

## **Terms of Service**

Last modified: January, 2025

### **1. Acceptance**

Devart Ltd. ("Devart", "Company", "us" or "we"), provides <https://skybackup.io/> and the other websites under the skybackup.io domain (collectively, the "Sites") and SkyBackup backup solution (together with the Sites, the "Service") subject to your compliance with all the terms, conditions, and notices contained or referenced herein (the "Terms of Service" or the "Agreement"). By using the Service or accessing the Sites, you ("you" or "User") agree to the Terms of Service and the Privacy Policy, available at <https://skybackup.io/privacy-policy>, which is incorporated herein by reference. If you do not agree, do not use the Service.

We reserve the right to change the Terms of Service from time to time but if we do, we will bring it to your attention by placing a notice on the website, and/or by sending you an email, and/or by some other means. Your continued use of the Service after the posting of any modifications shall constitute your agreement to be bound by such modified Terms of Service.

### **2. Eligibility**

You represent and warrant that you are at least 18 years of age. If you are under the age of 18, then you may not, under any circumstances or for any reason, use the Service. We may, in our sole discretion, refuse to offer the Service to any person or entity and change the eligibility criteria for using the Service at any time. The right to access the Service is revoked where these Terms of Service or use of the Service is prohibited or to the extent offering, sale or provision of the Service conflicts with any applicable law, rule or regulation. Further, the Service is offered only for your use and not for the use or benefit of any third-party.

### **3. Users' Content**

In the course of using the Service, you may provide information ("Content"), which may be used by Devart in connection with the Service. Devart claims no ownership or control over any content. You retain copyright and any other rights you already hold in the content, and you are responsible for protecting those rights, as appropriate. By submitting, posting or displaying the content on or through the Service you give Devart a perpetual, worldwide, royalty-free, and non-exclusive license to reproduce, adapt, modify, translate and publish such Content for the sole purpose of enabling Devart to provide you with the Service.

### **4. Proprietary Rights**

You acknowledge and agree that Devart owns all legal rights, title and interest in and to the Sites and Service, including any intellectual property rights, which subsist in the Sites and Service.

Except as provided in Section 3, Devart acknowledges and agrees that it obtains no right, title or interest from you under these Terms of Service in or to any Content that you, submit, post, transmit or display on, or through, the Sites and Services, including any intellectual property rights which subsist in that Content. Unless you have agreed otherwise in writing with Devart, you agree that you are responsible for protecting and enforcing those rights and that Devart has no obligation to do so on your behalf.

### **5. Restrictions**

You shall not permit any third party to access the Service except as permitted herein or in an order form. You shall not reverse engineer the Sites and/or the Service or access the Sites and/or the Service in order to build a competitive product or service, or copy any features, functions or graphics of the Services. The Sites may not be reproduced, duplicated, copied, sold, resold, or otherwise exploited for any commercial purpose. You may not frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form). You shall not use the Service in any manner or for any purpose that violates any law or regulation, any right of any person, including but not limited to intellectual property rights, rights of privacy, or rights of personality, or in any manner inconsistent with these Terms of Service.

## **6. Links to Third Party Sites**

The Sites contain links to third party websites. You may gain access to third party sites on the Internet through hypertext or other computer links on the Sites. These linked sites are not under the control of Devart, and Devart is not responsible for the contents of any linked site or any link contained in a linked site. Devart does not make any representation or warranty whatsoever about any third-party site that may be linked to or from the Sites or Service.

## **7. Sites Availability**

You acknowledge that 100% availability of the Sites and Service is not technically feasible. However, Devart will make its best efforts to keep the Sites and Service available in the most constant possible way. Due to special maintenance, security or capacity issues, and also to some events over which Devart may not influence, Services provided by Devart may be temporarily suspended or affected by brief anomalies.

## **8. European Users**

The Service is hosted and operated in the United States ("U.S.") through Devart and its service providers, and if you do not reside in the U.S., laws in the U.S. may differ from the laws where you reside. If you are established in, or any of your Data contains the personal data of individuals in the European Economic Area, we will process any personal data you submit to us when you use the Service in accordance with the Data Protection Addendum. You can request the addendum by sending an email request at [privacy@skybackup.io](mailto:privacy@skybackup.io).

## **9. Warranties and Disclaimers**

Devart has no special relationship with or fiduciary duty to you. You acknowledge that Devart has no control over, and no duty to take any action regarding: which users gain access to the Sites or Service; what Content you access via the Sites or Service; what effects the Content may have on you; how you may interpret or use the Content; or what actions you may take as a result of having been exposed to the Content. Devart makes no representations concerning any Content contained in or accessed through the Sites or Service, and Devart will not be responsible or liable for the accuracy, copyright compliance, legality or decency of material contained in or accessed through the Sites or the Service.

ALL SITES' INFORMATION IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, AND DEVART SPECIFICALLY DISCLAIMS ALL WARRANTIES, CONDITIONS OR OTHER TERMS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES, CONDITIONS OR OTHER TERMS OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, IN NO EVENT WILL DEVART BE LIABLE FOR ANY

DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR USE, INCURRED BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING FROM YOUR ACCESS TO, OR USE OF, THESE SITES OR ANY OTHER HYPERLINKED WEBSITE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY. DEVART RESERVES THE RIGHT TO MAKE CHANGES OR UPDATES TO THESE SITES OR THE PRODUCTS OR PROGRAMS DESCRIBED IN THESE SITES AT ANY TIME WITHOUT NOTICE.

#### **10. Limitation of Liability**

DEVART SHALL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH USE OF THE SITES OR THE SERVICE, WHETHER SUCH DAMAGES ARE BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, OR ANY OTHER PECUNIARY LOSS, WHETHER OR NOT DEVART HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES SHALL DEVART BE LIABLE TO YOU FOR ANY AMOUNT. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

#### **11. Fees**

Devart reserves the right to charge fees ("Fees") for future use of or access to the Sites or the Service. Some features of the Service may only be accessed and used upon the payment of applicable fees. Fees may vary depending on the number of users in accordance with our current pricing policy.

The Service is billed in advance on a monthly/yearly basis and is non-refundable. There will be no refunds or credits for partial months of Service, upgrade/downgrade refunds, or refunds for months unused with an open account.

The Fee will remain fixed during the Subscription Term unless you (a) exceed the maximum number of users defined in your Plan or (b) purchase additional Services. In order to avoid additional charges, you should subscribe to the correct Plan that fits your business needs and the size of your team. Devart may assess a late charge if you don't pay the Fee on time. You will reimburse Devart for all costs Devart incurs in connection with its effort to collect any past due amounts, including attorneys' fees and other related expenses.

#### **12. Termination**

We may immediately terminate this Agreement if you do not pay the fees when due in accordance with your subscription plan.

You may terminate this Agreement by requesting all of your Service accounts to be deactivated and deleted while logged into the Service. Devart may also terminate your right to use the Sites and/or Services with or without cause at any time. We shall notify you via email to your registered email account if we terminate your account.

The Service interacts with third party applications (the "Sources") via API to provide Service functionality. If a Source amends its API guidelines in such a way that materially affects our ability to access the Source to provide the Service in accordance with the specifications, and if

we are unable to perform substantially the same functionality, either party may terminate the Agreement by providing to the other written notice. We will refund any unused prepaid fees for the remainder of the applicable subscription term as your sole and exclusive remedy.

Upon expiration of the subscription term, or termination, howsoever occasioned, your subscription shall be stopped with a grace period of 14 days.

### **13. Release and Waiver**

To the maximum extent permitted by applicable law, you hereby release and waive all claims against Devart, and its employees, or other partners from any and all liability for claims, damages (actual and/or consequential), costs and expenses (including litigation costs and attorneys' fees) of every kind and nature, arising from or in any way related to your use of the Sites or the Service.

### **14. Relationship of the Parties**

Notwithstanding any provision hereof, for all purposes of the Terms of Service, you and Devart shall be and act independently and not as partner, joint venturer, agent, employee or employer of the other. You shall not have any authority to assume or create any obligation for or on behalf of Devart, express or implied, and you shall not attempt to bind Devart to any contract.