

This Master Services Agreement (the “MSA”) by and between Dawn US Holdings LLC, a Delaware limited liability company d/b/a Evoque Data Center Solutions (“Evoque”) and you, the customer utilizing Services as defined below (“Customer”). “Customer” may include Customer’s Affiliates to receive “Services” (as defined below) under this MSA.

1. **Definitions.** Capitalized terms shall have the meaning set forth below or elsewhere in the MSA.
 - a. “Affiliate” means an entity owned by Customer or is under common ownership with Customer.
 - b. “Customer Equipment” means any Customer-owned/leased or Customer-provided equipment in Evoque’s facility.
 - c. “Equipment Space” means the designated area within the Facility that the Customer may occupy and use.
 - d. “Facility” means the Evoque data center(s) where the Customer Equipment is located.
 - e. “Services” means the Services provided to Customer by Evoque, as set forth on an executed “Service Order”.
 - f. “Service Order” means an order, change order, exhibit, and statement of work or other document, executed by both parties that identifies the Services provided by Evoque to Customer.
 - g. “SLA” means the attachment that sets forth the Service Level Agreement applicable to each individual Service, if any.
 - h. “Taxes” means any foreign, federal, state, and local excise, gross receipts, sales, use, value added, privilege, withholding, franchise tax or other governmental charge (other than taxes based on net income of Evoque), whether imposed directly upon Evoque or Customer, attributable to or measured by the sale price, transaction amount and/or Services purchased.

2. **Agreement; Order of Precedence.** The “Agreement” between the parties consists of the MSA, all Service Orders including those subsequently signed by the parties, Service Level Agreement (“SLA”) and Customer Guide (collectively, the “Agreement”). In the event of a conflict within the terms and conditions between the documents, then the order of precedence will be the MSA, Service Order(s), SLA then Customer Guide. The MSA shall continue in effect for as long as any Service Order(s) remains in effect, unless earlier terminated in accordance with the provisions of the MSA.

3. **Service, Service Term, Fees and Charges.**
 - a. **Services.** Evoque shall provide the Services at the Facility as set forth in each Service Order and in accordance with the terms of this Agreement. Certain Services have additional terms and conditions that are contained in Attachment B if applicable.
 - b. **Service Term.** The Service Term is (i) the Service Term for Service(s) listed on the Service Order(s) and any applicable Renewal Term as set forth in the renewal section below. Notwithstanding the foregoing, no Service Term shall extend beyond the term of the underlying lease in the applicable Facility.
 - c. **Billing Start Date.** The Billing Start Date is the earlier of (i) the date Services are available for use by Customer and (ii) the date which is forty-five (45) days after the execution of the Service Order, unless otherwise specified on a Service Order.
 - d. **Service Term Start Date.** The Service Term Start Date is the first day of the calendar month following the Billing Start Date.
 - e. **Renewal.** EACH RECURRING SERVICE RENEWS AUTOMATICALLY FOR ADDITIONAL TERMS EQUAL TO THE LENGTH OF THE INITIAL SERVICE TERM (EACH A “RENEWAL TERM”). EITHER PARTY SHALL NOTIFY THE OTHER PARTY IN WRITING NO LESS THAN SIXTY (60) DAYS PRIOR TO THE END OF THE INITIAL TERM OR A RENEWAL TERM, AS APPLICABLE, THAT IT HAS ELECTED TO TERMINATE SUCH SERVICE, IN WHICH CASE SUCH SERVICE SHALL TERMINATE AT THE END OF THE THEN-CURRENT SERVICE TERM.
 - f. **Annual Escalators.** Monthly recurring charges for all Services may increase up to 5% per year on each anniversary of the Billing Start Date. Such increases will be set forth in the Service Order.
 - g. **Power Pass Through Charges.** If Evoque experiences an increase in the rates and charges for obtaining electrical power services from the underlying provider, Customer’s rates and charges for all electrical power related services may increase in a proportional amount.
 - h. **Ordering with International Affiliates.** In the event a Customer Affiliate with a location outside of the United States is purchasing Services (“International Customer Affiliate”), such International Customer Affiliate shall enter into a Service Order directly with the Company Affiliate local entity (“Evoque Local Entity”) for such Services. The MSA shall be incorporated by reference into the applicable Service Order by and between the International Customer Affiliate and the Evoque Local Entity.

4. **Payment.**
 - a. **General Terms.** All invoices are to be paid in full within 30 days of the date of the invoice (“Due Date”) unless otherwise set forth in a Service Order. All charges invoiced to Customer shall be deemed valid unless Customer disputes such charges in writing within 30 days after Due Date. Undisputed payments for invoiced amounts are due within 30 days of invoice date. Monthly recurring charges shall be invoiced monthly in advance for the month in which the Service is delivered, beginning on the Billing Start Date; installation charges shall be invoiced at the Billing Start Date; and other non-recurring charges shall be invoiced in arrears. Billing for partial months is prorated based on average of 30 days per month. Customer agrees to pay interest on all amounts not paid by the applicable Due Date at the rate of the lesser of 1% per month or the highest rate permitted by applicable law and attorneys’ fees and costs incurred by Evoque in collecting such amounts. Customer agrees to pay all applicable Taxes. In the event Customer fails to pay undisputed invoices after the second consecutive Due Date, then Evoque may suspend certain services through various actions including, but not limited to, denying physical access to Customer Equipment (including through remote hands), denying connectivity to outside networks or suspending power.
 - b. **Taxes.**
 - i. Charges under the applicable Service Orders are exclusive of any customs or other duty, tax, and similar levies imposed by any authority resulting from Customer’s use of Services under the Agreement. These Service related fees shall and will be invoiced to Customer in addition Charges for Services under a Service Order addition to such charges.
 - ii. Customer agrees to: a) pay withholding tax directly to the appropriate government entity where required by law; b) furnish a tax certificate evidencing such payment to Evoque; c) pay Evoque only the net proceeds after tax; and d) fully cooperate with Evoque in seeking a waiver or reduction of such taxes and promptly complete and file all relevant documents.

- iii. Where taxes are based upon such location(s) receiving the benefit of the Cloud Service, Customer has an ongoing obligation to notify Evoque of such location(s) if different than Customer's business address listed in the applicable Agreement.
 - iv. Customer will maintain, and provide upon request, records, system tools output, and access to Customer's premises as reasonably necessary for Evoque and its independent auditor to verify Customer's compliance with the Agreement.
- c. **Payment Disputes.** If Customer in good faith disputes a portion of any invoice, Customer shall notify Evoque of such dispute including the date of the invoice in question, the amount disputed and the reason the Customer believes the charge is inaccurate via email to billing@evoquedcs.com. Evoque will promptly work to reconcile any submitted disputes. Customer may not dispute an invoice after 30 days of receiving an invoice. Customer is obligated to pay all non-disputed amounts when due, regardless of whether an invoice contains disputed charges.

5. Termination.

- a. **Termination Notice.** Notice by Customer to Evoque of intent to terminate must be provided via terms outlined below. In the event of termination or suspension of a Service for any reason, Customer must pay all charges accrued through the date of termination or suspension.
- b. **Termination for Cause.** Either party may terminate any particular Service Order upon an Event of Default of the other party. A "Customer Event of Default" means (a) failure by Customer to pay any amount within 10 days of the applicable Due Date; (b) any other material breach of this Agreement by Customer, which breach is not cured within 3 days following written notice by Evoque. An "Evoque Event of Default" means a material breach of this Agreement by Evoque (other than Service-related issues, which are addressed in Section 16), which breach is not cured within 10 days following written notice by Customer.
- c. **Other Termination.** If any portion of the data center in which the Services are being provided becomes subject to a condemnation proceeding or is condemned, or Evoque's possession is otherwise terminated or abated, Evoque may terminate the affected Service Order. If Evoque's possession to a data center is terminated due to Evoque's fault, Evoque shall use reasonable commercial efforts to relocate Customer to one of its other data centers. If such relocation is unacceptable to Customer, then Customer may terminate the Service Orders related to the affected data center, provided Customer delivers written notice to Evoque within thirty (30) days of Customer's receipt of Evoque's notice of its termination of possession.
- d. **Effect of Termination.** Upon the effective date of expiration and non-renewal or termination of an applicable Service Order (the "**Date of Termination**"):
 - i. Evoque will immediately cease providing the terminated Services.
 - ii. Any and all payment obligations of Customer under this Agreement for the terminated Services for the remainder of the Service Term will immediately become due as liquidated damages, except that in the event of termination by Customer pursuant to Section 5.b or 5.c. or Section 21, Customer will pay for the applicable Services through the date of termination.
 - iii. If any Customer Equipment remains in a Facility following termination of Customer's space-related Service, Customer shall be subject to all obligations of Customer contained in this Agreement, in each case until removal of the Customer Equipment.

6. **Use of Services.** Customer will not use Services: (a) for fraudulent, abusive, or unlawful purposes or any other unauthorized or attempted unauthorized use, including unauthorized or attempted unauthorized access to, or alteration, or abuse of, information or (b) in any manner that causes interferences with Evoque or another customer's use or performance of Evoque provided network or infrastructure. Customer will not use or access the Services or any Evoque Facilities in a manner that: materially interferes with or harms the Evoque infrastructure or any third parties; or is tortious or violates any third party right. Evoque may suspend Services if Customer violates this Section. Evoque will notify Customer in writing prior to suspending this Service. However, Evoque may terminate for cause or suspend Services without notice if: (i) Evoque becomes aware of a violation of any applicable law or regulation or activity that exposes Evoque to criminal or civil liability (ii) to prevent imminent or on-going harm to Evoque's network, Evoque property or another Evoque customer's network or property.

7. Customer Equipment.

- a. **Customer Equipment Access.** Customer shall have access to all Customer Equipment during the Service Term 24 hours per day, 7 days per week, provided that Customer adheres to Evoque's security and access procedures outlined in the Customer Guide. Evoque, in its sole discretion, may require that Customer and any of Customer's agents be escorted when they are in the Facility, and may suspend Customer's access as required in an emergency situation.
- b. **Moving Customer Equipment.** Evoque reserves the right to relocate Customer Equipment within the Facility or to another data center in the same metropolitan area as the Facility with 90 days' written notice to Customer. Evoque will pay all reasonable and necessary moving fees and expenses associated with the relocation of Customer Equipment.
- c. **Removal of Customer Equipment.** If any Customer Equipment remains in a Facility within 14 days following termination of Customer's space-related Service, Customer shall be responsible for all reasonable monthly storage and moving fees. If Customer does not remove the Customer Equipment after 30 days following notice to remove Customer Equipment from Evoque or has not paid the reasonable storage or moving fees, then Customer agrees that the Customer Equipment shall be deemed to be transferred to Evoque, and Evoque may remove and dispose of the Customer Equipment at its sole discretion and may retain any proceeds from such disposition, without liability. With the exception of reasonable wear and tear, Customer agrees to maintain and return the Equipment Space in an orderly and safe condition. Failure to do so may result in Evoque cleaning the Equipment space and passing the costs on to Customer.

8. **Representations, Warranties, and Obligations of Customer.** Customer represents and warrants as follows: (i) it has full power and authority to enter into this Agreement (ii) the execution of the Agreement does not violate an agreement to which Customer is party, and (iii) Customer agrees to comply with all applicable federal, state and local laws using the Services, including, without limitation, applicable laws related to storage, transmission and use of Customer data, information and content, (iv) Customer agrees to comply, and cause its customers and other third-party users (including contractors, subcontractors or sublicenses) to comply, with Evoque's Customer Guide, (v) Customer shall not make any material alterations to the Equipment Space without obtaining written consent of Evoque; and (vi) Customer shall not allow personnel or contractors to enter the Equipment Space who have not been approved by Evoque in advance

9. **Disclaimer of Warranties.** EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE SERVICES AND ANY RELATED SOFTWARE AND/OR EQUIPMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED,

INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NEITHER EVOQUE NOR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS WARRANT THAT THE SERVICE SHALL BE, UNINTERRUPTED OR SECURE. NO ADVICE OR INFORMATION GIVEN BY EVOQUE OR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS SHALL CREATE A WARRANTY.

10. Indemnification.

- a. **Indemnifications by Evoque.** Evoque shall indemnify, Customer and its employees and affiliates from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative), and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") arising from or related to (a) tangible personal property damage to Customer Equipment located in the Facility resulting from Evoque's gross negligence or willful misconduct, up to the depreciated cost of the damaged equipment and (b) actual personal injury damage resulting from Evoque's gross negligence or willful misconduct.
- b. **Indemnification by Customer.** Customer shall indemnify, defend, and hold harmless Evoque and its employees, affiliates, contractors, and agents from and against any and all Losses arising from or related to (a) any breach of Evoque's Customer Guide; (b) any use of the Service, or (c) any grossly negligent or willful act or omission by Customer, any of its invitees, employees, Affiliates, contractors, or agents.

11. Limitations of Liability.

- a. **Consequential Damages Waiver.** IN NO EVENT SHALL EITHER PARTY OR ITS EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS, REVENUE, DATA, OR USE, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, INCLUDING, WITHOUT LIMITATION, LEGAL THEORIES OF CONTRACT, TORT, OR STRICT LIABILITY, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. **Limitation of Liability.** EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR ANY DAMAGES EXCEED THE ACTUAL DOLLAR AMOUNT PAID BY CUSTOMER FOR THE SERVICE DURING THE THREE MONTH PERIOD PRIOR TO THE DATE THE DAMAGES OCCURRED OR THE CAUSE OF ACTION AROSE.

12. Insurance.

- a. **Customer Insurance Obligations.** Customer must procure and maintain, at Customer's sole cost and expense, the following insurance coverage during the Service Term: (i) "commercial general liability insurance in an amount not less than \$2,000,000 per occurrence, with Evoque added as an additional insured and a waiver of subrogation provided for the benefit of Evoque and \$2,000,000 in annual aggregate for bodily injury and property damage; (ii) employer's liability insurance in an amount not less than \$1,000,000 per occurrence; and (iii) worker's compensation insurance in an amount not less than that prescribed by statutory limits. Customer shall require any contractor entering any facility on its behalf to procure and maintain the same types, amount, and coverage extension as required by the Customer. Customer agrees to include Evoque as additional insured on its general liability policy and will require its insurers to waive subrogation against Evoque. Upon request, Customer shall provide a certificate of insurance to Evoque evidencing such insurance requirements.
- b. **Evoque Insurance Obligations.** Evoque shall procure and maintain, at Evoque's sole cost and expense, the following minimum insurance coverage during the Service Term: (i) Commercial General Liability Insurance in the amount not less than \$1,000,000 per occurrence and \$2,000,000 in annual aggregate, (ii) Employers Liability with limits of not less than \$1,000,000 per occurrence and (iii) Workers Compensation in the amount not less than that prescribed by statutory limits.

- 13. Assignment.** Either party may assign Service Order(s) in whole (but not in part) only as part of a corporate reorganization, consolidation, merger, sale of all or substantially all of its assets, or transaction or series of related transactions that results in the transfer of fifty percent (50%) or more of the outstanding voting power of assignor, and the assignor remains liable for the obligations of the assignee. The parties may not otherwise assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other party, and any attempted assignment or delegation without such consent will be void; except that Evoque may assign this Agreement or delegate the performance of certain Services to wholly owned subsidiaries.

- 14. Governing Law; Venue.** The parties will attempt in good faith to resolve any dispute within thirty (30) days of notice of a dispute through discussion between themselves at the operational level. The Agreement shall be governed and constructed in accordance with the laws of the State of Texas without regard to any conflict of law provisions. Should a dispute arise under or in relation to the Agreement, jurisdiction over and venue of any such suit shall be exclusively in the state and federal courts of Dallas, Texas. The parties hereby waive any jurisdictional venue or inconvenient forum objections to such courts. EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL FOR ANY ACTION ARISING OUT OF THIS AGREEMENT, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, AND ALL OTHER CLAIMS. If the jury trial waiver is held to be unenforceable, the parties agree to binding arbitration to be conducted in accordance with the JAMS Comprehensive Arbitration Rules.

- 15. Confidentiality.** "Confidential Information" includes but is not limited to any non-public information such as client/customer lists, audits & security reports, sales forecasts, technical information, strategies, policies & procedures, marketing, sales projections, financial plans, valuations, capitalization reports, budgets and other operational, technical, and financial information of either party, that is disclosed by one party to the other party related to this Agreement. Neither party, without the prior written consent of the other party, shall: (a) disclose any of the terms of the Agreement; or (b) disclose the Confidential Information received from the other party. Confidential Information shall not include information that (a) was in the public domain free of any obligation of confidence at the time it was communicated to the other party; (b) is rightfully communicated to the other party free of any obligation of confidence subsequent to the time it was communicated; (c) was in the other party's possession free of any obligation of confidence at the time it was communicated or (d) is independently developed by a party without the use of the other party's Confidential Information disclosed hereunder. Each party will use reasonable efforts to protect the other party's Confidential Information and will use at least the same efforts to protect such Confidential Information as the party would use to protect its own Confidential Information. A party may disclose Confidential Information is required to do so by a government agency, by operation of law, or necessary in any proceedings to establish rights or obligations under the agreement. Each party agrees to limit disclosure and access to Confidential Information to those of its employees, contractors, attorneys or other representatives who reasonably require such access in order to accomplish the purposes of the Agreement and who are subject to confidentiality obligations at least as restrictive as those contained herein.

16. **Service Level Credits.** In the event Evoque fails to meet the service level commitments outlined in the SLA, Customer will be entitled to credit as described in the SLA.
17. **Power Allocation.** Customers that exceed their Power Allocation in a particular cage/cabinet are subject to the remedies as provided in the Customer Guide.
18. **Audit Reports.** Upon Customer's request once per calendar year, Evoque will provide a copy of 3rd party ISO 270001 or SSAE 18 SOC II audit reports (or their equivalent successor standards) as it pertains to the Services. For written Customer questionnaires that require more than one hour to answer, Evoque will charge Customer \$200 per hour to complete such questionnaire. Evoque reserves the right to answer questionnaires at its sole discretion.
19. **Publicity.** Customer grants Evoque the right to use Customer's name and logo in Evoque's website and marketing material and to act as a reference for Evoque upon Evoque's reasonable request.
20. **Notices.** All notices required to be given hereunder shall be in writing and deemed given if sent to the either party (a) by registered or certified mail, return receipt request, postage prepaid, 3 days after such mailing; or (b) by national or international overnight courier service, the next business day; or (c) may be sent via email and will be deemed given on the day such notice is delivered. Evoque will not credit charges where Customer fails to comply with such terms when disconnecting, terminating or not renewing Services purchased under this Agreement.
21. **Force Majeure.** Evoque will not be liable for any failure of performance or equipment due to causes beyond its reasonable control, including but not limited to: acts of god, fire, flood, or other catastrophes, any law, order, regulation, direction, action, or request of any government entity or agency, or any civil or military authority; national emergencies, insurrections, riots, terrorist attacks or wars.
22. **Entire Agreement.** The Agreement constitutes the entire agreement between the parties with respect to the Service and supersedes all prior representations, understandings, and agreements between the parties with respect to the Services. Terms, provisions or conditions on any purchase order, acknowledgement, or other business form or writing that Customer may provide to Evoque or use in connection with the procurement of Services from Evoque will have no effect on the rights, duties or obligations of the parties hereunder, regardless of any failure of Evoque to object to such terms, provisions or conditions.
23. **Amendments.** This Agreement may only be amended in writing and signed by both parties. Evoque's Customer Guide may be amended from time to time in Evoque's sole discretion.
24. **Survival.** The provisions in Sections 5, 7, 9, 10, 11, 14, 15, and 20 shall survive any expiration or termination of the Agreement.

Attachment A
Service Level Agreement for Colocation Services

1. **Service Level Agreement and Credits.** Customer is eligible for a Service Credit based on the percentage of the total monthly colocation service charge on the affected service.

Service Level	Description	Non-Compliance	SLA & Credits
Power Availability Commitment	Evoque's commitment is to maintain availability of the power to Customer's environment in the Facility 99.999% of the time provided Customer subscribes to redundant power circuits. Customer is responsible for proper cabling and connectivity of the circuits to support a redundant configuration within the Customer Colocation Space. The SLA does not cover overloaded or misconfigured circuits or power strip installations. SLA= 99.999%	Failure of both the primary and redundant circuits	SLA= 99.999% <99.999% - 99.95% = 5% <99.95% - 99.5% = 10% <99.5% - 99.0% = 15% <99.0% = 20%
Environmental Availability Commitment	Evoque's commitment is to maintain availability to temperature and humidity to ASHRAE allowable standards 99.999% of the time. Environmental unavailability exists with (a) temperature and humidity drop below ASHRAE allowable standards and has been confirmed by Evoque across three sections within the data center and (b) Evoque has not been able to resolve the issues within 120 minutes of Customer notification.	Environmental Availability after resolution period: <99.999%	SLA = 99.999% <99.999% - 99.95% = 5% <99.95% - 99.5% = 10% <99.5% - 99.0% = 15% <99.0% = 20%
Network Cross Connect Availability	Evoque's commitment is to maintain availability of Customer's network connections (i.e., cross connects provided by Evoque) 100% of the time. Network connection unavailability exists when (a) due to a failure of Customer's network connection(s) (i.e., cross connects provided by Evoque), a particular Customer Port is unable to transmit data from the Evoque network connection(s) and (b) such failure is recorded in Evoque's trouble ticket system. The SLA does not apply unless Customer subscribes to redundant cross connects. Downtime due to routing failover to the redundant resources is excluded from this SLA.	Redundant Network Cross Connect Availability: <100%	SLA= 100% <100 % = 20%

2. **Remedies.** In the event Evoque fails to provide a Service at the level required by the Service Level Agreement ("SLA Non-Compliance"), Customer's only remedies are the credits set forth in this Service Level Agreement (the "**Remedies**"). The Remedies provided under the SLA are Customer's sole and exclusive remedy for any SLA Non-Compliance and Customer hereby acknowledge and agree that, Customer shall not have any other claims, right or remedies and Evoque shall have no other liabilities or obligations to Customer in connection therewith.
3. **Customer Must Request Remedies.** In order to receive any of the Remedies, Customer must notify Evoque via email to support@evoquedcs.com within seven (7) days from the time Customer becomes eligible to receive such Remedies. Failure to comply with this requirement will forfeit Customer's right to receive such Remedies.
4. **Remedies Shall Not Be Cumulative; Maximum Remedy.** The Remedies set forth herein are not cumulative. The aggregate maximum Remedy for any and all failures to provide Services at the level required that occur in a single calendar month shall not exceed one calendar month of service credit.
5. **Service Credit Exceptions.** Service credits shall not be available to Customer in cases where the Service is unavailable as a result of (a) the acts or omissions of Customer or its employees, contractors, agents or end-users; (b) the failure, malfunction, or limitation of throughput of equipment, network, software, applications or systems not owned or directly controlled by Evoque; (c) Force Majeure events; (d) scheduled maintenance with prior notice posted at mysupport.Evoque.com which URL is subject to change upon prior notice; (e) urgent maintenance with notice provided as soon as is commercially practicable under the circumstances; (f) Customer has undisputed balances more than thirty (30) days past due (credit will be issued once Customer is current on all payments); or (g) Customer is in breach or default under this Agreement at the time of the event giving rise to credits.
6. **Subject to Service Order.** The Service Level Agreement does not apply to any Services that expressly exclude this Service Level Agreement as may be stated in the Service Order for such Services.

**Attachment B-1
Evoque Connectivity Suite**

Evoque Connectivity Suite. Evoque will provide a suite of network services including, but not limited to, Internet Connectivity Services, Point-to-Point Services and Cloud Services (collectively the "Evoque Connectivity Suite") in accordance with this Agreement.

1. **Charges and Invoicing.** Customer shall be billed for its network bandwidth usage as follows:
 - a. **Minimum Committed Data Amount.** Customer Shall be billed for its Minimum Committed Data as specified in the applicable Service Order.
 - b. **Burst Overage.** In addition to the fixed monthly charge for its Minimum Committed Data Amount, Customer shall be billed for its bandwidth usage above the Minimum Committed Data Amount in an amount equal to a "Burst Overage Fee". The Burst Overage Fee shall be calculated by taking the price per Megabit ("Mb") set within the fixed monthly amount, adding \$.75 and multiplying the sum by the number of Mbs that exceed Minimum Committed Data Amount.
 - i. *For example,* should the customer's usage equal 51Mbs and their Committed Base Rate of 50 MBs is \$175, then the Burst Overage Fee will be:
 50 Mbs at the Committed Base Rate of \$175.00 = \$3.50 per Mb (\$175.00 divided by 50)
 1 Mb at the Committed Base Rate of \$3.50 per Mb + \$0.75 per 1Mb = \$4.25 per 1Mb for Burst Overage Fee
 Multiply the \$4.25 per 1Mb by the overage which in this case is 1Mb for a total Burst Overage Fee of \$4.25
 Committed Base Rate \$175.00 + \$4.25 = \$179.25 new invoiced total.
 - ii. The Burst Overage Fee shall be invoiced monthly in arrears.
 - c. **Bandwidth Measurement.** Customer's bandwidth usage shall be measured in five-minute intervals for each point of connection between Customer and Evoque in two categories: incoming and outgoing. At the end of each billing cycle, data samples for the incoming and outgoing will be separated and sorted from highest to lowest and the highest 5% of the measurements in each category will be discarded. The highest remaining single bandwidth measurement for the incoming and the outgoing category shall constitute the bandwidth usage level for the relevant billing cycle.
2. **Acceptable Use Policy of Evoque Connectivity Suite.** Customer must adhere to the Acceptable Use Policy for the Evoque Connectivity Suite set forth in the Customer Guide.
3. **No Warranty on Network Traffic.** Except as otherwise set forth in this Agreement, Evoque makes no guarantee regarding, and assumes no liability for, the security and integrity of data or information a user transmits via the Evoque Connectivity Suite or over the Internet, including data information transmitted via any server designated as "secure." Evoque does not monitor, exercise control over, or accept responsibility for the content of information passing through its network. All persons and organizations, including Evoque customers, who transmit information over or who publish information that is made accessible through Evoque's network are responsible for the content of the information and for complying with the laws applicable to its publication. Evoque will cooperate with legal authorities in the investigation of suspected criminal or civil violations.
4. **Indemnification.** As it relates to Customer's use of the Evoque Connectivity Suite, Customer will defend, indemnify and hold harmless Evoque from and against any loss, debt, liability, damage, obligation, claim, demand, judgment or settlement of any nature or kind, liquidated or un-liquidated, (i) of any of Customer's end users in connection with their use of the Evoque Connectivity Suite, or (ii) arising from or related to Customer's failure to obtain any required approval, consent or authorization or (iii) Customer's violation of any applicable law, rule or regulation or (iv) Customer's use of Service in contravention of this Agreement. Indemnification under this Section will include reasonable attorneys' fees and all reasonable costs and expenses incurred that arise out of, or result from or are based upon any complaint, claim, action, proceeding or suit subject to such indemnification.
5. **Network Service Level Agreement and Credits.** Customer is eligible for a Service Credit based on the percentage of the total monthly Evoque Connectivity Suite charge on the affected service under this Network Service Level Agreement ("NSLA"). "Non-Compliance" means the period of time when there is network service disruption between two Customer end points due to the non-availability of the Evoque Connectivity Suite.

Network Service Level	Description	Non-Compliance	Credits
Network Availability	Network availability is the amount of uptime in a network system over a specific time interval. Uptime refers to the amount of time a network is fully operational. Time is added up for a month to then apply to the Non-Compliance and Credit table.	27 sec to 4 min	2%
		>4 min to 44 Min	5%
		>44 min to 438 min	10%
		>438 min to 877 min	15%
		>877 min	20%

7. **Remedies.** In the event Evoque fails to provide the Evoque Connectivity Suite at the level required by the NSLA ("NSLA Non-Compliance"), Customer's only remedies are the credits set forth in this NSLA (the "Remedies"). The Remedies provided under the NSLA are Customer's sole and exclusive remedy for any NSLA Non-Compliance and Customer hereby acknowledge and agree that, Customer shall not have any other claims, right or remedies and Evoque shall have no other liabilities or obligations to Customer in connection therewith.
8. **Customer Must Request Remedies.** In order to receive any of the Remedies, Customer must notify Evoque via email to support@evoquedcs.com within seven (7) days from the time Customer becomes eligible to receive such Remedies. Failure to comply with this requirement will forfeit Customer's right to receive such Remedies.

9. **Remedies Shall Not Be Cumulative; Maximum Remedy.** The Remedies set forth herein are not cumulative. The aggregate maximum Remedy for any and all failures to provide Services at the level required that occur in a single calendar month shall not exceed 50% of one calendar month of service credit and no more than 4 months per year.
10. **Service Credit Exceptions.** Service credits shall not be available to Customer in cases where the Service is unavailable as a result of (a) the acts or omissions of Customer or its employees, contractors, agents or end-users; (b) the failure, malfunction, or limitation of throughput of equipment, network, software, applications or systems not owned or directly controlled by Evoque; (c) Force Majeure events; (d) scheduled maintenance with prior notice posted at mysupport.Evoque.com which URL is subject to change upon prior notice; (e) urgent maintenance with notice provided as soon as is commercially practicable under the circumstances; (f) Customer has undisputed balances more than thirty (30) days past due (credit will be issued once Customer is current on all payments); or (g) Customer is in breach or default under this Agreement at the time of the event giving rise to credits.
11. **Subject to Service Order.** The NSLA does not apply to any Services that expressly exclude this Service Level Agreement as may be stated in the Service Order for such Services.