Us**" and terms of similar meaning) regarding Your access to and use of any Resolver software ("**Software**") and receipt of consulting, training, professional and/or other services ("**Services**"). All users must agree to these Terms before using the Software and Services.

If you are an individual agreeing to these Terms, you agree that these Terms apply to you as an User; additionally, if you are agreeing to these Terms on behalf of a company, organization, other legal entity or legal person, you represent that you have the authority to bind that entity and its affiliates, and its respective employees, agents, delegates, representatives and any other individuals that access and use the Software and receive the Services ("**Users**"), to these Terms. If you do not agree with the Terms or if you do not have such authority, you must not accept an Order Form (as applicable) and Customer and Users will not be permitted to access, receive and use the Software and Services.

1. Orders, Fees and Payments

- (a) You may from time to time submit orders for Software and Services in an order form (an "**Order Form**") and those terms and conditions are incorporated into these Terms by reference. An Order Form and these Terms will be deemed to be accepted by You by: (i) You signing the Order Form; or (ii) You (or an User) registering for an account to access or use the Software; or (iii) You (or an User) otherwise access or use the Software (the "**Order Effective Date**").
- (b) You will pay Us all fees as set out in an Order Form (the "**Fees**").
- (c) You will be responsible for all applicable taxes or other charges imposed by any governmental authority, relating to: (i) Us providing; or (ii) Your access, receipt and use of the Software and Services. If We are obligated to collect or pay taxes for which You are responsible, You will pay Us the appropriate amount unless You provide Us with a valid tax exemption certificate. We reserve the right to gross up the Fees for the Software and Services in an invoice if a withholding prevents Us from receiving the actual amount specified in an invoice.
- (d) We reserve the right to change the Fees (no more than five percent (5%)) payable by You upon no less than forty-five (45) days' notice to You before the end of the Subscription Term.
- (e) Any out-of-pocket expenses incurred by Us in compliance with our Travel Policy (which can be found at www.resolver.com/legal ("**Legal Page**") and which are incorporated herein by reference) while performing Services will be charged to and payable by You.
- (f) All invoices are due upon receipt. In all instances, if You do not pay us on time, We may suspend Your access and use of the Software and the receipt of Services for non-payment.

2. Term and Termination

- (a) These Terms begin to apply on the Order Effective Date and cease to apply at the End Date set out in the Order Form (the "**Initial Subscription Term**"). At the end of the Subscription Term, these Terms will automatically renew for period of time equal to the Initial Subscription Term (a "**Renewal Term**", and together with the "Initial Subscription Term", the "**Subscription Term**"), unless You notify Us in writing at least thirty (30) days before the end of the Initial Subscription Term or a Renewal Term of Your intention to terminate these Terms. Any such termination will be effective on the last day of the Subscription Term and You will pay for the Software and Services until the end of the Subscription Term, regardless of when You provided notice.

- (b) In the event of a breach of these Terms by either party that remains uncured for twenty (20) business days, the non-breaching party may immediately terminate these Terms.
- (c) Upon termination of these Terms for any reason whatsoever, You will pay all Fees owing to Us and We will not refund any Fees that you may have already paid to Us.
- (d) So long as you have paid Us all outstanding Fees, upon Your written request made within thirty (30) days after the termination of these Terms, We will: (i) deliver to You, as applicable, any Customer Data in Our possession or control; or (ii) make available to You for download a file of Customer Data in a generally available format, as determined by Us, acting reasonably. After such thirty-(30)-day period, We will have no obligation to maintain or provide any Customer Data and We will, unless legally prohibited, delete or destroy all Customer Data in Our systems or otherwise in Our possession or under Our control.

3. Use of the Software

- (a) As of the Order Effective Date ,we grant you a limited, non-exclusive, non-transferable and non-assignable, worldwide right to access and use (and permit Users to access and use) the Software for your internal business use during the Subscription Term and only as permitted by these Terms.
- (b) Unless otherwise provided in these Terms, You will not: (i) resell, distribute, use the Software on a timeshare, outsourced, or service bureau basis; (ii) provide access to the Software to a third party; or (iii) modify, reproduce, duplicate, deconstruct, reverse engineer the Software or create derivative works of the Software (unless Your Order Form so indicates; and in which case, the creation and use of such derivative works shall be for your sole benefit).
- (c) Any rights not explicitly granted in these Terms are strictly reserved by Us and You will not use the Software except in the manner as expressly granted herein. We reserve the right to audit Your usage of the Software to determine Your compliance with this Terms.
- (d) For mobile use of the Software, You may need to download and install additional software from Us or a third party mobile "app" store or marketplace in which case these Terms also apply to such additional software and mobile "apps" (in addition to any other terms of such "app" store or marketplace).
- (e) Your use of the Software is subject to limits and restrictions as more specifically set out in an Order Form (e.g. number of Users, disk storage space).

4. Services

- (a) We may provide You with Services as set out in an Order Form and a SOW (or a Change Order to a SOW). A SOW may be required for each project, and may specify, among other things, the purpose and scope of the project, the responsibilities of each party, assumptions, deliverable(s) (if any), applicable fees and payment terms, acceptance test procedures (if any) and any other specific requirements. In some instances, We may not commence providing Services to You unless a SOW has been agreed to by You and Us.
- (b) We may provide the Services remotely or at a location of Your choosing.
- (c) Either You or We may request additions, deletions or amendments to the Services in a SOW (“**Change**”). A Change will be requested in writing signed by an authorized representative of the party requesting the Change (“**Change Request**”). We will not have an obligation to perform, and You will not have an obligation to pay for, Services related to any Change unless You and We have agreed to the Change in writing. If You request a Change, We will evaluate the request and We will provide You with a written estimate of the cost, if any, of the requested Changes. Upon Your approval of the cost estimate and any additional terms and conditions related to such Changes, then You and We will enter into a change order document amending the applicable SOW (a “**Change Order**”).

5. Our responsibilities

- (a) In exchange for Your adherence to these Terms (including Your payment of Fees in accordance with these Terms), We will, in compliance with applicable laws (including data privacy laws):
 - i. use commercially reasonable efforts to provide you (and your Users) with access and use of the Software in accordance with our Availability Guarantee (as described in our Support Program);
 - ii. perform the Services in a professional and workmanlike manner in accordance with applicable professional standards;
 - iii. provide you with Software maintenance and support as set out in our support and maintenance program (“**Support Program**”, which can be found on the Legal Page); and
 - iv. in relation to the Customer Data you upload into the Software: (1) maintain a comprehensive information security program to ensure the confidentiality, integrity and availability of such Customer Data; (2) protect such Customer Data from loss or unauthorized use, access, modification, disclosure or destruction all in accordance with industry best practices and in accordance with our security policies (“**Security Policies**”, which we will make available to You upon your written request).
- (b) We will not be responsible for any compromise, loss, delay, alteration, or interception of Customer Data during the transmission of any data whatsoever across the Internet or mobile telecommunications networks.

6. Your responsibilities

- (a) In exchange for Us providing You with access to and use of the Software and the Services, You will, in compliance with all applicable laws:
 - i. be responsible for Users’ compliance with these Terms;
 - ii. maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Customer Data anytime it is not in the Software;

- iii. comply with applicable privacy laws in relation to the collection, use and disclosure of any personally identifiable information (“**PII**”) that may be included in the data you upload into the Software, including Customer Data;
- iv. be responsible for the content, accuracy and quality of the Customer Data You use in connection with the Software and Services;
- v. protect and securely manage account/user names, password(s), other login information and customer keys (if any) to prevent the unauthorized access to the Software and promptly notify Us in the event of an unauthorized access to the Software;
- vi. install all updates to the Software in a timely fashion, as provided by Us; and
- vii. be responsible for procuring and maintaining the Internet and mobile telecommunications network connections that connect Your Users and network to the Software.

7. Changes

- (a) We may update these Terms from time to time. If We do so, We will notify You at the email address you provide in Your Order Form at least thirty (30) days before the update. If You do not agree with the changes You can cancel the Services, stop using the Software without further obligation, except for the payment of amount due for any outstanding Services and terminate these Terms. Any changes or modifications to these Terms will be effective immediately upon posting of the revisions on the Site, and Your continued use of the Services and Software after such time will constitute Your acceptance of such changes or modifications. You should from time to time review the Terms to understand the terms and conditions that apply to Your use of the Services and Software. The Terms will always show the ‘Last Updated’ date at the top. If You have any questions about the Terms, please email us at [legal\[at\]resolver.com](mailto:legal[at]resolver.com).
- (b) We may, at Our discretion, enhance or modify the Software from time to time and We will provide you with reasonable notice of any material modifications: (i) at the email address you provide in your Order Form; (ii) by posting a notice to this Site; or (iii) by posting a notice in the Software. Notwithstanding the foregoing, We may at any time modify or discontinue features of the Software to comply with applicable laws and regulations. We will not be liable to You or to any third party for any modification or discontinuation of the Software as described above.
- (c) We use a third party vendor to host the Software and we may change certain elements of the hosting services or such third party vendor from time to time. In all cases, We will always be responsible for the performance of such third party vendor, in accordance with these Terms and in each case, any such changes will not materially change, alter or modify the your access and use of the Software.

8. Insurance

- (a) We carry commercial general liability insurance and errors and omissions insurance with the limits and for the coverages set out in the Certificate of Insurance (a copy of which can be found on the Legal Page).

9. Confidentiality Obligations

- (a) Each party may use Confidential Information only for the purposes of these Terms and, except as specifically provided for in this Section 9, will not disclose to any third party any Confidential Information, without the prior written consent of the other party. For the purposes of these Terms, “**Confidential Information**”

means all technical, scientific, marketing, business, financial and commercial information or data other than technical, scientific, marketing, business, financial and commercial information or data, whether communicated in writing or orally, which is provided by a party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) as a consequence of these Terms. The Receiving Party will be liable to the Disclosing Party for any breaches of this Section 9 by its employees, agents or third party service providers who obtain Confidential Information of the Disclosing Party from the Receiving Party. Confidential Information will not include information that: (i) was already known by or in the possession of the Receiving Party at the time of disclosure, other than through an obligation of confidentiality; (ii) was at the time of disclosure or thereafter became publicly available or known to the public or otherwise part of the public domain without breach of these Terms by the Receiving Party; (iii) was subsequently disclosed to the Receiving Party by a third person who had the right to make such disclosure; and (iv) is developed by the Receiving Party independently of any Confidential Information or other information received from the Disclosing Party.

- (b) The foregoing obligations of non-disclosure and restricted use will not apply to any Confidential Information that is required to be disclosed by law or court order, provided that notice is promptly delivered to the Disclosing Party in order to provide an opportunity to seek a protective order or other similar order with respect to the Confidential Information and thereafter the Receiving Party discloses only the minimum information required to be disclosed in order to comply with such law or court order, whether or not a protective order or other similar order is obtained by the Disclosing Party.
- (c) The agreements and covenants set forth in this Section 9 will be construed as being an agreement independent of any other provisions in these Terms. The existence of any claim or cause of action of either party against the other party, whether predicated on these Terms or otherwise, will not constitute a defence to the enforcement by such other party of any of the covenants and agreements of this Section 9. Each of the parties acknowledges that its failure to comply with the provisions of this Section 9 will cause irreparable harm to the other party which cannot be adequately compensated for in damages, and accordingly acknowledges that the other party will be entitled, in addition to any other remedies available to it, to interlocutory and permanent injunctive relief to restrain any anticipated, present or continuing breach of this Section 9.

10. Privacy and Data Protection

- (a) We will not monitor or access your Customer Data, except: (i) where instructed or permitted by You, or (ii) as otherwise required by law or to exercise or protect Our legal rights.
- (b) You acknowledge and agree that the encryption we use in relation to the Customer Data prevents us from ever having knowledge (actual or implied) of, Use of, or access to any PII that may or may not be contained in the Customer Data. Additionally You acknowledges and agrees that: (i) the encryption that we utilize prevents and prohibits Us from determining whether or not the Customer Data actually contains PII; and (ii) accordingly it may not be possible for Us to fulfill any of Your specific data security requirements (including legal requirements) in relation to PII and Customer Data.
- (c) We will collect, use and process Customer Data only in accordance with: (i) Our Privacy Statement (which is incorporated into these Terms by reference and which can be found on our Legal Page) and to the extent reasonably required to provide the Software and Services; and/or (ii) Your instructions.

- (d) We may transfer, copy, backup and store your Customer Data in North America, Europe or other countries. We will obtain appropriate agreements with Our affiliates, third party vendors and agents consistent with these Terms and Our Privacy Statement.
- (e) You agree that We may contact You via e-mail or otherwise with information relevant to Your use of the Services and Your payment obligations.
- (f) You acknowledge that the European Commission, pursuant to a decision of 20 December 2001 has declared, for the purposes of Article 25920 of the European Commission Directive 95/46/EC, the Canadian *Personal Information Protection and Electronic Documents Act*, that applies to Us, provides an adequate level of protection for personal data transferred from the European Community.

11. Customer Data

- (a) We make no claim to your trade names, logos and other trademarks or service marks (“**Marks**”) and Customer Data and We will not sell your Customer Data to third parties.
- (b) You are solely responsible for Your Customer Data. We are not liable to You, Your Users or Your customers for any loss or damages arising from any Customer Data. “**Customer Data**” means all visual, written or audible communications, files, data documents, videos, recordings, or any other material displayed, posted, uploaded, stored, exchanged or transmitted on or through your use of the Software.
- (c) You grant Us a world-wide, royalty-free, sub-licensable licence to use, modify, reproduce and distribute the Customer Data, only as reasonably required to provide access to and use of the Software (e.g., We may encrypt your Customer Data which may involve use, reproduction and modification of your Customer Data). You warrant that you have sufficient, lawful non-infringing rights to the Customer Data and to grant the license contained in this Section.

12. Warranty and Warranty Disclaimer

- (a) Although We will make Our best effort to deliver functioning Software and an acceptable Service, We do not warrant that the Software or the Services provided will be error free or satisfy all Your requirements. We will use commercially reasonable efforts to correct any error, in a timely fashion, that may be discovered by You or Us.
- (b) You acknowledge and agree that notwithstanding the Security Policies and Our methods and procedures to secure the Software, such methods and procedures may not prevent unauthorized electronic intruders to access the Software through the Internet or through other form of electronic communication. If such unauthorized electronic intruders are able to bypass Our security protocols, firewall and safeguards, such unauthorized electronic intruder may change, delete or otherwise corrupt the Your Customer Data. Except for the maintenance of appropriate safeguards in compliance with the Security Policies, We shall not be liable to You, and hereby disclaim responsibility, with respect to any action, destructive or otherwise, by any unauthorized electronic intruder.
- (c) EXCEPT AS EXPRESSLY STATED IN THIS SECTION 12, TO THE EXTENT ALLOWED BY APPLICABLE LAW, WE (i) EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY, CONDITION OR OTHER IMPLIED TERM AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT AND (ii) MAKE NO WARRANTY OR REPRESENTATION REGARDING THE SERVICES, ANY INFORMATION, MATERIALS, GOODS OR SERVICES OBTAINED THROUGH THE SERVICES OR THE SITES, OR

THAT THE SERVICES WILL MEET ANY OF YOUR REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE.

13. Limitation of Liability

- (a) Neither Party will be liable to the other in connection with any single event or series of related events for any punitive, exemplary, special, incidental, indirect or consequential loss or damage including, but not limited to, loss of profits, loss of revenue, failure to realize expected savings, loss of data or other commercial or economic loss of any kind even if either party has been advised of the possibility of these losses or damages, and regardless of the form of action, whether in contract or in tort, or based upon any other legal or equitable theory.
- (b) OUR MAXIMUM AGGREGATE LIABILITY TO YOU RELATED TO OR IN CONNECTION WITH THESE TERMS WILL BE LIMITED TO THE TOTAL FEES PAID BY YOU TO US UNDER THESE TERMS FOR THE 12 MONTH PERIOD IMMEDIATELY PRIOR TO THE CLAIM. THIS LIMITATION OF LIABILITY IS IN THE AGGREGATE AND NOT PER INCIDENT.
- (c) THE LIMITATIONS IN SECTIONS 13(a) AND 13(b) DO NOT APPLY TO A BREACH OF SECTION 9, OR IN RELATION TO ANY INDEMNITY OBLIGATION SET FORTH IN THESE TERMS.
- (d) You acknowledge that We have set our prices and entered into these Terms in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties.

14. Ownership and Proprietary Rights

- (a) We and our licensors own all intellectual property rights to the Software, Services and associated documentation. This ownership extends to all copies and portions of these items, and all improvements, enhancements, modifications and derivative works to these items and any work product arising out of the Services. Your rights to use the Software are limited to those rights expressly granted by these Terms. You receive no other rights to the Software, any associated documentation, or Services or any related intellectual property rights in the Software.
- (b) You grant to Us a worldwide, royalty-free, non-exclusive, perpetual, irrevocable license to: (i) use or transfer any feedback you give Us in relation to the Software for any purpose; and (ii) use, copy, store and display Customer Data on an aggregated and anonymous basis only for the purposes of improving or developing enhancements to the Software and to offer new products and services that may relate to Your Customer Data.
- (c) We may use Your Marks to personalize the Software for Your use. Nothing in these Terms transfers to Us any rights or ownership in or to your Marks.

15. Indemnification

- (a) We will defend, indemnify and hold You, Users, Your officers, directors and employees (the “**Customer Indemnified Parties**”) harmless from and against any and all third party claims, demands, suits, or proceedings (“**Claim**”) for damages, costs, liabilities, expenses, attorney’s fees, equitable relief or similar relief made or brought against the Customer Indemnified Party by a third party arising out of or relating to the actual or alleged infringement or misappropriation of such third party’s intellectual property rights by Us, by Our provision of the Software or Services, or by Your authorized use of the Software or Services; provided that the Customer Indemnified Party: (i) promptly gives Us written notice of the Claim such that We are not materially prejudiced by the timing of such notice; (ii) gives Us sole control of the defense and settlement of the Claim (provided that We may not settle or defend

any Claim unless it releases the Customer Indemnified Party of all liability); and (iii) provides to Us all reasonable assistance, at Our expense. No settlement will require any payment by the Customer Indemnified Party without such Customer Indemnified Party’s written consent. The Customer Indemnified Party may monitor, at its own expense, such defense and any settlement discussions directly or through counsel of its choice.

- (b) We will not have any liability for any claim of infringement or misappropriation of a third party’s intellectual property caused by: (i) Your misuse or modification of the Software or any Services; (ii) Your failure to use corrections, enhancements or updates made available to You by Us; or (iii) information, direction, specification, or materials provided by You or any third party on Your behalf.
- (c) If the Software or any deliverable item resulting from Our performance of the Services (the “**Alleged Infringing Item**”) is, or in Our opinion is likely to be, held to constitute an infringement of a valid third-party right pursuant to this Section, We will at our expense and option either: (i) procure for You the right to continue using the Alleged Infringing Item; (ii) replace the Alleged Infringing Item with a non-infringing equivalent, modify it to make it non-infringing; or (iii) terminate your access, receipt and/or use of the Alleged Infringing Item and refund to You any pre-paid fees in relation to the Alleged Infringing Item less an amount for Your use of the Alleged Infringing Item up to the time of return. THIS SECTION STATES OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR INFRINGEMENT.
- (d) You will indemnify, defend and hold Us and our directors and employees harmless from and against any Claim for damages, costs, liabilities, expenses, attorney’s fees, equitable relief or similar relief made or brought against Us by a third party alleging that the Customer Data infringes or misappropriates the rights of a third party or violates applicable law; provided that We: (i) promptly give You written notice of the Claim such that You are not materially prejudiced by the timing of such notice; (ii) give You sole control of the defense and settlement of the Claim (provided that You may not settle or defend any Claim unless it releases the Us of all liability); and (iii) provides to Us all reasonable assistance, at Our expense. No settlement will require any payment by Us without such Our written consent. We may monitor, at Our own expense, such defense and any settlement discussions directly or through counsel of our choice.

16. General

- (a) These Terms will supersede and control over any conflicting or additional terms and conditions of any purchase order, acknowledgement, confirmation, request for proposal or other document issued by You. This Terms, together with any other documents referenced herein, constitute the entire agreement between the You and Us pertaining to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between You and Us. Except as expressly provided in this Agreement, there are no representations, warranties, conditions other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect these Terms.
- (b) Your or Our failure to enforce any provision of these Terms will not be construed as a waiver of any provision or right. Waiver by either You or Us of a breach of any provision of these Terms or the failure by either You or Us to exercise any right hereunder will not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.
- (c) In the event that a portion of these Terms are held to be unenforceable, the unenforceable portion will be construed in accordance with applicable law as nearly as possible to reflect the

original intentions of the parties, and the remainder of the provisions will remain in full force and effect.

- (d) We may delegate the performance of any or all of our obligations hereunder to third parties, provided that We will remain liable for performance hereunder. You may not assign these Terms or Your rights and responsibilities hereunder without our prior written consent unless the assignee is an acquiring party, acquired or merged party, majority owner, a subsidiary or affiliate party including by purchase, merger or operation of law. Subject to the foregoing, these Terms will be binding upon the parties' respective successors and permitted assigns.
- (e) All notices hereunder shall be in writing and shall be deemed to have been given upon the day of personal delivery, the third business day after mailing, or the first business day after sending by email. Notice to Us shall be to: Resolver Inc., 257 Adelaide Street West, Suite 400, Toronto, Ontario, M5H 1X9 Canada Attention: Law Department and/or legal[at]resolver.com. Notices to You shall be to the mailing and email address You provide in Your Order Form.
- (f) You agree that We may refer to You by trade name and Marks, and may briefly describe Your business and the nature of these Terms, in Our marketing materials and web site.
- (g) The laws of the Province of Ontario (without regard to its conflict of laws provisions) and all laws of Canada applicable in the Province of Ontario will govern these Terms and all matters arising out of or relating to these Terms. Any legal action or proceeding relating to these Terms will be instituted in the courts of the Province of Ontario. However, if You are located in the United States of America, the laws of the State of Nevada (without regard to its conflict of laws provisions) and any laws of the United States of America applicable in the State of Nevada will govern these Terms and all matters arising out of or relating to these Terms. Any legal action or proceeding relating to these Terms will be instituted in the courts of the State of Nevada.
- (h) You and We are independent entities. Nothing in these Terms will be construed to creating a partnership, joint venture or agency relationship between You and Us.
- (i) Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under these Terms due to any cause beyond its reasonable control, including, without limitation, act of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, or governmental act, computer attacks or malicious acts, such as attacks on or through the Internet, or attacks against any Internet service provider, telecommunications facility or hosting facility.