

SERVICE EXHIBIT
Professional Services

The following terms are applicable to the Professional Services offered to Customer by Evolve IP and together with the Master Service Agreement (“MSA”) and the Incorporated Agreements constitutes the entire agreement between Customer and Evolve IP pursuant to Section 9 of the MSA. Capitalized terms in this Service Exhibit Terms will have the same meaning given to them in the MSA or the Incorporated Agreements, unless a different definition is provided below.

Services, Deliverables, and Scope of Work. Evolve IP agrees to provide Services and/or deliverables (“Deliverables”) to Customer as they are described in the applicable Statements of Work (“SOW”) as are executed in writing from time to time by Evolve IP and Customer. Each SOW shall contain a description of the projects to be accomplished by Evolve IP, the Deliverables and documentation, if any, to be produced by Evolve IP, a schedule of performance, a schedule of payments, and a statement of Evolve IP’s rates for performance and completion of the work. Each SOW shall become part of this Agreement upon execution by both Parties.

Personnel and Project Management. Evolve IP will appoint a project manager for each project to act as liaison between Customer and Evolve IP. Customer shall also designate a project manager for each project who shall act as a liaison between Evolve IP and Customer, and who shall be capable of making and authorized to make project-related decisions on behalf of Customer. Evolve IP has the right to (a) control and direct the means, manner, and method by which the Services are performed and (b) to perform the Services at any place or location and at such time as Evolve IP may reasonably determine. From time to time, Evolve IP may engage third party independent contractors or consultants to aid Evolve IP in performing Evolve IP’s duties under this Agreement. Evolve IP shall have the right to control its personnel and to determine who works on projects pursuant to this Agreement.

Fees, Expenses, Records, and Taxes. Each SOW shall set forth the fees due for the Services and Deliverables to be provided. Except as otherwise set forth in each SOW, all Services and Deliverables are to be performed and delivered on a time and materials basis and shall be invoiced on a monthly basis. Customer shall reimburse Evolve IP for all of the categories of expenses set forth on the applicable SOW. Evolve IP shall invoice Customer on a monthly basis for all expenses incurred as a result of performing the Services or delivering the Deliverables. Expenses to be paid by Customer shall include reasonable out-of-pocket travel expenses incurred by a consultant (e.g., as round-trip airfare, car rental, lodging, meal, other expenses, etc.), applicable printing, copying, telephone, shipping, handling, taxes, and other fees and expenses. Evolve IP shall maintain complete and accurate accounting records relating to the performance of the Services and in support of all invoices, and shall preserve such records for a period of at least one (1) year after the date of each applicable invoice. All such records shall be open for review or audit by Customer or by an accounting firm selected and paid for by Customer at reasonable times and on reasonable notice no more than one (1) times per year. Customer shall pay all costs incurred in any such review or audit, including, but not limited to, attorney fees, accounting fees, and time spent by Evolve IP employees in the preparation and review of such documents, except in the event that the audit reveals an overcharge of more than 10% of the total fees set forth in the SOW, in which case Evolve IP shall pay all such costs of the audit. Such audit shall be conducted in a manner as to not unreasonably interfere with Evolve IP’s normal business activities. Evolve IP shall reimburse Customer for any overcharge revealed by the audit within thirty (30) days from the audit completion date.

Intellectual Property Ownership. Intellectual or industrial property of whatever kind created by or obtained through performance of the Services (collectively the “Work Product”), may be identified in this Agreement or the SOWs as “Evolve IP Intellectual Property” or “Customer Intellectual Property”. If this Agreement or the SOWs do not identify the type of property, then, by default, the material at issue shall be deemed Evolve IP Intellectual Property. Unless otherwise stated herein or in an SOW, Evolve IP grants Customer a nonexclusive license to use, execute, reproduce, display, perform, and distribute, within Customer only, copies of Evolve IP Intellectual Property during the term of this Agreement solely for its internal business purposes and solely in connection with Customer’s use of the Services or Deliverables. Such license shall not extend to Customer’s subsidiaries or affiliated companies unless otherwise stated herein or in a SOW. Customer Intellectual Property shall mean any deliverables created by Evolve IP during the performance of the Services specifically created for Customer that are specifically identified in an SOW, excluding any Evolve IP Intellectual Property, as described below. Evolve IP will own all right, title, and interest in all Evolve IP Intellectual Property. For purposes of this Agreement, the terms “Evolve IP Intellectual Property” mean, collectively, (i) all Pre-Existing Works, which shall mean all Work Product created, conceived, developed or first reduced to practice by Evolve IP, either solely or in collaboration with others, prior to Evolve IP’s delivery of the Services including, without limitation, designs, inventions, improvements, processes, computer programs, software, source code, object code, graphics, pictorial representations, user interfaces, functional specifications, reports, spreadsheets, presentations and analyses, (ii) all Derivative Works, which shall mean a work which is based upon or related to one or more Pre-Existing Works such as a revision, modification, translation, abridgement, condensation, expansion or any other form in which such Pre-Existing works may be recast, transformed, or adapted, whether that work stands alone or is combined with other works and which may include processes, methods and procedures, (iii) methodologies, concepts, know-how and techniques utilized to produce the Deliverables (and any improvements or modifications thereto developed in the course of providing the Services) and any ideas, concepts, text, formats and industry best practices which are of a generally applicable nature and do not include or reference the Confidential Information of Customer, and (iv) all Documentation, which shall mean user manuals and other written materials that relate to the Intellectual Property or to the Services provided hereunder.

Representations and Warranties, Disclaimers. Customer represents and warrants that it (i) has the corporate power and authority to enter into this Agreement and each SOW and to fully perform its obligations under this Agreement and each SOW; and (ii) will not make any unauthorized representation or warranty to any third party relating to any Services. Evolve IP represents and warrants that (i) it has the corporate power and authority to enter into

this Agreement and each SOW and to fully perform its obligations under this Agreement and each SOW; and (ii) the Services performed under this Agreement and each SOW shall be performed or provided by competent personnel in a professional and workmanlike manner. Customer warrants that it owns all right, title, and interest in and to, or has full and sufficient right and authority to use in the manner contemplated by this Agreement, any programs, programming, systems, materials or data furnished by Customer to Evolve IP hereunder. Evolve IP warrants that it owns all right, title, and interest in and to, or has full and sufficient right and authority to use in the manner contemplated by this Agreement, any programs, programming, systems, materials or data furnished to Customer by Evolve IP hereunder, that it has no obligations to any third party which will in any way limit or restrict its ability to perform any obligations to Customer hereunder, and that performance of the Services called for by this Agreement does not and shall not violate any applicable law, rule, or regulation, any contracts with third parties, or any third-party rights in any patent, trademark, copyright, trade secret, or similar right. IN ADDITION TO THE DISCLAIMERS OUTLINED IN THE MSA AND THE INCORPORATED AGREEMENTS, AND EXCEPT AS SPECIFICALLY SET FORTH IN THIS SERVICE EXHIBIT AND IN ANY SOW, THE SERVICES PERFORMED AND ANY ITEMS FURNISHED UNDER THIS AGREEMENT AND ANY SOW, INCLUDING BUT NOT LIMITED TO DATA, REPORTS, DOCUMENTATION, DELIVERABLES, HARDWARE AND SOFTWARE OF ANY KIND, AND ANY RECOMMENDATIONS OR CONCLUSIONS CONTAINED THEREIN, ARE PROVIDED ON AN "AS IS" BASIS WITH NO WARRANTIES OR REPRESENTATIONS OF ANY KIND. EVOLVE IP MAKES NO WARRANTY, EXPRESS OR IMPLIED, THAT THE SERVICES WILL RENDER CUSTOMER'S NETWORK AND SYSTEMS SAFE FROM MALICIOUS CODE, INTRUSIONS, OR OTHER SECURITY BREACHES. EVOLVE IP SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, AS WELL AS ANY WARRANTIES ALLEGED TO HAVE ARISEN FROM CUSTOM, USAGE, OR PAST DEALINGS BETWEEN THE PARTIES.

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