

This Master Service Agreement (“MSA”), together with any Amendment to this MSA, any Sales Orders, and the Incorporated Agreements detailed in the “Incorporated Agreements” Section of this MSA (collectively the “Agreement”), is a contract for service by and between Evolve IP, LLC (“Evolve IP”), and the customer identified on the Sales Order (“Customer”) for the purpose of Evolve IP providing the services defined in this MSA or any of the Incorporated Agreements (collectively, the “Services”) to Customer. Evolve IP and Customer may each be referred to as a “Party” or collectively as the “Parties.”

1. Parties/Notices. Either Party may give notice pursuant to this MSA or any of the Incorporated Agreements by means of electronic mail to the e-mail addresses identified above or to another e-mail address as provided and agreed to by the other Party to be suitable for receiving such notices hereunder, or by written communication sent by a nationally recognized overnight delivery service or first class mail or pre-paid post to the addresses identified above. Any written notice delivered personally shall be deemed communicated as of actual receipt; notices sent by mail shall be deemed to have been given three (3) business days after the time when the same was deposited in the mail as set forth in the preceding sentence; and notices sent by email shall be deemed to have been given one (1) business day after it was sent.

2. Effective Date. This MSA shall be effective on upon Customer’s execution of a Sales Order.

3. MSA Term. The term of this MSA shall commence as of the Effective Date and shall remain in effect for so long as Evolve IP is providing any Services to Customer (the “MSA Term”), after which this MSA shall automatically terminate.

4. Service Term. The Service(s) shall be provided for the term specified in the Sales Order (the “Initial Service Term”), with the Initial Service Term commencing as of the Service Activation Date of the Service(s) (as defined in the “Operating and Performance Matters” Section of the Additional Terms and Conditions). Any Services subsequently added to an existing location through means other than a signed Sales Order (i.e. ticket or email) will be coterminous with the Initial Service Term. Unless one of the Parties provides written or electronic notice of termination to the other Party on or before sixty (60) days prior to the expiration of the Initial Service Term of any Service(s), such Service(s) shall automatically continue in full force for one or more renewal term(s) (“Renewal Service Term(s)”), equal in length to the Initial Service Term of such Service, until a Party provides sixty (60) days’ written or electronic notice of termination of Service(s) prior to the expiration of the then current Renewal Service Term, or otherwise terminates Service(s) pursuant to the terms of the Agreement. The Initial Service Term together with any such Renewal Service Term(s) shall be referred to collectively as the “Service Term.”

5. Charges. Customer shall also be responsible with the first invoice and thereafter for all excise, sales, use, and other taxes, fees, surcharges, and charges and associated administrative and cost recovery fees applicable to the Service (collectively, “Taxes”). If Customer is exempt from Taxes in one or more jurisdictions, Customer must produce to Evolve IP a valid resale certificate or other similar documentation legally sufficient to establish an exemption from Taxes (“Exemption Certificate”), at which point Evolve IP will remove the applicable Taxes from Customer’s account. Failure by Customer to provide any applicable Exemption Certificates upon execution of this Agreement will result in no exemption being available to Customer for any period prior to the date that Customer presents the valid certificate(s). Customer’s first invoice following the Service Activation Date (as defined in the Additional Terms and Conditions) will be issued via electronic delivery and will include (i) the pro-rata portion of any applicable monthly recurring charges (“MRC”) and any applicable usage-based charges, covering the period from the Service Activation Date to the first day of Customer’s billing period; (ii) the first full month of MRCs, if applicable; (iii) the non-recurring charges (“NRCs”) applicable to the Service(s); and (iv) all Taxes applicable to the Service(s). Thereafter, Evolve IP will invoice via electronic delivery, and Customer shall pay any MRC, any applicable MRC pro-rations related to changes with Customer’s Services during the preceding month, any usage-based charges applicable to the Service during the preceding month, and all Taxes applicable to the Service(s) on a monthly basis. The MRCs payable by Customer with respect to any Services shall remain fixed for the duration of the Initial Service Term. Notwithstanding any other provision of this MSA to the contrary, Evolve IP shall be entitled to i) increase MRCs payable by Customer with respect to any Services upon the expiration of the Initial Service Term upon providing Customer with ninety (90) days’ prior written notice, ii) pass through any increase to charges for dedicated connectivity between Evolve IP and Customer, including, but not limited to, T-1s, DS3s, Ethernet services, and fiber connectivity (“Dedicated Access”) provided thirty (30) days prior written notice, iii) pass through an increase to charges for third party licensing services, including, but not limited to, Microsoft SPLA and Microsoft O365, at any time during the Service Term upon providing Customer sixty (60) days’ prior written notice, and/or iv) increase usage-based charges payable by Customer at any time during the Service Term upon providing Customer thirty (30) days’ prior written notice.

6. Payment. All invoices are due within thirty (30) days of Customer’s receipt of an invoice. If any undisputed amount due is not received by Evolve IP within thirty (30) days of Customer’s receipt of an invoice (“Payment Date”), then, in addition to any other remedies available to Evolve IP, Evolve IP may in its sole discretion: (i) charge interest on the unpaid undisputed amount, at the rate of either one and one-half percent (1.5%) per month or the maximum rate allowable under law, commencing as of the Payment Date through the date of Evolve IP’s receipt of payment; and/or (ii) require a form of security or other assurance of payment as set forth in the “Credit” section of the Additional Terms and Conditions.

7. Disputes. If Customer reasonably and in good faith disputes any portion of Evolve IP’s invoice, Customer shall, within sixty (60) days of the Payment Date, submit electronic notice to Evolve IP of such dispute, identifying in specific detail the reason for the dispute and the amount being disputed. Electronic notice of any dispute shall be sent to billing@evolveip.net. If Customer does not deliver such electronic notice within sixty (60) days of the Payment Date, the invoice will be deemed correct and Customer shall have waived its rights to dispute the invoice. Customer’s dispute as to any portion of the invoice shall not excuse Customer’s obligation to pay the undisputed portion of the invoice on time. The Parties shall negotiate in good faith to resolve any disputes within thirty (30) days following Evolve IP’s receipt of Customer’s timely electronic notice. Any amounts that Evolve IP determines to be in error shall be adjusted on the next month’s invoice, or if the disputed amount has already been paid, a credit shall be posted to Customer’s account. Any disputed amounts that Evolve IP determines to be correct as billed shall be due and payable by Customer, along with any interest charges that Evolve IP may impose pursuant to the MSA. Upon Customer’s request Evolve IP shall provide Customer with documentation supporting its determination for the resolution of the dispute, and in the event Customer does not agree with Evolve IP’s determination Customer may proceed with any other available remedy.

8. General Terms of Service

- a) Except in cases of default by Evolve IP, termination of this Agreement or any Service provided hereunder by Customer prior to expiration of the Service Term may result in Customer liability, as set forth in the Additional Terms and Conditions.
- b) **DISCLAIMER OF WARRANTIES.** EXCEPT AS OTHERWISE SET FORTH IN THIS MSA AND THE INCORPORATED AGREEMENTS (WHICH INCLUDES THE PRODUCT DETAILS AND QUALITY OBJECTIVES DETAILED IN THE STATEMENT OF WORK AND SERVICE LEVEL AGREEMENT, RESPECTIVELY), EVOLVE IP MAKES NO WARRANTIES, REPRESENTATIONS OR OTHER AGREEMENTS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, TO CUSTOMER OR ANY THIRD PARTY WITH RESPECT TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OF ANY SERVICE PROVIDED OR NOT PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH REPRESENTATIONS, WARRANTIES OR OTHER AGREEMENTS ARE HEREBY EXCLUDED AND DISCLAIMED. CUSTOMER ACKNOWLEDGES AND ACCEPTS THE REASONABLENESS OF THE FOREGOING DISCLAIMERS.
- c) **INDEMNITY.** Each Party (each, an “Indemnifying Party”) shall protect, defend, indemnify, and hold harmless the other Party, its officers, directors, trustees, employees, contractors, and agents (each, an “Indemnified Party”) as follows:

Evolve IP shall protect, defend, indemnify, and hold harmless Customer and its officers, directors, trustees, employees, contractors, and agents from and against any and all liabilities, allegations, claims, losses, damages, expenses (including reasonable attorney’s fees and costs), judgments, and causes of action arising from or related to: (i) Evolve IP’s or its third party’s provision of a Service; (ii) claims by Evolve IP’s employees, contractors, or any other third party providing a Service through Evolve IP; (iii) damage to property, personal injury or death caused by Evolve IP’s fault or negligence; or (iv) any of the Services misappropriating, infringing, or violating or alleged to be misappropriating, infringing, or violating any patent, copyright, trademark, trade secret, or other intellectual property right of any third party.

Customer shall protect, defend, indemnify, and hold harmless Evolve IP and its officers, directors, trustees, employees, contractors, and agents from and against any and all liabilities, allegations, claims, losses, damages, expenses (including reasonable attorney’s fees and costs), judgments, and causes of action arising from or related to: (i) Customer’s use of a Service in violation of the MSA or the Incorporated Agreements; (ii) claims by Customer’s employees, users, or any other third party accessing a Service through Customer; (iii) damage to property, personal injury or death caused by Customer’s fault or negligence; or (iv) claims that the content of any communication or transmission through a Service infringes, misappropriates, or violates or alleged to be misappropriating, infringing, or violating the intellectual property right of any third party.

Each Party acknowledges the additional Service-specific indemnity provisions as set forth the applicable Service Exhibits.

Each Indemnifying Party shall have the exclusive right to choose reputable counsel and, at its sole cost and expense, to defend, contest, litigate and settle any matter with respect to which indemnification is claimed under this Section provided that such settlement does not impose any liability, loss, damage, cost or expense to the Indemnified Party. The indemnified Party shall give the Indemnifying Party prompt notice of any claim of indemnity under this Section or the additional Service-specific indemnity provisions as set forth the applicable Service Exhibits.

- d) **LIMITATION OF LIABILITY.** THIS AGREEMENT LIMITS EACH PARTY’S LIABILITY. THE PARTIES ACKNOWLEDGE THE FULL LIMITATION OF LIABILITY SET FORTH IN THE ADDITIONAL TERMS AND CONDITIONS.
- e) **Electronic Signatures.** Evolve IP and Customer agree that any document, including this MSA and any amendments to this MSA, which is transmitted or received by electronic transmission by either Party shall be treated in all manner and respects as an original signed document where sufficient indicia of acceptance by the respective Party exists. Customer’s submission of this MSA by means of email to Notices@EvolveIP.net, by way of an electronic signature through an electronic document signing company of Evolve IP’s choosing, or by way of signing, scanning, and e-mailing it to an Evolve IP representative, constitutes acceptance of the MSA and the Incorporated Agreements. Evolve IP and Customer further agree that upon Customer’s submission of this MSA, both Parties shall agree to accept electronic signatures or other reasonable electronic indicia as forms of acceptances. Such indicia of acceptance shall be considered for these purposes as an original signature and any such electronic transmission shall be considered to have the same binding legal effect as an original signed document. Each Party agrees that it shall not raise electronic transmission or electronic signatures as a defense to (i) this MSA, (ii) the Incorporated Agreements, or (iii) any other matter related to this MSA, or the binding nature of the documents referred to in (i) and (ii), and each Party agrees to waive such defense.
- f) **Counterparts and Drafting.** This Agreement may be executed in one or more counterparts, whether by original, photocopy or facsimile, each of which shall constitute an original, but all of which shall constitute one and the same instrument. This Agreement has been negotiated between and jointly drafted by Evolve IP and Customer.
- g) **Entire Agreement.** This MSA, together with the Sales Order(s) and other Incorporated Agreements, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any and all prior offers, communications, representations, understandings, and agreements, whether verbal or written, made between the Parties. The Parties shall not be bound by any provision in any Sales Order, confirmation, correspondence or other communication which is at variance with, in addition to, seeks to define or clarify, and/or conflicts with any provision of this MSA or the Incorporated Agreements, unless such variance, addition, definition/clarification, or conflict is specifically identified in a written agreement signed by Customer and Evolve IP. The order of precedence in interpretation shall be (i) any Amendment to the MSA, (ii) a Service Exhibit, (iii) the MSA, (iv) the Additional Terms; (v) the AUP, (vi) a Statement of Work, and then (vii) a Sales Order.

EMERGENCY CALLING NOTICE OF 911 AND E911 SERVICE LIMITATIONS

We are required by Federal law to obtain your affirmative acknowledgement that you have read and understand the limitations detailed below concerning Evolve IP's (hereinafter "Evolve IP") provision of emergency calling services. The Evolve IP Services do not offer 911 or E-911 emergency services like the services that you get from a telephone company. You acknowledge and understand that Evolve IP does not support traditional 911 and E-911 access to emergency services. Traditional 911 services automatically route your calls to a trained 911 dispatcher, available on a 24-hour basis, using special answering facilities at the local Public Safety Answering Point (PSAP) for your location. Traditional E-911 services automatically provide to the PSAPs the calling party's call back number and location.

Evolve IP's limited emergency services differ from traditional emergency services that you receive from the telephone company in several important ways described below. We recommend that you inform all employees, visitors, and other third parties who may be present where the Evolve IP Services will be used of these limitations.

(i) UNDER CERTAIN CIRCUMSTANCES, EMERGENCY DIALING SERVICE MAY NOT BE AVAILABLE TO CUSTOMER. FOR EXAMPLE, IF CUSTOMER'S INTERNET CONNECTION IS NOT FUNCTIONING, IF THERE IS AN ELECTRICAL POWER OUTAGE, OR IF CUSTOMER'S INTERNET SERVICE OR VOIP SERVICE IS DISCONNECTED FOR ANY REASON WHATSOEVER, INCLUDING DISCONNECTION OR AN OUTAGE RESULTING FROM FAILURE TO PAY FOR SERVICES, CUSTOMER WILL NOT BE ABLE TO PLACE ANY CALLS INCLUDING EMERGENCY 911 CALLS.

(ii) YOUR EMERGENCY DIALING SERVICE MAY NOT FUNCTION OR MAY NOT DELIVER EMERGENCY CALLS IN A TIMELY MANNER IF THERE IS NETWORK CONGESTION OR ANY OTHER SLOW DOWN ASSOCIATED WITH YOUR INTERNET CONNECTION.

(iii) CUSTOMER SHALL BE SOLELY AND EXCLUSIVELY RESPONSIBLE TO NOTIFY EVOLVE IP IN WRITING IMMEDIATELY UPON ANY ADDRESS CHANGE WITH RESPECT TO ANY USER OR HANDSET FROM THE ADDRESS PROVIDED BY CUSTOMER AS THE PRIMARY LOCATION THEREFOR. CUSTOMER ACKNOWLEDGES AND AGREES THAT EVOLVE IP WILL RELY UPON CUSTOMER'S PROVISION OF ADDRESS INFORMATION WITH RESPECT TO USER OR HANDSET LOCATION IN REGISTERING WITH THE DATABASES ON WHICH EMERGENCY CALL TAKERS RELY AND THAT ANY FAILURE ON THE PART OF CUSTOMER TO PROVIDE UPDATED INFORMATION IMMEDIATELY UPON A CHANGE TO SUCH INFORMATION COULD HAVE SIGNIFICANT CONSEQUENCES FOR CUSTOMER AND/OR ITS USERS.

(iv) IF CUSTOMER PROVIDES AN INCORRECT ADDRESS FOR THE DELIVERY OF EMERGENCY SERVICES OR MOVES THE DEVICE(S) ASSOCIATED WITH THE SERVICE AND/OR DOES NOT PROVIDE EVOLVE IP WITH UPDATED ADDRESS INFORMATION, THE 911 CALL WILL BE ROUTED, IF AT ALL, TO THE INCORRECT PSAP AND THE EMERGENCY CALL TAKER WILL RECEIVE INCORRECT ADDRESS INFORMATION, TO THE EXTENT THE CALL TAKER RECEIVES SUCH INFORMATION AT ALL. MOREOVER, THE EMERGENCY CALL TAKER MAY NOT BE CAPABLE OF ROUTING THE EMERGENCY CALL TO THE APPROPRIATE PSAP. CUSTOMER FURTHER RECOGNIZES THAT IT MAY TAKE UP TO FIVE (5) BUSINESS DAYS FOR NEWLY PROVIDED LOCATION INFORMATION TO BE POPULATED IN THE RELEVANT DATABASES SUCH THAT DURING THIS FIVE (5) DAY BUSINESS PERIOD EMERGENCY CALL OPERATORS MAY RECEIVE INACCURATE LOCATION INFORMATION.

(v) IN THE EVENT THAT YOU DO NOT NOTIFY EVOLVE IP IN WRITING OF AN ADDRESS CHANGE WITH RESPECT TO A USER OR HANDSET, AND YOU ARE USING AN OUT OF RATE CENTER TELEPHONE NUMBER, EMERGENCY SERVICE PERSONNEL CANNOT AUTOMATICALLY TRACK YOUR LOCATION THROUGH YOUR SYSTEM AND IT IS THEREFORE IMPORTANT THAT YOU KEEP YOUR LOCATION REGISTRATION UPDATED. FOR EXAMPLE, IF YOU LIVE AND USE YOUR EVOLVE IP PHONE IN PHILADELPHIA, PENNSYLVANIA FROM THE 215/267 AREA CODES, BUT YOUR ASSIGNED EVOLVE IP TELEPHONE NUMBER HAS NA AREA CODE OF 212, A NUMBER USUALLY FOR NEW YORK CITY, WHEN YOU DIAL 911, YOU MAY NOT BE ABLE TO REACH ANY EMERGENCY PERSONNEL. EVEN IF YOU DO REACH EMERGENCY PERSONNEL, YOU WILL NOT BE CALLING THE EMERGENCY PERSONNEL NEAR YOUR ACTUAL LOCATION (THE PHILADELPHIA CALLER MAY BE CALLING EMERGENCY SERVICES LOCATED IN NEW YORK) AND THE EMERGENCY PERSONNEL MAY NOT BE ABLE TO TRANSFER YOUR CALL OR RESPOND TO YOUR EMERGENCY.

(vi) UNDER CERTAIN CIRCUMSTANCES – HIGH VOLUME USAGE, NETWORK MAINTENANCE OR OTHER SITUATIONS THAT LEAD TO EMERGENCY CALL FAILURES – EVOLVE IP'S EMERGENCY SERVICES MAY BE ROUTED TO A GENERAL OR ADMINISTRATIVE NUMBER OF THE EMERGENCY CALL TAKER OR A LOCAL EMERGENCY SERVICE PROVIDER AND WILL NOT NECESSARILY BE ROUTED TO A TRAINED DISPATCHER. IN ADDITION, SERVICES MAY NOT BE AVAILABLE ON A 24 HOUR BASIS, YOU MAY EXPERIENCE A BUSY SIGNAL, OR YOU MAY NOT BE ABLE TO REACH ANY EMERGENCY SERVICES PERSONNEL AT ALL.

(vii) UNDER CERTAIN CIRCUMSTANCES – HIGH VOLUME USAGE, NETWORK MAINTENANCE OR THE OTHER SITUATIONS THAT LEAD TO EMERGENCY CALL FAILURES – EVOLVE IP'S EMERGENCY SERVICES MAY BE ROUTED TO A NATIONAL CALL CENTER. WHILE THIS CALL CENTER IS STAFFED 24 HOURS A DAY, 7 DAYS A WEEK, 365 DAYS A YEAR WITH TRAINED EMERGENCY CALL TAKERS, THE CALL TAKER MAY NOT BE ABLE TO TRANSFER YOUR CALL TO THE APPROPRIATE LOCAL EMERGENCY CALL TAKER LOCATION DELAYING THE DISPATCH AND RECEIPT OF EMERGENCY SERVICES. UNDER CERTAIN CIRCUMSTANCES, EMERGENCY CALL TAKERS IN THE NATIONAL CALL CENTER MAY NOT HAVE ACCESS TO YOUR TELEPHONE NUMBER AND LOCATION INFORMATION REQUIRING YOU TO PROVIDE SUCH INFORMATION. IF THE CALL IS DROPPED OR LOST FOR ANY REASON, THE EMERGENCY CALL TAKER MAY NOT BE ABLE TO CALL YOU BACK TO DISPATCH ASSISTANCE.

(viii) CUSTOMER AGREES TO ALERT ALL EMPLOYEES, CONTRACTORS, GUESTS, AND OTHER THIRD PARTIES OF ALL THESE LIMITATIONS AND CUSTOMER AGREES TO MAINTAIN AN ALTERNATIVE MEANS TO ACCESS E911 SERVICES.

(ix) CUSTOMER ACKNOWLEDGES AND AGREES THAT EMERGENCY DIALING WILL NOT WORK WITH A SOFT CLIENT (A/K/A "SOFT PHONE").

(x) CUSTOMER ACKNOWLEDGES AND AGREES THAT ON AN "EXTENSION-ONLY PHONE" OR A "SHARED CALL APPEARANCE-ONLY PHONE", THE EMERGENCY SERVICES PERSONNEL RESPONDING TO A 911 CALL DIALED FROM ONE OF THOSE PHONES WILL ONLY SEE THE PHYSICAL ADDRESS OF THE MAIN LOCATION OF THE ACCOUNT THAT THE "EXTENSION-ONLY PHONE" OR "SHARED CALL APPEARANCE-ONLY PHONE" IS ASSOCIATED WITH. CUSTOMER WILL NEED TO MAINTAIN AN ALTERNATIVE MEANS FOR ACCESSING 911 IN AREAS WHERE AN "EXTENSION-ONLY PHONE" OR A "SHARED CALLED APPEARANCE-ONLY PHONE" IS IN USE.

(xi) CUSTOMER ACKNOWLEDGES THAT ANY INTERNATIONAL TELEPHONE NUMBERS PROVIDED FOR USE WITH THE SERVICES TO NOT SUPPORT 999, 911, E911, OR OTHER EMERGENCY RESPONSE CALLING FUNCTIONALITY.

I have read and understand the above information regarding the limitations on the 911 and E-911 emergency services available through the Evolve IP Service. I certify that I am authorized by my Company to sign and approve this disclosure.