EXHIBIT NO. 2

CONTRACT SERVICES AGREEMENT

By and Between

CITY OF CARSON

and

EVODC, LLC

AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
EVODC, LLC

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this ____ day of ________, 2024 by and between the CITY OF CARSON, a California municipal corporation ("City") and EVODC, LLC, a California limited liability company ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Carson's Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest

professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Service shall include the Consultant's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or $25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Two Hundred Seven Thousand Six Hundred Twenty Eight Dollars and Twenty Eight Cents ($207,628.28) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Jay Smith	Vice President Business Development
(Name)	(Title)

John Semmens	Vice President Sales
(Name)	(Title)
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be Gary Carter, Director of Information Technology and Security, or as otherwise designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number,

compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Coverage Form ISO CGL CG 00 01 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement, with Employer's Liability insurance coverage limits of at least $1,000,000.00.

(c) Automotive Insurance (Coverage Form ISO CA 00 01 including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability

insurance written on a per occurrence for bodily injury and property damage in an amount not less than $1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession, as determined by the City's Risk Manager, provided that the limits shall be no less than $1,000,000 per claim and no less than $1,000,000 general aggregate. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply

with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed] ______________
Consultant Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or any automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative,

arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A-" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk

Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of

ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions

concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Agreement except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, whether the signatures are originals, electronic, facsimiles or digital. All such counterparts shall together constitute but one and the same Agreement.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "non-interests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _______

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

____
Lula Davis-Holmes, Mayor

ATTEST:

____
Dr. Khaleah K. Bradshaw, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

____
Sunny K. Soltani, City Attorney
[rjl]

CONSULTANT:

EVODC, LLC, a California limited liability company

By:____________________________________
Name:
Title:

By:____________________________________
Name:
Title:
Address: 600 W 7th St, Suite 510
Los Angeles, CA 90017

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On __________, 2024 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____________________________________

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER_______________________________

____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

____
____

DESCRIPTION OF ATTACHED DOCUMENT

____
TITLE OR TYPE OF DOCUMENT

____
NUMBER OF PAGES

____
DATE OF DOCUMENT

____
SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On __________, 2024 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ______________________________________

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

____
TITLE(S)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER________________________________

____

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

____
____

DESCRIPTION OF ATTACHED DOCUMENT

____
TITLE OR TYPE OF DOCUMENT

____
NUMBER OF PAGES

____
DATE OF DOCUMENT

____
SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"
SCOPE OF SERVICES

I. Consultant will perform the following One-Time Implementation Services:

A. Allocate, install, and setup colocation rack based upon City specifications, including two PDUs, Primary and Redundant AC or DC Electrical Circuits with appropriate amperage and voltage per City and OEM equipment requirements.

B. Install and test quantity and type (fiber optic cable) of Cross Connections required per City request to appropriate demarcation at Meet-Me-Room.

II. Consultant will perform the following Colocation Services:

A. Provide industry standard colocation rack with dimensions to accommodate City equipment.

B. Maintain adequate and qualified personnel onsite needed to meet the workload requirements for all maintenance activities and shift presence on a 24 hour/7 days per week/365 days per year basis.

C. Maintain N+1 fault tolerance providing at least 72-hour power outage protection. Maintain HVAC cooling requirements with Low-end temperature of 64.4F (18C) and High-end temperature of 80.6F (27C). UPS located in a separate and secured and ventilated area. A secure building code compliant fuel storage area for generators. Standby generator physically isolated and secured with a run time capacity of at least 72 hours.

D. Limit and restrict access to the data center with 24/7 security staff, camera and security systems monitoring 360 degree of data center areas, "mantraps" and active shooter protocols and procedures.

E. Maintain 2 or more distinct network paths to the City's designated colocation data center racks.

F. Maintain modern fire suppression systems with effect alarm systems that will prevent electronic equipment from being destroyed by fire and water damage.

G. Provide a web-based portal for City to submit incidents and adds, moves, and change requests to the colocation services.

H. Provide (4) hours of Remote Hands Troubleshooting and Service Requests per Month at no additional cost.

I. Provide cross connections from Colocation Rack to Meet-Me-Room, and cross connection between Colocation Rack to Colocation Rack, and cross connections from Colocation Rack to other Colocation Rooms at a monthly rate of $150.00 per fiber optic pair, or copper cross connection.

J. Provide 7-day short-term storage for scheduled City equipment deliveries at no additional charge.

III. Consultant will perform the following One-Time Remote Hands Services upon City Request for an additional fee:

A. Provide Remote Hands Support for technical installation, rack and stack, troubleshooting, service requests, inspections, and related services.

IV. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:

A. HVAC, Electrical Power, and/or Network related outages confirmed by Consultant or City.

B. Inspection reports related to the City's colocation services.

C. Quarterly Business Reviews.

V. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

VI. Consultant will utilize the following personnel to accomplish the Services:

EvoDC, LLC personnel.

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

The Agreement is hereby amended as follows (deletions shown in ~~strikethrough~~ and additions shown in ***bold italics***):

I. Section 1.1 (Scope of Services) of the Agreement is hereby amended to read in its entirety as follows:

"1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. ***Consultant will provide the Services to City based on a Service Order Form, which will remain operative and in effect for the period specified in each such Service Order Form. All Services are subject to the Consultant's standard operational and service schedules, guides and service level agreements ("SLAs") applicable to the specific Service and all subsequent versions thereof and the terms of the Consultant's Acceptable Use Policy ("AUP"). The SLAs and AUP are attached to this Agreement and incorporated herein by this reference as Exhibit "E." Requests for Services will be made on written quotes or orders of the Consultant (in such form as provided by the Consultant), in each case stating the pricing of the Services requested and (if and as applicable) the term for the Services that are identified on such order. A Service Order Form will be executed and delivered for each type of Services requested. For the purposes of this Agreement, "Service Order Form" means and refers to a written quote or order for Services (in such form as provided by the Consultant) that has been executed by City and accepted by the Consultant (and incorporating the terms of this Agreement). Prior to the Service Commencement Date (defined in Section 2.4), the Consultant reserves the right to reject a Service Order in its commercially reasonable discretion. The Consultant's provision of the Services is subject to the continuing availability of facilities and any end of life discontinuance.). Unless a different date (or range) is communicated by the Consultant (in writing, which may be through electronic transmittal or other correspondence) after delivery of the applicable Service Order Form, the estimated date or timing by which the Consultant will install or provide the Service(s) will be such date or timing specified in such Service Order Form.*** As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances."

II. Section 1.10 (Relocation) is hereby added to the Agreement to read in its entirety as follows:

"1.10 Relocation.

Consultant may, at its expense and upon one-hundred eighty (180) days' written notice, require City to relocate City equipment to another space having reasonably comparable access, environmental conditions and facilities. Any such relocation may include, at Consultant's sole discretion, relocating City equipment to a separate facility."

III. Section 1.11 (Backup and Continuity of Operations) is hereby added to the Agreement to read in its entirety as follows:

"1.11 Backup and Continuity of Operations.

Except as otherwise provided in an applicable Schedule, City shall be solely responsible for data maintenance, integrity, retention, security, and backup of City data. City will be solely responsible for the development and implementation of an appropriate disaster recovery plan."

IV. Section 1.12 (Holdover) is hereby added to the Agreement to read in its entirety as follows:

"1.12 Holdover.

Notwithstanding anything to the contrary contained in this Agreement, in the event all of City's data and other assets are not removed from all of Consultant's facilities and equipment within fifteen (15) days after expiration or sooner termination of this Agreement or the Colocation Services, whichever is earlier, Consultant is required to provide City with written notice to remove all of City's data and other assets from all of Consultant's facilities and equipment (the "Notice to Quit"). In the event all of City's data and other assets are not removed from all of Consultant's facilities and equipment are not removed within sixty (60) days after the Notice to Quit, Consultant has the right, but not the obligation, at City's sole cost and expense, to (a) immediately remove City's assets and store the City assets on-site or off-site, or (b) ship City assets to City's last known address."

V. Section 1.13 (Commitments) of the Agreement is hereby amended to read in its entirety as follows:

"1.13 Commitments.

The Service level commitments ("Service Levels") for Services are stated in the applicable SLA and other Schedules for each Service. Maintenance of the Service may result in limited interruptions of Services. Consultant may (among other reasons) suspend the Services to carry out periodic or non-routine maintenance or upgrade work on the network or its equipment, or to the facility infrastructure and/or equipment. Consultant reserves the right to perform emergency maintenance as needed. Periods of force majeure and maintenance

(including, without limitation, emergency, routine or any other maintenance performed by Consultant) are "Excused Outages." Notwithstanding anything contained herein (or in any SLA, Service Order Form or other Schedule) to the contrary, City shall not be entitled to any credit or compensation whatsoever in the event of any interruption of Service or failure to meet Service Levels due to or because of Excused Outages."

VI. Section 1.14 (Credits) of the Agreement is hereby amended to read in its entirety as follows:

"1.14 Credits.

If Consultant does not meet a Service Level applicable service credits will be issued upon City's request to Consultant's Customer Service. Credits must be requested within thirty (30) days after the event-giving rise to the credit. City's sole remedies for any outages, failures to deliver or defects in Service are contained in the Service Levels (if any)."

VII. Section 2.4 (Invoices) of the Agreement is hereby renamed "Invoices and Service Commencement Date" and amended to read in its entirety as follows:

"2.4 Invoices ***and Service Commencement Date***.

~~Each month~~ Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. ***City shall approve all Colocation Implementation and One-Time Projects in advance of Consultant initiating any work.*** By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

The Consultant will notify the City the date on which the Service(s) is installed or first provided. Billing will commence on and as of such date (specified in the communication or notice provided by Consultant) on which the Service(s) is installed or first provided (such date, the "Service Commencement Date")."

VIII. Section 3.4 (Term) of the Agreement is hereby amended to read in its entirety as follows:

"3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding ***five*** ~~one~~ (***5***~~1~~) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D")."

IX. Section 5.1 (Insurance Coverages) of the Agreement is hereby amended to read in its entirety as follows:

"5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Coverage Form ISO CGL CG 00 01 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement, with Employer's Liability insurance coverage limits of at least $1,000,000.00.

(c) Automotive Insurance (Coverage Form ISO CA 00 01 including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than $1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Technology Professional Liability Errors and Omissions. Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than $2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Consultant in this Agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering,

infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses. The policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of Consultant.~~Professional Liability. Professional liability insurance appropriate to the Consultant's profession, as determined by the City's Risk Manager, provided that the limits shall be no less than $1,000,000 per claim and no less than $1,000,000 general aggregate. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage~~.

(e) All Risk Property Insurance. Consultant shall maintain all-risk property insurance, including earthquake and flood coverages, covering against physical loss or damage, at replacement cost currently estimated to be $500,000. The City shall be included as a "loss payee."

(***f***~~e~~) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(***g***~~f~~) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(***h***~~g~~) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant. ***Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.***"

X. Section 6.4 (Confidentiality and Release of Information) of the Agreement is hereby amended to read in its entirety as follows:

"6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. ***Confidential information includes any information that is treated as confidential by a party, including without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to Consultant's customers. Confidential information shall not include information that is received by the receiving party from a third party who is not under any obligation to the***

disclosing party to maintain the confidentiality of such information. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(e) If either party becomes legally compelled to disclose any confidential information ("Disclosing Party"), the Disclosing Party shall provide prompt written notice of such requirement, if lawfully permitted, to the other party ("Non-Disclosing Party") so that the Non-Disclosing Party may seek a protective order or other remedy. If, after providing such notice and assistance as required herein, the Disclosing Party remains required by law to disclose any confidential information, the Disclosing Party shall disclose no more than that portion of the confidential information which, on the advice of the Disclosing Party's legal counsel, the Disclosing Party is legally required to disclose."

XI. Section 6.5 (Intellectual Property) is hereby added to the Agreement to read in its entirety as follows:

"6.5 Intellectual Property.

"Intellectual Property Rights" means all (a) patents, patent disclosures and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including, without limitation, all applications for, and renewals or extensions of, such rights, and all similar or

equivalent rights or forms of protection in any part of the world. As between City and Consultant, all Intellectual Property Rights and all other rights in and to the Services and any deliverables and the materials provided by and used by Consultant in connection with performing the Services shall be owned by Consultant. Consultant hereby grants City a license to use all such rights free of additional charge and on a non-exclusive, worldwide, and royalty-free basis to the extent necessary to enable the City to make reasonable use of any deliverables and the Services. City and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to the data provided to the Consultant by City ("City Materials"), including, without limitation, all Intellectual Property Rights therein. Consultant shall have no right or license to use any City Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to City."

XII. Section 7.10 (Limitation of Liability and Disclaimer) is hereby added to the Agreement to read in its entirety as follows:

"7.10 Limitation of Liability and Disclaimer.

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE TOTAL LIABILITY OF CONSULTANT OR CITY TOGETHER WITH ALL OF THEIR RESPECTIVE AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED FIVE (5) TIMES THE CONTRACT SUM. CITY'S SOLE REMEDY FOR FAILURE OR NON-PERFORMANCE OF THE SERVICE OR EQUIPMENT TO MEET THE PERFORMANCE OR SERVICE LEVELS WILL BE TO RECEIVE A CREDIT AS SET OUT IN APPLICABLE SCHEDULE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, ANY SCHEDULE, OR ANY OTHER APPLICABLE TERMS, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE TO THE OTHER FOR INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF DATA, THE COST OF SUBSTITUTE SERVICES OR DIMINUTION IN GOODWILL, OF THE OTHER PARTY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONSULTANT PROVIDES NO WARRANTIES OR REPRESENTATIONS RESPECTING THE SERVICE, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. "AFFILIATE" SHALL MEAN ANY BUSINESS ENTITY THAT IS DIRECTLY OR INDIRECTLY CONTROLLING, CONTROLLED BY OR UNDER COMMON CONTROL WITH A PARTY."

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following not to exceed rates:

SERVICES	RATE	SUB-BUDGET
A:One-Time Implementation Services	**$500.00**	**$500.00**
B: Colocation Services	**$37,485.00 for first year starting Service Commencement Date based upon executed Sales Order(s) per Rates in Section II. below with increase of 5% on each anniversary ***	**$207,128.28***
C: One-Time Remote Hands Services	**$195.00 per hour, based upon executed Sales Order(s). Established Rates increase 5% on each anniversary starting Service Commencement Date.**	**$0.00**

*Annual Sums are below:

YR1 - $37,485.00

YR2 – $39,359.25

YR3 – $41,327.21

YR4 – $43,393.57

YR5 - $45,563.25

Power prices may increase year over year from a power provider and Consultant shall be entitled to charge such power increase to City.

Except for the net income tax of Consultant, City is responsible for all taxes, fees, surcharges, license fees, foreign withholding (which will be grossed up) and other tax like charges imposed on or incident to the provision, sale or use of Service (whether imposed on Consultant or its affiliates). Consultant may recover taxes, fees, and certain costs of

administering the same through a percentage surcharge(s) on the Services. Valid exemption certificates will be given prospective effect upon receipt by Consultant.

II. Established Rates for Variable Items Shall Be at Rates Set Forth Below For Duration of Contract Term.

COLOCATION RACK(S):

Location	600 W 7th Street Los Angeles, CA 90017
Racks Available	80+
Cost Per 1 Rack	$ 409.77

CROSS CONNECTION(S): PER FIBER PAIR OR COPPER CROSS CONNECTIONS

Cross Connects (Rack to Other Colocation Rooms within Building)	Monthly Recurring Cost (USD) Qty 1 - 5	Monthly Recurring Cost (USD) Qty 6 - 10	Monthly Recurring Cost (USD) Qty 11 - 19	Monthly Recurring Cost (USD) Qty 20+
Single Mode Fiber (pair)	$ 150.00	$ 150.00	$ 150.00	$ 150.00
Cross Connects (Rack to Other Racks within Colocation Suite)	**Monthly Recurring Cost (USD) Qty 1 - 5**	**Monthly Recurring Cost (USD) Qty 6 - 10**	**Monthly Recurring Cost (USD) Qty 11 - 19**	**Monthly Recurring Cost (USD) Qty 20+**
Single Mode Fiber (pair)	$150.00	$ 150.00	$ 150.00	$ 150.00
Cross Connects (Rack to Meet-Me-Room)	**Monthly Recurring Cost (USD) Qty 1 - 5**	**Monthly Recurring Cost (USD) Qty 6 - 10**	**Monthly Recurring Cost (USD) Qty 11 - 19**	**Monthly Recurring Cost (USD) Qty 20+**
Single Mode Fiber (pair)	$ 150.00	$ 150.00	$ 150.00	$ 150.00

POWER COST:

Power AC	Primary Power Monthly Recurring Cost (USD)	Redundant Power (A&B) Monthly Recurring Cost (USD)	Non-Recurring Cost (USD)
AC Power (20 Amp/120V)	$ 257.01	$ 257.01	$ 500.00
AC Power (30 Amp/120V)	$ 514.02	$ 514.02	$ 500.00
AC Power (50 Amp/120V)	$ 1,028.02	$ 1,028.02	$ 1,000.00
AC Power (60 Amp/120V)	$ 1,028.02	$ 1,028.02	$ 1,000.00
AC Power (70 Amp/120V)	$ 1,275.00	$ 1,275.00	$ 2,500.00
AC Power (20 Amp/208V)	$ 514.02	$ 514.02	$ 2,500.00
AC Power (30 Amp/208V)	$ 757.54	$ 757.54	$ 2,500.00
AC Power (50 Amp/208V)	$ 914.63	$ 914.63	$ 3,000.00
AC Power (60 Amp/208V)	$ 1,515.08	$ 1,515.08	$ 3,500.00
AC Power (70 Amp/208V)	$ 1,737.23	$ 1,737.23	$ 4,000.00
Power DC	**Primary Power Monthly Recurring Cost (USD)**	**Redundant Power (A&B) Monthly Recurring Cost (USD)**	**Non-Recurring Cost (USD)**
DC Power (20 Amp/120V)	$ 257.01	$ 257.01	$ 12,500.00
DC Power (30 Amp/120V)	$ 514.02	$ 514.02	$ 12,500.00
DC Power (50 Amp/120V)	$ 1,028.02	$ 1,028.02	$ 13,000.00
DC Power (60 Amp/120V)	$ 1,028.02	$ 1,028.02	$ 13,000.00
DC Power (70 Amp/120V)	$ 1,275.00	$ 1,275.00	$ 14,500.00
DC Power (20 Amp/208V)	$ 514.02	$ 514.02	$ 14,500.00
DC Power (30 Amp/208V)	$ 757.54	$ 757.54	$ 14,500.00
DC Power (50 Amp/208V)	$ 914.63	$ 914.63	$ 15,000.00
DC Power (60 Amp/208V)	$ 1,515.08	$ 1,515.08	$ 15,500.00
DC Power (70 Amp/208V)	$ 1,737.23	$ 1,737.23	$ 16,000.00

REMOTE HANDS SUPPORT HOURLY RATE:

Remote Hands Support	
# of Technicians Available Onsite for Scheduled and Unscheduled Remote Support at Request of City of Carson IT staff	8.00
Weekdays: Remote Hands Support Cost Per Hour	$ 195.00
Weekends: Remote Hands Support Cost Per Hour	$ 195.00
Weekdays: Remote Hands Cost Billed in 15 min Increments	$ 195.00
Weekends: Remote Hands Cost Billed in 15 min Increments	$ 195.00
24/7 Support Available	Yes

Ability to Provide (4) Remote Troubleshooting Incidents Per Month Free of Charge	$ 250.00

III. **Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**

IV. **The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**

A. Line items describing the services or work performed; for one-time services include the number of employees on the project, the number of hours worked, and the hourly rate.

B. Line items for all materials and equipment properly charged to the Services.

C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.

D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

V. **The total compensation for the Services shall not exceed $207,628.28 as provided in Section 2.1 of this Agreement.**

EXHIBIT "D"
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all services timely in accordance with the following schedule:

Service	Start Date	Deadline Date	Days to Perform
A: One-Time Implementation Services: Colocation Rack, Primary and Redundant Power, Cross Connections (Implementation)	No Later than (30) Days after Contract Execution	6/30/24	30 Days
B: Provide the City with Colocation Services throughout the entire Contract Term	7/1/24	6/30/29	1,825 Days
C: Provide the City with adhoc Remote Hands Support upon executed Sales Order by City	7/1/24	6/30/29	1,825 Days

II. Consultant shall deliver the following tangible work products to the City by the following dates.

H: Implementation Completion Report	No Later than (30) Days after Contract Execution	6/30/24	30 Days

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

EXHIBIT "E"
SERVICE LEVEL AGREEMENTS AND ACCEPTABLE USE POLICY

SERVICE LEVEL AGREEMENT
OVERALL SERVICES

This General Service Level Agreement ("General SLA") is issued in accordance with the Contract Services Agreement (the "Agreement") between EVODC, LLC ("Company"), a California Corporation and Customer. Any capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement. This SLA sets forth the general Terms of Services to be provided by Company to Customers and the Service Levels in accordance with which such services will be provided. For Customer claims related to Service deficiencies, interruptions or failures, Customer's exclusive remedies are limited to those set forth in this SLA.

1. General

1.8 Definitions – In this SLA and the other SLAs relating to specific services, the following terms have the following meanings:

a) "Data Center" means the physical location where Company houses computer systems and associated components.

b) "Facility" means the building in which the Data Centers are located.

c) "Force Majeure" means an act of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, or any pandemic, including without limitation the pandemic known as Covid-19.

d) "Extenuating Circumstances" means (i) any acts or omissions or acts of negligence of the Customer or any other end-user; (ii) the conditions of any Customer's equipment, facilities, or applications; (iii) faults in or failures to the Customer's equipment, network, email servers, computers or software; (iv) faults or failures caused by the Customer's Internet Service Provider or any other third-parties that host the Customer's email delivery systems or websites, including network outages (other than the Provider Network); (v) external causes, such as vandalism, theft, including non-published and vicious virus attacks on software; (vi) Force Majeure; and/or (vii) a customer's circumvention or interfaces with the reasonable security precaution relating to the services identified in this SLA.

e) "Signed Order Form" shall mean the proposal for Services executed by both the Company and Customer.

f) "Third Party System" means any telecommunication system that is neither owned nor operated by or on behalf of Company

1.2 Company shall not be liable to pay compensation under any SLA where the Company's failure to meet any of its obligations under this SLA is caused by Extenuating Circumstances, by the performance of routine maintenance, by a failure in any Customer equipment, or by any act or omission of Customer, or third party acting on Customer's behalf.

1.3 Credit Conditions – Credits and/or other compensation under this SLA and other SLAs shall only be payable where:

1.3.1 Failures to provide Service was due to acts or omissions of Customer, master landlord or any third party outside of Company's reasonable control or other Extenuating Circumstances;

1.3.2 Customer is not currently, nor was at the time the Service Outage occurred, in default of any of the terms and conditions of the MSA, Acceptable Use Policy (AUP), this SLA and any SLA related to the Services being provided by the Company;

1.3.3 Customer has submitted to Company a claim in writing via email or via the Company support ticketing system identifying the circumstances in which Customer claims that the credit and/or compensation arose;

1.3.4 Company has agreed in writing, acting reasonably and without undue delay, to issue such credit and/or other compensation in connection with such claim;

1.3.5 Customer's account is current;

1.4 Service Availability – For all services provided by the Company, Company guarantees an overall Service availability of 100%.

1.5 Customer Credit – If there is Service Unavailability in the aggregate in any calendar month, Customer shall be entitled to a maximum credit of 100% of that month's invoice for the portion of the invoice that corresponds to the Service Unavailability and Service Location. Customer will be entitled to a credit of one three hundred sixtieth (1/360) of that month's invoice for each hour that the listed Service is not available.

1.6 Claims for Credit of Services – All claims and credits will be applied towards the Customer's invoice that the Customer receives two months following the month in which a Service Outage or Service Unavailability has occurred. The credits will only be applied to the portion of the invoice that corresponds to the Service Outage or Service Unavailability. To receive credits, Customer must submit a trouble ticket within 48 hours of the Service Outage or Service Unavailability. All claims for credits and/or compensation must be submitted promptly in writing and within 7 days from the date of the Service Outage or Service Unavailability. Claims should be submitted accounting@evocative.com and marked in the subject line with "claim for services credit." Customer's failure to notify Company within the period stated above shall result in Customer's waiver of its right to receive any such credit and/or other compensation.

1.7 Amendments to SLAs – Company reserves the right to amend this SLA and other SLAs from time to time. Company shall give Customer not less than 30 days' notice of any changes in the SLA or other SLAs and Customer will be notified by e-mail. Upon receipt of such notice, Customer shall have the right, for a period of 30 days thereafter, to terminate this SLA if Customer disagrees with such amendment.

1.8 Response Time – Customer can contact Company 24x7 via email or via telephone at 888 365 2656 for any Service availability issues and/or Service Downtimes. Unless specified in another SLA, a member of the technical support team will contact Customer within two hours providing the identity of the person assigned to resolve the ticket and any status information that has been gathered.

SERVICE LEVEL AGREEMENT
COLOCATION AND POWER SERVICES

This Service Level Agreement - Colocation and Power Services ("SLA") is issued in accordance with the Contract Services Agreement (the "Agreement") between EvoDC, LLC a Delaware Corporation (hereinafter referred to as "Company" or "Provider"), and Customer. Any capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement. This SLA sets forth the Colocation and Power Services to be provided by Company to Customer and the Service Levels in accordance with which such services will be provided. For Customer's claims related to Service deficiencies, interruptions or failures, Customer's exclusive remedies are limited to those set forth in this SLA.

1. General

1.1. In this SLA, the following terms have the following meanings:

a) "Colocation Services" shall have the meaning ascribed thereto in paragraph 2.1.

b) "Data Center Availability" means all the time in any calendar month the Data Center is available to visit, not to include Scheduled Downtime.

c) "Data Center Downtime" means any interruption in the Data Center Availability guaranteed in Section 3.1., not to include Scheduled Downtime.

d) "Power" means the physical electricity delivered to the Customer.

e) "Power Downtime" means any interruption to the Power delivered to the Customer within the Data Center guaranteed in Section 4.1.

f) "Environment" means the recorded temperature within the Data Center limited to the cold aisle temperature or the ambient temperature at the intake of the Customer's equipment.

g) "Environment Downtime" means a change in the recorded cold aisle or intake temperature that is outside of the 72 to 78 F degrees (+/- 6 degrees) range maintained within the Data Center guaranteed in Section 3.1 of this Colocation Services and Power Service Level Agreement.

h) "Scheduled Downtime" shall have the meaning ascribed thereto in Section 3.1 of the Service Level Agreement.

i) "Service Outage" shall mean any Data Center, Power or Environment downtime.

j) "Power Monitoring" Company shall monitor and enforce 80% utilization limits based on ANSI/NFPA/NEC 70 standards all power circuits delivered.

k) "Cooling Monitoring" Company shall monitor the cold aisle or in-take temperature and shall strictly enforce Customer adherence to cold aisle/hot aisle design methods include Cabinet level Air Flow design and management.

l) "Tear Down" Upon termination of Colocation Services Company shall perform a Tear Down to decommission Customer' Cage(s) or Cabinet(s) to original state. This includes removal of Cross Connects, power decommissioning, clean up, re-keying, and other services as needed.

1.2. This SLA only applies to the Colocation Services to the extent that they are provided by means of systems and equipment that are either owned or operated by or on behalf of Company.

1.3. Company shall not be liable to pay compensation under this SLA where its failure to meet any of its obligations under this SLA is caused by Extenuating Circumstances, by the performance of routine maintenance, by a failure in any Customer equipment, or by any act or omission of Customer, or third

party acting on Customer's behalf.

1.4. Credits and/or other compensation under this SLA shall only be payable as defined in Sections 1.3, 1.5 and 1.6 of the General SLA. In addition, Credits and/or other compensation under this SLA shall only be payable as defined in this SLA where:

1.4.1. Customer is not in violation of ANSI/NFPA/NEC 70 power standard codes; and

1.4.2. If applicable, Customer is not in violation of cold aisle/hot aisle Data Center Layout including Cabinet Level Best Practices as set forth by Company.

1.5. The maximum monthly credit and/or compensation available under this SLA for Colocation Services is limited as defined by Section 1.5 of the General SLA. Credit and/or other compensation provided hereunder shall be Customer's sole and exclusive remedy for any Service Outage or any failure to meet the Deliverables.

2. Provision of Colocation Services

2.1. Company will provide Customer with colocation and power services (the "Colocation Services") in accordance with the terms and conditions contained herein for the term set forth in the Signed Order Form.

2.2. Reserved.

2.3. Company will provide Colocation Services by the service commencement date set out in the Signed Order Form. If Company is unable to commence providing Colocation Services by the service commencement date, at Customer's request Company will credit Customer's account in the amount of 10% of the setup fee (non-recurring charge) set out in the Signed Order Form.

2.4. Company shall charge, and Customer shall be obligated to pay, the fees for the Colocation Services set forth on the Signed Order Form. The fees shall not exceed those set out in the Agreement.

2.5. Company will provide Colocation Services that meet Payment Card Industry (PCI) mandated physical security requirements with controls such as: Access Control Lists, Visitor Log audits, and video surveillance.

3. Service Levels for Facility & Data Center Availability for Colocation Services

3.1. Company guarantees an overall Facility and Data Center Availability of 100%.

3.2. Company may suspend access to the Data Center to carry out periodic maintenance or upgrade work ("Scheduled Downtime").

3.3. Except in the case of an emergency, Company will provide Customer with one week's notice of Scheduled Downtime. If Company fails to provide the appropriate notice, at Customer's request, Customer will be entitled to a credit to Customer's account in the amount of the pro-rated fee for the provision of one day of Colocation Services. This credit will only apply to monthly recurring fees on power and space within that Data Center.

3.4. Company will endeavor not to suspend access to the Data Center Scheduled Downtime more than 12 times in any calendar year and not exceed a total of 12 hours in any calendar year and at Customer's request, Customer will receive a credit to Customer's account in the amount of the pro-rated fee for the provision of one day of Colocation Services for each additional service suspension for such work. This credit will only apply to monthly recurring fees on power and space within that Data Center.

3.5. Company will endeavor to accommodate Customer's requirements in terms of outage times; however, depending on the circumstances this may not always be possible. Outage times will be quoted in Pacific Standard or Daylight Time to prevent mistakes being made over the various time zones.

4. Service Levels for Power Availability

4.1. Company guarantees an overall Power Availability of 100%.

a) Power Distribution Units (PDU), whether supplied by Company or by Customer, and not covered within this SLA and are not eligible for credits.

4.2. If Customer requests a credit for Power Downtime, and such request is validated by Company, Company shall credit Customer in accordance with the provisions hereunder:

If in one calendar month a Customer experiences Power Downtime that is not the result of faulty equipment within the Customer's cabinet or cage or any form of negligence on the Customer's part, at Customer's request, Customer will receive a credit towards the invoice which Customer receives two months following the month in which Power Downtime was reported. For determining the amount of any credit, Power Downtime will be deemed to commence when the Power outage is reported on Company's electrical monitoring system. An alert system notifies Company support staff immediately when any Power Downtime is reported on the electrical monitoring system and a trouble ticket will be opened within 5 minutes of Company's discovery of Power Downtime if it has not yet been reported by Customer.

4.3. If there is Power Downtime, the maximum monthly credit and/or compensation available under this SLA for Power Downtime is limited as defined by Section 1.5 of the General SLA. Credit and/or other compensation provided hereunder shall be Customer's sole and exclusive remedy for any Service Outage or any failure to meet the Deliverables.

4.4. If Power Downtime is to occur for more than 72 hours in the aggregate in any calendar month, Customer may give written notice of Customer's intent to terminate this SLA and any connections or other Colocation Services, in which termination will take effect after 30 days.

5. Service Levels for Environment –

5.1. The average temperature of the cold aisle in the Data Center will be 72 - 78 degrees Fahrenheit (+/- 6 degrees) at all times. Temperature may be measured at cold aisle points in the Facility of Company's choosing provided that those points are within 2 feet of Customer's equipment in Customer's environment. Temperature is monitored and recorded electronically and provides audible alerts as well as alerts through a SMS or email system if the threshold listed above is breached. Company does not provide any SLA for hot aisle(s) ambient temperature in the Data Center.

5.2. If there is Environment Downtime, the maximum monthly credit and/or compensation under this SLA for Environment Downtime is limited as defined by Section 1.5 of the General SLA. Credit and/or other compensation provided hereunder shall be Customer's sole and exclusive remedy for any Service Outage or any failure to meet the Deliverables.

5.3. If Environment Downtime is to occur for more than 72 hours in the aggregate in any calendar month, Customer may give written notice of Customer's intent to terminate this SLA and any connections or other Services, in which termination will take effect after 30 days.

SERVICE LEVEL AGREEMENT
IP TRANSIT SERVICES

This Service Level Agreement - IP Transit Services ("SLA") is issued in accordance with the Contract Services Agreement (the "Agreement") between EvoDC, LLC (hereinafter referred to as "Company"), and Customer. Any capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement. This SLA sets forth the IP transit, peering and level 2 services (such services are collectively referred to as "Transit Services" or "IP Transit Services") for the purposes of this SLA) to be provided by Company to Customer and the Service Levels in accordance with which such services will be provided. For Customer's claims related to Service deficiencies, interruptions or failures, Customer's exclusive remedies are limited to those set forth in the General Services SLA and this SLA.

1. **General.** In this SLA, the following terms have the following meanings:

1.1. "Availability" means all the time in any calendar month less Scheduled Downtime and Excused Outages.

1.2. "Business Day" means every day excluding Saturdays and Sundays and national holidays in the United States.

1.3. "CDR" or "CIR" (Committed Data/Information Rate) means the data throughput rate selected by Customer in the Signed Order Form and provided as part of Services.

1.4. "Network" means the physical connection between the equipment provided by Customer (e.g., Customer's dedicated, cloud or collocated servers) and either (i) the Internet or (ii) private networks maintained and operated by Customer or Customer's agents. The Network may include a permanently connected internet access circuit and/or Company's switch/router nodes.

1.5. "Network Availability" means and refers to the availability of the Network, which refers to all the time in any calendar month less Scheduled Downtime and Excused Outages.

1.6. "Network Downtime" means any interruption of Network Availability, other than interruptions due to:

a) The failure of a Third-Party System or equipment that is not fully owned and managed by Company, including circuits or links between Company's routing equipment and routing equipment owned and maintained by other carriers;

b) Scheduled maintenance performed at Company's initiative;

c) Maintenance or Service interruptions requested by Customer;

d) Customer's acts or failure to act in a timely and/or proper manner when notified to do so by Company (including, without limitation, Customer's failure to permit entry by Company or make facilities or components available to Company for testing or repair; or otherwise to comply with Company's instructions and service requirements); or

e) The transmission of data at a rate more than the CDR or the requested burstable port the Customer is on.

1.8. "**Scheduled Downtime**" shall mean any time when the SLA Covered Services are unavailable because of (i) Service Change; (ii) Urgent Maintenance Activities, and/or (iii) any other scheduled maintenances or upgrade activities that may or may not be periodic, and that may be notified to the Customer at least 24 hours in advance.

1.9. "Service Outage" shall mean any Network Downtime; provided, however, that Service Outage shall not include any Excused Outages.

1.10. "Transit Services" shall have the meaning ascribed thereto in first paragraph of this SLA (as further modified or described in Section 4.1 hereof).

2. **Applicability; General Limitations.** This SLA only applies to the Transit Services to the extent that they are provided by means of systems and equipment that are either owned or operated by or on behalf of Company. Company shall not be liable to pay compensation under this SLA where its failure to meet any of its obligations under this SLA is caused by Extenuating Circumstances as described in Section 1.1(d) of the General SLA above, or by any third party acting on Customer's behalf.

3. Credits and Related Matters.

3.1 Credits and/or other compensation under this SLA for Transit Services shall only be payable as specified in Sections 1.3, 1.5 and 1.6 of the General SLA:

3.2 In order to receive credits, Customer must submit a trouble ticket within 48 hours of the Service Outage or Service Unavailability. Customer's failure to notify Company within the period stated above shall result in Customer's waiver of its right to receive any such credit and/or other compensation.

3.3 Subject to all other applicable limitations and conditions set forth in the Agreement and this SLA, the maximum monthly credit and/or compensation available under this SLA for Transit Services is limited as defined by Section 1.5 of the General SLA. Credit and/or other compensation provided hereunder shall be Customer's sole and exclusive remedy for any Service Outage or any failure to meet the Deliverables.

4. Provision of Transit Services.

4.1 Company will provide Customer with one or more of the following for the six-month, one-year, two-year or month-to-month term set forth in the Signed Order Form: wholesale Internet bandwidth (IP transit services); voluntary interconnection of administratively separate Internet networks for the purpose of exchanging traffic between such networks (peering services); and/or private links that enable point to point transfer of raw data (layer 2 services) (collectively "Transit Services" or "IP Transit Services"), in accordance with and subject to the terms and conditions contained herein.

4.2 Company will use commercially reasonable efforts to provide Transit Services by the service commencement date set out in the Signed Order Form.

4.3 Company will charge, and Customer shall be obligated to pay, the fees for the Transit Services set forth on the Signed Order Form.

5. Services Levels for Network Availability.

5.1 Company guarantees an overall Network Availability of 100%.

5.2 If Customer requests a credit for Network Downtime, and such request is validated by Company, Company shall credit Customer in accordance with the provisions hereunder:

a) If in one calendar month a Customer experiences Network Downtime that is not the result of a Third Party System, faulty equipment within the Customer's cabinet or cage or any form of negligence on the Customer's part, at Customer's request Customer will receive a credit as outlined in Sections 1.3, 1.5 and 1.6 of the General SLA. For the purpose of determining the amount of any credit, Network Downtime will be deemed to commence when the Network outage is reported on Company's monitoring system. An alert system notifies Company support staff immediately when any Network Downtime is reported on the monitoring system and a trouble ticket will be opened within 5 minutes of Company's discovery of Network Downtime if it has not yet been reported by Customer.

b) If there is Network Downtime, the maximum monthly credit and/or compensation under this SLA for Network Downtime is limited as defined by Section 1.5 of the General SLA. Credit and/or other compensation provided hereunder shall be Customer's sole and exclusive remedy for any Service Outage or any failure to meet the Deliverables.

c) If there is any Network Downtime in the aggregate in any calendar month that exceeds our Network Availability commit rate in Section 5.1., Customer may give written notice of Customer's intent to terminate this SLA and any connections or other Services, which termination will take effect after 30 days.

6. Packet Loss Rate. If the Data Center facility is located in a foreign jurisdiction (e.g., in Asia and/or Europe), Company will not provide the guarantees listed below with respect to Packet Loss Rate.

6.1 The rate of packet loss on all links across the Network will be less than 0.1% (one packet in one thousand) (the "Permissible Packet Loss Rate").

6.2 At the end of each month Company will calculate the average packet loss of the Network during that month, as measured by the packet loss between each pair of access routers in the Network averaged over all such pairs. In no case will tests performed by Customers be recognized by Company as valid, measurable criteria for determining whether the rate of packet loss exceeded the Permissible Packet Loss Rate.

6.3 Packet loss within the Network caused by congestion of Customer's access link or by traffic demand in excess of Customer's committed CDR/CIR will not give rise to any compensation payments and/or credits.

6.4 If the rate of packet loss exceeds the Permissible Packet Loss Rate but is less than 0.2% in any month, at Customer's request Company will credit Customer's account in the amount of the prorated fee for the provision of one (1) day of Transit Services.

6.5 If the rate of packet loss exceeds 0.2% but is less than 0.5% in any month, at Customer's request Company will credit Customer's account in the amount of the prorated fee for the provision of five (5) days of Transit Services.

6.6 If the rate of packet loss exceeds 0.5%, at Customer's request Company will credit Customer's account in the amount of the prorated fee for one (1) month's worth of Transit Services.

7. **Latency.** If the Data Center facility is located in a foreign jurisdiction (e.g., Asia and/or Europe), Company will not provide the guarantees listed below with respect to the Latency on links within the Company's Network

7.1 The latency on all links within Company's Network will be less than 10 milliseconds within California, less than 35 milliseconds between California and Chicago, and less than 69 milliseconds between California and Ashburn, VA.

7.2 Latency within the Network caused by congestion of Customer's access link or by traffic demand in excess of Customer's committed CDR will not give rise to any compensation payments and/or credits.

7.3 If latency exceeds those figures outlined in 7.1. within any month for a period of over one (1) hour but is less than two (2) hours, and Company confirms such latency statistics, upon Customer's request Company will credit Customer's account in the amount of the prorated fee for the provision of one day of Transit Services.

7.4 If latency exceeds those figures outlined in 7.1. within any month for a period of over two (2) hours but is less than five (5) hours, and Company confirms such latency statistics, upon Customer's request Company will credit Customer's account in the amount of the prorated fee for the provision of five (5) days of Transit Services.

7.5 If latency exceeds those figures outlined in 5.1. within any month for a period of over five (5) hours, and Company confirms such latency statistics, upon Customer's request Company will credit Customer's account in the amount of the prorated fee for one months' worth of Transit Services.

8. Faults / Response Time Agreements

8.1 Company shall monitor the connection to the Internet 24 hours a day, 365 days per year.

8.2 Customer can contact Company 24x7 via email or via telephone at 888 365 2656. A member of the technical support team will contact Customer within 15 minutes providing the identity of the person assigned to resolve the ticket and any status information that has been gathered.

8.3 Emergency tickets, such as packet loss and routing issues take priority over all other network related tickets and are escalated for immediate resolution. Due to the variety of causes for packet loss and routing issues, resolution and repair times can and will vary.

8.4 Customer’s circuit will be monitored 24x7 by an automated system, which will notify Company’s technical team of any irregularities. Customer is solely responsible for providing Company with accurate and current contact information for Customer's designated points of contact.

9. Network Maintenance.

9.1 Company may suspend Services (including without limitation, any and all Transit Services) to carry out periodic maintenance or upgrade work on the Network (“Scheduled Downtime” or “Planned Downtime”).

9.2 Except in the case of an emergency and other than in the case of any Scheduled Downtime, Company will provide Customer with notice of any suspension of Services. If Company fails to provide the appropriate notice, at Customer’s request, Customer will be entitled to a credit to Customer’s account in the amount of the prorated fee for the provision of one (1) day of Transit Services.

9.3 Company will endeavor not to suspend the Services for planned maintenance or upgrade work more than 12 times in any calendar year and at Customer’s request, Customer will receive a credit to Customer’s account in the amount of the prorated fee for the provision of one (1) day of Transit Services for each additional service suspension for such work. Company will endeavor to ensure that interruption of service does not exceed a total of 12 hours in any calendar year and at Customer’s request, Customer will receive a credit to Customer’s account in the amount of the prorated fee for the provision of one day of Services for each additional hour of service suspension for such work.

9.4 The standard for the Company maintenance window for planned outages is between 10:00 p.m. and 1:00 a.m., local time for the node location in question. Company will endeavor to accommodate Customer’s requirements in terms of outage times; however, depending on the circumstances this may not always be possible. Outage times will be quoted in Pacific Standard Time or Daylight Time to prevent mistakes being made over the various time zones.

10. Reporting. Company will provide Customer with near real-time performance and status reports regarding Availability, transmission volume and utilization of Customer’s ports, and Network performance and status via graphs (as provided by Company).

ACCEPTABLE USE POLICY

EVODC, LLC and its Affiliates (collectively, "Company") creates this Acceptable Use Policy ("AUP") to provide its customers and users a clear understanding of the responsible use of Company's networks, systems, services, websites and products (collectively "Services"). By using Company's Services, customers and users consent to be bound by the terms of this AUP.

Affiliates:

- EvoDC, LLC.
- SWITCH & DATA CA TWO, LLC.
- Evocative – Cyberverse, LLC.
- EVODC Garland, LLC.
- Evocative, Inc.
- Fiber Internet Center, LLC.
- Cyberverse, Inc.
- Krypt Technologies, DBA EvoDC, LLC
- VPLS Solutions, LLC.

Company's AUP applies to all of its (and Affiliate's) customers and users. Such users include (a) those who have access to some of the Services but do not have accounts, and (b) those who pay a service fee to subscribe to the Services.

Company reserves the right in its sole discretion to remove any content for any reason, including but not limited to, your violation of any laws or the terms and conditions of this AUP. Your violation of this AUP may result in the suspension or immediate termination of either your account or other actions as detailed below.

The AUP below describes certain actions relating to the content and operation of the Website which Company considers to be inappropriate and thus prohibited. The examples identified in this list are provided as examples only for your guidance. If you are unsure whether any contemplated use or action is permitted, please contact the Company.

Actions which Company considers inappropriate and grounds for removal of offending material or termination of access to the Website include, but are not limited to, the following:

- Using Services to sell any goods or services that are unlawful in the location at which the content is posted or received, or the goods or services delivered;

- Using Services to post any content that is obscene, lewd, lascivious, excessively violent, harassing, or otherwise objectionable;

- Using Services to harm, or attempt to harm, minors in any way, including, but not limited to child pornography;

- Using Services to transmit any material (by e-mail, uploading, posting or otherwise) that threatens or encourages bodily harm or destruction of property;

- Using Services to post any content that advocates, promotes or otherwise encourages violence against any governments, organizations, groups or individuals or which provides instruction, information, or assistance in causing or carrying out such violence;

- Using Services to post any content that holds Company, its employees or owners up to public scorn or ridicule or would in any way damage or impair Company's reputation or goodwill;

- Using Services to post any content that violates any copyrights, patents, trademarks, trade secrets, or other intellectual property rights of others;

- Failing to obtain all required permissions when using Services to receive, upload, download, display, distribute, or execute programs or perform other works protected by intellectual property laws including copyright and patent laws;

- Deleting or altering author attributes, copyright notices, or other copyright management information, unless expressly permitted in writing by the author or owner;

- Adding, removing or modifying identifying network header information in an effort to deceive or mislead;

- Attempting to impersonate any person by using forged headers or other identifying information (the use of anonymous remailers or nicknames does not constitute impersonation);

- Using Services to make fraudulent offers to sell or buy products, items, or services, or to advance any type of financial scam such as “pyramid schemes,” “Ponzi schemes,” and “chain letters;”

- Using Services in a tortious manner, including the posting of libelous, defamatory, scandalous, threatening, harassing or private information without the permission of the person(s) involved, or posting content that is likely to cause emotional distress;

- Introducing viruses, worms, Trojan horses, malware or other harmful code on the Internet;

- Using Services to transmit any unsolicited commercial or unsolicited bulk e-mail. Violations of this type will result in the immediate termination of the offending account;

- Using the Services for any kind of IRC (Internet Relay Chat) on Company’s servers;

- Using Services for any activity which affects the ability of other people or systems to use Services or the Internet (this includes “denial of service” attacks against another network host or individual user); or

- Using Services to hack, breach, or test the vulnerability of user authentication or security of any software or hardware without express authorization of the owner.

In using the Company’s services, User must comply with all applicable requirements of the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act and the Telephone Consumer Protection Act. Under no circumstances may any Company Services be utilized to transmit or distribute unsolicited bulk email (“UBE” or “spam”). Likewise, the sending of UBE from another service provider advertising a website, email address, services, or utilizing any resources hosted on any Company network or server is prohibited. User must maintain an abuse role account email address, i.e. “abuse@domain.com” This address should be exempt from spam filtering and will be used as the Company’s point of contact for communicating violations of this paragraph.

User Acknowledges that not all of the Company’s Products and Services are designed to comply with the Health Insurance Portability and Privacy Act of 1996 (“HIPAA”), security standards; User shall not, without the prior written consent of Company and execution of Company’s HIPAA Addendum to Contract Services Agreement, use any Products or Services to create, maintain, receive, transport or store any protected health information, as defined in 45 C.F.R. §164.501 (“PHI”), and; User shall use only those Products and/or Services that have been designated by Company as “HIPAA Compliant” to create, maintain, receive, transport or store any PHI. EVODC, LLC considers Colocation and IP Transit services “HIPAA Compliant” and conducts annual audits to verify their compliance .

Company will provide Colocation Services that meet Payment Card Industry (PCI) mandated physical security requirements with controls such as: Access Control Lists, Visitor Log audits, and video surveillance.

Company takes no responsibility for any material created or accessible on any website, e-mail transmission, newsgroups, or other material created or accessible over or through the Services. Company is not obligated to monitor or exercise any editorial control over such material but reserves the right to do so. In the event that Company becomes aware that any such material may violate this AUP and/or expose Company to civil or criminal liability, Company reserves the right to block access to such material and suspend or terminate any customer or user creating, storing or disseminating such material. Company further reserves the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing, including disclosing the identity of the customer or user that Company deems responsible for the alleged wrongdoing.

Company requests that anyone who believes that there is a violation of this AUP direct the information to the Abuse Department at abuse@evocative.com. If available, please provide the following information:

- The IP address used to commit the alleged violation;
- The date and time of the alleged violation, including the time zone or offset from GMT;
- Evidence of the alleged violation;

Company may revise in its sole discretion this AUP, without prior notice. Any such changes shall be posted by Company on its website. You shall be responsible for periodically reviewing the online AUP to apprise yourself of any changes thereto. You agree to be bound by all such changes.