

# Terms and Conditions

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Last Updated: August 22, 2026

## AccessGrid, Inc. Master Services Agreement

This Master Services Agreement (this "**MSA**") is entered into by and between AccessGrid, Inc., a Delaware corporation with offices at 120 NE 27th St, Ste 700, Miami, FL 33137 ("**AccessGrid**"), and you ("**you**" "**your**" or "**Customer**") and governs your use of the Service (as defined below). By accessing and/or using the Service, or by clicking a button or checking a box marked "I Agree" (or something similar), you signify that you have read, understood, and agree to be bound by this Agreement. AccessGrid and Customer may be individually referred to herein as a "**Party**" or collectively as "**Parties**." **Please read this MSA carefully to ensure you understand each provision. These Terms contain a jury trial waiver provision and a mandatory arbitration provision.**

## 1. Definitions

"**Agreement**" means this MSA together with any SLA, and all and any Exhibits or other attachments, terms or conditions which reference, and or are made pursuant to it, and incorporated by reference.

"**API**" means the application programming interface for sending data to or receiving data from the Service and any libraries made available to Customer for accessing the foregoing.

"**Authorized Purpose**" means data integration purposes as described in the Documentation that are conducted by Customer in compliance with the terms of the Agreement.

"**Authorized Users**" means Customer's employee or contractor personnel authorized by Customer to access and use the Service in connection with the Authorized Purpose.

"**Customer Data**" means any data pertaining to Customer or its End Users that is collected by AccessGrid through the Service (excluding Usage Data) or submitted by Customer or End Users to the Service via the API.

"**Documentation**" means any user instructions, manuals, on-line help files, or other materials that are provided by AccessGrid in connection with the API or Service.

"**End Users**" means the individual end users of Customer's web-based platforms or mobile applications, and their end users, to the extent applicable, whose attributes are to be provided to the Service for purposes of using the API or the Service.

"**Intellectual Property Right**" means copyrights (including the exclusive right to use, reproduce, modify, distribute, publicly display and publicly perform the copyrighted work), trademark rights (including trade names, trademarks, service marks, and trade dress), patent rights (including the exclusive right to make, use and sell), trade secrets, moral rights, right of publicity, authors' rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the law of the United States or any other state, country or jurisdiction.

"**Liability**" means any liability, whether under contract, tort (including negligence), or otherwise, regardless of whether foreseeable or contemplated by the Parties.

"**AccessGrid Technology**" means, collectively, the Service, API, Documentation, and any other services to be provided pursuant to the Agreement.

"**Service**" means AccessGrid's proprietary technology, provision of the API framework, and related services provided hereunder. AccessGrid may provide the Service or any aspect of the Service through its subcontractors, provided AccessGrid shall (a) remain directly responsible to Customer for the acts or omissions of each subcontractor and (b)

ensure that each subcontractor is bound in writing to terms equally as protective of Customer as the terms and conditions of the Agreement.

**"SLA"** means the service level agreement set forth in Exhibit A hereto and made part of the Agreement.

**"Taxes"** means any duties, customs fees, or taxes (other than taxes based on AccessGrid's income, revenues, gross receipts, personnel, real or personal property, or other assets), including indirect taxes such as goods and services tax and value-added tax, associated with the purchase of the Service, and any related penalties or interest.

**"Third-Party Legal Proceeding"** means any formal legal proceeding filed by an unaffiliated third party before a court or government tribunal (including any appellate proceeding).

## **2. Services; API**

### **2.1 License**

Subject to Customer's ongoing compliance with the terms of the Agreement, AccessGrid hereby grants Customer a non-exclusive, non-transferable, non-sublicensable, internal use only license, during the Term (as defined below) to use the API to submit to and obtain information from the Service in accordance with any associated Documentation for the Authorized Purpose.

### **2.2 SLA; Support**

Subject to the terms of this Agreement, AccessGrid will use commercially reasonable efforts to provide Customer the Service in accordance with the SLA. Subject to the terms hereof, AccessGrid will provide Customer with reasonable technical support services in accordance with the terms set forth in Exhibit B.

### **2.3 License Restrictions**

Except as the Agreement expressly permits, Customer shall not, and shall not permit any third party to: (a) copy the Service, or any part of the Service, in whole or in part; (b) modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any portion of the Service; (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Service to any third party; (d) bypass or breach any security device or protection used for or contained in the Service or Documentation or attempt to decompile, disassemble, or otherwise reverse engineer any portion of the Service; (e) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights (as defined below), proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Service or Documentation; (f) use the Service or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction, including by searching or analyzing any software source code or related metadata that Customer does not have authorization to search or analyze as contemplated under the Agreement; (g) use the Service or Documentation for purposes of developing, using, or providing a product or service that competes with, or provides similar functionality to, the Service; (h) use the Service or Documentation in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Service could lead to personal injury or severe physical or property damage; or (i) use the Service or Documentation in any manner or for any purpose or application not expressly permitted by the Agreement or contemplated by the Documentation.

### **2.4 Compliance**

Customer shall: (a) ensure that its Authorized Users' and its End Users' use of the Service complies with the Agreement, (b) prevent and terminate any unauthorized access to or use of the Service, and (c) promptly notify AccessGrid of any unauthorized access to or use of the Service of which it becomes aware.

## 2.5 Consents and Disclosures

Customer shall be solely responsible for: (a) providing any and all legally required notices and disclosures to End Users; (b) offering all legally required choices to End Users to enable them to exercise any granted privacy rights, and (c) for obtaining all informed consents from End Users required, to permit: (i) Customer to use the AccessGrid Technology and receive the Service, including as described in Section 5 of this MSA; (ii) Customer's provision of Customer Data to AccessGrid under the Agreement; and (iii) AccessGrid's use, accessing, storing, and processing of the Customer Data in accordance with the Agreement, including its use of automated decision making.

## 2.6 Open Source and Other Third-Party Components

The Service may contain or be provided with certain third-party software modules and components that are subject to separate or additional terms and conditions, including "open source" software modules and components ("**Third-Party Components**"). In addition, the Service may contain or be provided with certain other software modules and components offered by AccessGrid under the terms and conditions of "open source" software licenses ("**AccessGrid Open Source Components**"). AccessGrid will provide Customer all notices and materials required for AccessGrid's compliance with the terms and conditions applicable to the Third-Party Components and AccessGrid Open Source Components in the Documentation, within the Service, or through another method chosen by AccessGrid in its reasonable discretion. With respect to any Third-Party Components and AccessGrid Open Source Components made available under the terms and conditions of "open source" software licenses ("**Open Source Components**"), all use of such Open Source Components by Customer is governed by, and subject to, the terms and conditions of the open source software license applicable to the Open Source Component and not the Agreement. With respect to any Third-Party Components that are not Open Source Components, to the extent any separate or additional terms and conditions apply, AccessGrid will provide such terms and conditions to Customer and Customer's use of such Third-Party Components is subject to such terms and conditions.

## 2.7 Usage Data

AccessGrid may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Customer's computers, systems and software, that AccessGrid may gather periodically ("**Usage Data**"). For clarity, Usage Data does not include personally identifiable information or specific Customer Data. Customer agrees that all Usage Data is owned solely and exclusively by AccessGrid, and AccessGrid accordingly may use such Usage Data for any lawful purpose, including to: (a) provide and maintain the Service for Customer; (b) develop and improve the AccessGrid Technology; (c) monitor Customer's usage of the AccessGrid Technology; (d) for research and analytics and for AccessGrid's other business purposes; and (e) share analytics and other derived Usage Data with third parties solely in deidentified or aggregated form. The Service may contain technological measures designed to prevent unauthorized or illegal use of the Service. Customer acknowledges and agrees that AccessGrid may use these and other lawful measures to verify Customer's compliance with the terms of the Agreement and enforce AccessGrid's rights, including all Intellectual Property Rights, in and to the Service.

# 3. Customer Responsibilities

## 3.1 User Account

Customer's account on the Service ("**User Account**") gives Customer and Authorized Users access to certain services and functionalities that AccessGrid may, in its sole discretion, establish and maintain as part of the Service from time to time. Customer acknowledges that, notwithstanding anything to the contrary herein, Customer does not own its User Account, nor does Customer possess any rights to data stored by or on behalf of AccessGrid on the servers running the Service.

## 3.2 Connecting Via Third-Party Services

By connecting to the Service via a third-party service, Customer gives AccessGrid permission to access and use Customer's information from that service, as permitted by that service, and to store Customer's log-in credentials and/or access tokens for that service.

### 3.3 Account Security

Customer may never use another user's User Account without such user's permission. When creating a User Account, Customer must provide accurate and complete information, and must keep this information up to date. Customer is solely responsible for the activity that occurs on Customer's User Account, Customer will keep its User Account password(s) and/or any other authentication credentials secure, and it will not share Customer's password(s) and/or any other authentication credentials with anyone else. AccessGrid encourages use of "strong" passwords (passwords that use a combination of upper- and lower-case letters, numbers, and symbols) to protect User Accounts. AccessGrid will not be liable for, and expressly disclaims liability for, any losses caused by any unauthorized use of Customer's User Account and/or any changes to Customer's User Account, including changes made by any Authorized Users with administrator-level access to Customer's User Account. Customer will notify AccessGrid immediately of any breach of security or unauthorized use of Customer's User Account.

### 3.4 Equipment

Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Service, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "**Equipment**"). Customer shall also be responsible for maintaining the security of the Equipment, User Accounts, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

### 3.5 Beta Products

Occasionally, AccessGrid looks for beta testers to help AccessGrid test its new features. These features will be identified as "beta" or "pre-release," or words or phrases with similar meanings (each, a "**Beta Product**"). Beta Products are made available on an "as is," and "as available" basis and, to the extent permitted under applicable law, without any warranties or contractual commitments AccessGrid makes for other aspects of the AccessGrid Technology.

## 4. Fees; Payment

### 4.1 Fees

Customer will pay AccessGrid all fees of the type and amount set forth on the Customer's account via the Service ("**Fees**"). Customer will pay for any excess usage beyond any usage limitations or metrics on which Fees are based on AccessGrid's then current standard rates for such usage as specified in your User Account. AccessGrid reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or then-current Renewal Term (as applicable), upon thirty (30) days prior notice to Customer (which may be sent by email). Unless otherwise required by law, (a) all Fees are non-cancellable, non-refundable, and non-recoupable; and (b) all invoices for Fees are due and payable in United States Dollars.

### 4.2 Payment

To use the Service, you must provide AccessGrid with at least one (1) current, valid payment card that is accepted by AccessGrid and its third party payment processor (each such card, a "**Payment Method**"). By providing a Payment Method, you authorize each of AccessGrid and its third-party payment processor ("**Payment Processor**") to charge that Payment Method the applicable Fees and taxes, including, if applicable, on a recurring basis until you cancel your subscription to the Service in accordance with this Agreement. Fees and taxes will be charged to your Payment Method on the specific payment date indicated in your User Account. In some cases, your payment date may change, for example, if your Payment Method has not successfully settled, if you changed your subscription plan, or if your subscription began on a date not contained in a subsequent month. The length of your billing cycle will depend on the type of subscription in which you are enrolled, if applicable. Fees are fully earned upon payment. AccessGrid may authorize your Payment Method in anticipation of Service-related charges through various methods, including authorizing it up to one (1) month of service as soon as you register for the Service. AccessGrid or Payment Processor will attempt to verify your Payment Method(s), and may do so by processing an authorization hold, which is standard practice. To the extent Payment

Processor processes payments made by you, you will be subject to terms and conditions governing the use of Payment Processor's service. Please review such terms and conditions as well as Payment Processor's privacy notice (each of which is available on Payment Processor's website). You acknowledge and understand that Payment Processor may collect and retain third-party fees whenever you pay Fees. You understand that BY SIGNING UP FOR THE SERVICE, unless and until you notify ACCESSGRID of your intent to cancel, your subscription TO THE SERVICE and the corresponding FEES will automatically renew, YOU AUTHORIZE ACCESSGRID AND PAYMENT PROCESSOR TO CHARGE YOU, AT THE BEGINNING OF THE INITIAL TERM AND EACH RENEWAL TERM, THE FEES FOR THE APPLICABLE SUBSCRIPTION, ANY APPLICABLE TAXES, AND ANY OTHER CHARGES YOU MAY INCUR IN CONNECTION WITH SUCH SUBSCRIPTION.

### 4.3 Representations

You represent and warrant that: (a) the account, order, and Payment Method information you supply to AccessGrid and/or to Payment Processor, as applicable, is true, accurate, correct, and complete; (b) you are duly authorized to use the Payment Method(s); (c) you will pay any and all charges incurred by users of your Payment Method in connection with the Service, including any applicable Fees (at the prices in effect when such charges are incurred) and Taxes; and (d) charges incurred by you will be honored by your Payment Method company. ACCESSGRID DISCLAIMS any and all liability with respect to, and you understand and acknowledge that ACCESSGRID IS NOT responsible for: (X) any security or privacy breaches related to your credit card or other Payment Method, (Y) any fees that may be charged to you by your bank in connection with the collection of Fees, and/or (Z) any unauthorized use of your credit card, debit card, or other Payment Method by a third party.

### 4.4 Late Payment

If, due to an inaccurate or faulty payment method provided by Customer, Customer's payment is overdue, then AccessGrid may (x) charge interest from the due date at the lesser of 1.5% per month (or the highest rate allowed by law, if less) until paid in full, and (y) suspend the Service if Customer's payment is overdue for more than thirty (30) days, with advance notice to Customer.

### 4.5 Taxes

Customer is responsible for all Taxes, arising out of the Agreement or the transactions contemplated by the Agreement. AccessGrid will itemize any invoiced Taxes, and Customer will pay invoiced Taxes without any deduction or withholding. The Parties shall reasonably cooperate to more accurately determine each Party's tax liability and to minimize such liability to the extent legally permissible.

## 5. Proprietary Rights

### 5.1 Intellectual Property Rights

Customer acknowledges that AccessGrid owns and retains all rights, title, and interest, including all Intellectual Property Rights, in and to the AccessGrid Technology, including all technology, software, algorithms, user interfaces, trade secrets, improvements, techniques, designs, inventions, works of authorship, and other tangible and intangible material and information pertaining thereto or included therein, and nothing in the Agreement shall preclude or restrict AccessGrid from using or exploiting any concepts, ideas, techniques or know-how of or related to the AccessGrid Technology or otherwise arising in connection with AccessGrid's performance under the Agreement. Other than as expressly set forth in the Agreement, no licenses or other rights in or to the AccessGrid Technology are granted to Customer and all such rights are hereby expressly reserved.

### 5.2 Feedback

At its option, Customer may provide feedback, requests, ideas or other suggestions about the Service or the AccessGrid Technology (collectively, "**Feedback**") to AccessGrid, and agrees that AccessGrid may also use and exploit the Feedback in any manner on a worldwide, irrevocable, perpetual, royalty-free basis, excluding any Feedback marked by Customer as Confidential Information (as defined below).

### 5.3 Customer Data

As between AccessGrid and Customer, Customer owns all right, title and interest in and to any and all of its Customer Data. Customer hereby grants to AccessGrid during the Term (as defined below) a fully paid-up, royalty-free, worldwide, nonexclusive right and license, to use the Customer Data (a) as necessary to perform its obligations under the Agreement (including providing the features and functionality of the Service to Customer) (b) enhance the Service and for other development, diagnostic and corrective purposes in connection with the Service and other AccessGrid offerings, (c) disclose such data solely in aggregate or other de-identified form in connection with its business and (d) for such other purposes as expressly set forth hereunder. Customer shall be responsible for all Customer Data. Customer represents and agrees that Customer is solely responsible for (x) providing notices and obtaining consents as legally required from its Authorized Users for the collection, use, processing and transfer of Customer Data in connection with the Service; and (y) ensuring compliance with all laws in all jurisdictions that may apply to Customer Data provided hereunder, including all applicable international, federal, state, provincial and local laws, rules, and regulations relating to data privacy and security. Unless otherwise agreed to in writing, Customer may not submit any Customer Data that includes a social security number, passport number, driver's license number, or similar identifier, credit card or debit card number, or any other information which may be subject to specific data privacy and security laws including the Gramm-Leach-Bliley Act (GLBA), the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH), the Family Educational Rights and Privacy Act of 1974 (FERPA), the Children's Online Privacy Protection Act (COPPA), or the GDPR or any other data which is considered to be sensitive or which could give rise to notification obligations under data breach notification laws. AccessGrid does not make any representations as to the adequacy of the Service to process the Customer Data or to satisfy any legal or compliance requirements which may apply to the Customer Data, other than as described herein.

## 6. Term and Termination

### 6.1 Term

The Agreement will start on the date that you commence use of the Service and will continue for one year ("**Initial Term**") and shall automatically renew for subsequent one year periods (each a "**Renewal Term**" and together with the Initial Term the "**Term**") unless either Party (a) elects not to renew the Service by providing written notice at least 60 days prior to the next Renewal Term or (b) terminates in accordance with this Section 6.

### 6.2 Termination

Either Party may terminate the Agreement by written notice: (a) if the other Party is in material breach of the Agreement, where such material breach is not cured within thirty (30) days after written notice of such breach; or (b) if: (i) the other Party ceases to carry on its business; (ii) a receiver or similar officer is appointed for the other Party's business, property, affairs or revenues and such proceedings continue for forty-five (45) days; (iii) the other Party becomes insolvent, admits in writing its inability to pay debts generally as they come due, is adjudicated bankrupt, or enters composition proceedings, makes an assignment for the benefit of its creditors or another arrangement of similar import; (iv) proceedings under bankruptcy or insolvency laws are commenced by or against the other Party and are not dismissed within forty-five (45) days, or (v) the purpose of the Agreement are frustrated by operation of law.

### 6.3 Effect of Termination

Upon the effective date of the expiration or termination of the Agreement for any reason: (a) Customer's and its End Users' access to the Service, and the licenses granted to Customer hereunder will automatically terminate; (b) all outstanding payment obligations of Customer will become due and payable immediately; and (c) each Party shall immediately return, or at the other Party's request destroy and certify the destruction of any tangible embodiments of the other Party's Confidential Information, including, as applicable, all copies of API. The following provisions will survive the expiration or termination of the Agreement for any reason: Sections 1, 2.3, 2.4, 2.5, 2.7, 4, 5, 6.3, 7 through 10, and 12. Customer will pay in full for the Service up to and including the last day on which the Service are provided.

## 7. Confidentiality

## 7.1 Definition

**"Confidential Information"** means: (a) any information disclosed, directly or indirectly, by or on behalf of one Party (**"Disclosing Party"**) to the other Party (**"Receiving Party"**) pursuant to the Agreement that is designated as "confidential," or in some other manner to indicate its confidential nature; and (b) any information that otherwise should reasonably be expected to be treated in a confidential manner based on the circumstances of its disclosure or the nature of the information itself. Without limiting the foregoing, the AccessGrid Technology, the functionality and performance of the AccessGrid Technology, including any metrics pertaining thereto, are the Confidential Information of AccessGrid, the Customer Data is the Confidential Information of Customer, and the terms (but not the existence) of the Agreement will be kept confidential, respectively, as each Party's Confidential Information. However, Confidential Information does not include any information that: (w) is or becomes generally known and available to the public through no act of the Receiving Party; (x) was already in the Receiving Party's possession without a duty of confidentiality owed to the Disclosing Party at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's contemporaneous records; (y) is lawfully obtained by the Receiving Party from a third party who has the express right to make such disclosure; or (z) is independently developed by the Receiving Party without breach of an obligation owed to the Disclosing Party.

## 7.2 Use; Maintenance

Neither Party shall use the Confidential Information of the other Party for any purpose except to exercise its rights and perform its obligations under the Agreement. Neither Party shall disclose, or permit to be disclosed, either directly or indirectly, any Confidential Information of the other Party, except: (a) to its advisors, or prospective investors or purchasers, in each case subject to written obligations of confidentiality, or (b) where the Receiving Party becomes legally compelled to disclose Confidential Information, notwithstanding the Receiving Party's having given the Disclosing Party prior notice of such legally compelled disclosure and a reasonable opportunity to seek a protective order or other confidential treatment for such Confidential Information (if permitted by applicable law). Each Party will take reasonable measures and care to protect the secrecy of and avoid disclosure and unauthorized use of the other Party's Confidential Information and will take at least those measures taken to protect its own most highly confidential information.

# 8. Indemnification

## 8.1 By AccessGrid

AccessGrid will defend and indemnify Customer against any Liabilities in any Third-Party Legal Proceeding to the extent arising from allegations that Customer's use, as authorized in the Agreement, of the Service during the applicable Term constitutes an infringement of the U.S. Intellectual Property Rights of any third party. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by AccessGrid, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by AccessGrid, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Service are held by a court of competent jurisdiction to be or are believed by AccessGrid to be infringing, AccessGrid may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.

## 8.2 By Customer

Customer will defend, indemnify and hold harmless AccessGrid against any Liabilities in any Third-Party Legal Proceeding to the extent arising from: (a) allegations that the use by or on behalf of AccessGrid of the Customer Data in accordance with the Agreement violates a third party's rights or any laws; (b) arising out of any unauthorized access or use of the Service by Customer or any Authorized Users or any third party utilizing any access credentials of Customer or any Authorized Users; (c) the use of the Service in violation or in connection with a violation of this Agreement or applicable law; (d) arising from Customer's negligence or willful misconduct, (e) arising out of modifications to any AccessGrid

Technology not made by AccessGrid, or (f) arising out of Customer's or Authorized Users' use of or reliance on information provided via the Service, including any allegations that any use of information provided via the Service by Customer or Authorized Users infringes or misappropriates any third party's rights or violates any laws.

### **8.3 Exclusions**

Section 8.1 and Section 8.2 will not apply to the extent the underlying allegation arises from: (a) the indemnified Party's breach of the Agreement or (b) for any use of the Service in combination (as applicable) with materials not provided by AccessGrid under the Agreement, unless the combination is required by the Agreement.

### **8.4 Conditions**

Any indemnified Party must promptly notify the indemnifying Party in writing of any allegation(s) that preceded the Third-Party Legal Proceeding and cooperate reasonably with the indemnifying Party to resolve the allegation(s) and Third-Party Legal Proceeding. If breach of this Section 8.4 prejudices the defense of the Third-Party Legal Proceeding, the indemnifying Party's obligations under Section 8.1 or Section 8.2 (as applicable) will be reduced in proportion to the prejudice.

### **8.5 Remedies**

Notwithstanding anything herein to the contrary, if any intellectual property infringement claim is brought or threatened against Customer, or if AccessGrid reasonably believes that the Service may infringe a third party's Intellectual Property Rights, then AccessGrid may, at its sole option and expense: (a) procure for Customer the right to continue to use the Service; (b) modify the Service, as applicable, to make it non-infringing without materially reducing their functionality; (c) replace the affected aspect of the Service with non-infringing technology having substantially similar capabilities; or (d) if AccessGrid determines, in its sole discretion, that none of the foregoing remedies are commercially practicable, then it may choose to suspend or terminate the impacted Service or the Agreement as a whole and refund Customer, on a pro-rated basis, any pre-paid Fees for the corresponding unused portion of the Term.

## **9. Warranties; Disclaimer**

### **9.1 AccessGrid Representations and Warranties**

AccessGrid represents, warrants, and covenants to Customer that: (a) AccessGrid has, and throughout the Term and any additional periods during which AccessGrid does or is required to perform the Service will have, the unconditional and irrevocable right, power, and authority, including all permits and licenses required, to provide the Service and grant and perform all rights and licenses granted or required to be granted by it under the Agreement; (b) neither AccessGrid's grant of the rights or licenses hereunder nor its performance of the Service will violate any applicable law, including any applicable law relating to data privacy, or data security; and (c) AccessGrid will use commercially reasonable efforts to ensure the Service to operate in material conformance with its applicable Documentation. The Service may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by AccessGrid or by third-party providers, or because of other causes beyond AccessGrid reasonable control, but AccessGrid shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

### **9.2 Customer Representations and Warranties**

Consistent with Customer's obligations in the Agreement, Customer represents, warrants and covenants that (a) it has and will have all rights necessary and full legal authority to provide the authorizations, rights, and licenses provided to AccessGrid under the Agreement, including (i) the right to input, import, upload, submit or otherwise provide AccessGrid with access to Customer Data via the Service or API; (ii) the authority to grant the rights in and to Customer Data granted to AccessGrid in the Agreement; (b) Customer and its Authorized Users will only use the Service or API for legally permissible purposes; (c) it will at all times comply with applicable law and any other law or regulation that is applicable to Customer and (d) Customer will use the Service only in compliance with the Documentation and AccessGrid's standard published policies then in effect. Customer agrees, as between the Parties, that Customer bears all responsibility and liability for the accuracy, completeness, possession, and use of Customer Data in connection with the Agreement.

### 9.3 Disclaimer

EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9.1, THE ACCESSGRID TECHNOLOGY IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. ACCESSGRID HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. ACCESSGRID SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. ACCESSGRID MAKES NO WARRANTY OF ANY KIND THAT THE ACCESSGRID TECHNOLOGY, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

## 10. Limitation of Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, IN NO EVENT WILL ACCESSGRID BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THE AGREEMENT, HOWEVER CAUSED, AND BASED ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF ACCESSGRID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESSGRID'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO THE AGREEMENT (EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS) WILL NOT EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER HEREUNDER DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY.

## 11. iOS App

This Section 11 (iOS App) applies to any app Customer acquires from the Services or products available through Apple App Store (such App, "**iOS App**"). Customer and AccessGrid understand and acknowledge that this Agreement is solely between Customer and AccessGrid, not Apple, Inc. ("**Apple**"), and that Apple has no responsibility for the iOS App or content thereof. Customer's access to and use of the Services or any iOS App must comply with the usage rules set forth in Apple's then-current Apple Media Services Terms and Conditions and with the applicable Volume Content Terms and any other Apple terms provided to Customer by AccessGrid. Customer further acknowledges and agrees to the Participating Provider Pass-Through Terms for the Apple Access Platform. Customer acknowledges that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iOS App. In the event of any failure of the iOS App to conform to any applicable warranty, Customer may notify Apple, and Apple will refund the purchase price (if any) for the iOS App to Customer; to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iOS App, and any other claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any warranty will be governed solely by this Agreement and any law applicable to AccessGrid as provider of the iOS App. Customer and AccessGrid acknowledge that Apple is not responsible for addressing any claims of Customer or any third party relating to the iOS App or Customer's possession and/or use of the iOS App, including, but not limited to: (a) product liability claims; (b) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation. Customer acknowledges that, in the event of any third-party claim that the iOS App, or Customer's possession and use of that iOS App, infringes that third party's intellectual property rights, AccessGrid, not Apple, will be solely responsible for the investigation, defense, settlement, and discharge of any such intellectual property infringement claim, to the extent required by this Agreement. Customer and AccessGrid acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries of this Agreement as relates to Customer's license of the iOS App, and that, upon Customer's acceptance of the terms and conditions of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as relates to Customer's license of the iOS App against Customer as a third-party beneficiary thereof.

## 12. General Provisions

## 12.1 Notices

Any required notice shall be given in writing by customary means with receipt confirmed at the address of each Party set forth above, or to such other address as either Party may substitute by written notice to the other, or by email. Notices will be deemed to have been given at the time of actual delivery in person, one (1) day after delivery to an overnight courier service, three (3) days after deposit in certified mail, or upon sending of an email.

## 12.2 Email

The Parties may use emails to satisfy written approval and consent requirements under the Agreement.

## 12.3 Assignment

This Agreement is not assignable, transferable or sublicensable by Customer except with AccessGrid's prior written consent. AccessGrid may transfer and assign any of its rights and obligations under this Agreement without consent.

## 12.4 Force Majeure

Except for the obligation to pay Fees, neither Party will be liable for any failure or delay in its performance under the Agreement due to any cause beyond its reasonable control, including an act of war, terrorism, act of God, earthquake, flood, pandemic, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure or degradation of the Internet (a "**Force Majeure Event**"). The delayed Party shall give the other Party notice of such cause and shall use its commercially reasonable efforts to correct such failure or delay in performance.

## 12.5 Governing Law

The Agreement shall be governed by and construed under the laws of the State of New York without reference to conflict of laws principles. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. Subject first to Section 12.8, if a lawsuit or court proceeding is permitted under the Agreement, the Parties will be subject to the exclusive jurisdiction of the state and federal courts located in New York, New York, and the Parties hereby agree and consent to the exclusive jurisdiction and venue of such courts.

## 12.6 Publicity

Customer may not use the name, logo, or other trademarks of AccessGrid for any purpose without the AccessGrid's prior written approval.

## 12.7 United States Government Rights

Further, Customer may not remove or export from the United States or allow the export or re-export of the Service, API or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the API and Documentation are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

## 12.8 Arbitration

The Parties agree to resolve all disputes arising under or in connection with the Agreement through binding arbitration. A Party who intends to seek arbitration must first send a written notice of the dispute to the other Party. The Parties will use good faith efforts to resolve the dispute directly, but if the Parties do not reach an agreement to do so within thirty (30) days after the notice is received, either Party may commence an arbitration proceeding. The arbitration will be conducted in accordance with the applicable rules of the American Arbitration Association ("**AAA Rules**"). The arbitration will be conducted in English in New York, New York, USA. If the Parties do not agree on an arbitrator, the arbitrator will be

selected in accordance with the applicable rules of the AAA for the appointment of an arbitrator. The selection of an arbitrator under the rules of the AAA will be final and binding on the Parties. The arbitrator must be independent of the Parties. The arbitrator's decision will be final and binding on both Parties, and the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The costs and expenses of the arbitration will be shared equally by both Parties; however, if the arbitrator finds that either the substance of the claim or the relief sought in arbitration is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. Notwithstanding the foregoing, this Section 12.8 will not prohibit either Party from: (a) bringing an individual action in small claims court; (b) seeking injunctive or other equitable relief in a court of competent jurisdiction; (c) pursuing an enforcement action through the applicable federal, state, or local agency if that action is available; or (d) filing suit in a court of law to address an intellectual property infringement or misappropriation claim. If this Section 12.8 is found to be unenforceable, the Parties agree that the exclusive jurisdiction and venue described in Section 12.5 will govern any action arising out of or related to the Agreement.

## 12.9 Miscellaneous

The Agreement is the sole agreement of the Parties concerning the subject matter hereof and supersedes all prior agreements and understandings with respect to said subject matter. Customer may not subcontract or delegate any rights or obligations granted to it under the Agreement to any third parties, including its consultants or contractors, without the prior written consent of AccessGrid. Customer agrees that it is solely responsible for any liability arising out of End Users' or Authorized Users access and use of the AccessGrid Technology in violation of the Agreement. No terms of any purchase order, acknowledgement, or other form provided by Customer in connection with this Agreement will modify the Agreement, regardless of any failure of AccessGrid to object to such terms. Any ambiguity in the Agreement shall be interpreted without regard to which Party drafted the Agreement or any part thereof. In the Agreement, the word "including" or any variation thereof means "including, without limitation" and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it. There are no third-party beneficiaries to the Agreement. The Agreement may only be amended by AccessGrid. When AccessGrid changes this Agreement in a material manner, AccessGrid will update the "last modified" date at the top of this page and notify you that material changes have been made to this Agreement. This Agreement apply to and govern your access to and use of the Service effective as of the start of your access to the Service, even if such access began before publication of this Agreement. Your continued use of the Service after any change to this Agreement constitutes your acceptance of the new Agreement. If you do not agree to any part of this Agreement or to any future agreement, do not access or use (or continue to access or use) the Service. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind AccessGrid in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. The Parties consent to electronic signatures and agree that the Agreement may be executed in counterparts. The headings in the Agreement are inserted for convenience and are not intended to affect the interpretation of the Agreement. The relationship between the Parties shall be that of independent contractors. AccessGrid may use subcontractors or otherwise delegate aspects of its performance under the Agreement; provided that AccessGrid shall remain responsible hereunder for any such subcontractor's performance. Waiver of any term of the Agreement or forbearance to enforce any term by either Party shall not constitute a waiver as to any subsequent breach or failure of the same term or a waiver of any other term of the Agreement. Any provision found to be unlawful, unenforceable or void shall be severed from the remainder of the Agreement and the remainder of the Agreement will continue in full force and effect without said provision. The Parties agree to comply with all applicable export control laws and regulations related to their performance of the Agreement. If you have any questions about this Agreement and/or the Service, please contact AccessGrid at [support@accessgrid.com](mailto:support@accessgrid.com).

## Exhibit A — Service Level Agreement

This Service Level Agreement governs Customer's use of the Service during the Term, and unless otherwise provided herein, is subject to the provisions of the Agreement. Unless otherwise expressly defined below, the capitalized terms used herein have the meaning assigned to them in the Agreement. If a capitalized term is not defined or has a meaning ascribed to it in the context in which it is used, the capitalized term will have the industry standard meaning.

1. Availability Service Level

During the Term, AccessGrid shall ensure 99.9% System Availability over any calendar month. Should AccessGrid fail to achieve 99.9% System Availability over a calendar month, Customer shall have the right to receive, as an exclusive remedy, the applicable Service Level Credit set forth in the table below. In addition, should AccessGrid fail to achieve 99.9% System Availability three (3) consecutive calendar months in a twelve (12) month period, Customer shall have the right to terminate the Agreement and AccessGrid shall refund to Customer any prepaid amounts for the portion of the Service not yet provided.

2. Definitions

"Available" means the time periods that the Service is accessible by Customer and Authorized Users.

"Emergency Maintenance" means maintenance may be required to address material security-related issues or technical problems that would impact the availability of the Service and resolution of which cannot wait until the next Scheduled Maintenance or cannot be remedied in the course of Scheduled Maintenance. AccessGrid shall use commercially reasonable efforts to notify Customer in advance of any Emergency Maintenance, and shall promptly notify Customer of the Emergency Maintenance and actions being taken in the course thereof once AccessGrid becomes aware of an occasion requiring Emergency Maintenance.

"Scheduled Maintenance" means maintenance performed by or on behalf of AccessGrid for which AccessGrid provides notice to Customer of such maintenance no less than 72 hours prior to the occurrence of maintenance that will involve both parties. "Scheduled Maintenance" shall not include instances of Emergency Maintenance unless otherwise agreed by the parties in writing.

"Scheduled Uptime Minutes" means the difference between (a) the total aggregate minutes in the applicable month and (b) minutes in that month in which the Service is not Available to Customer due to Scheduled Maintenance.

"System Availability" means the percentage of total time during which the Service is Available to Customer.

"Unscheduled Outage Minutes" means all those minutes in which the AccessGrid is not Available to Customer, excluding (a) minutes arising from Scheduled Maintenance and (b) minutes arising from any of the reasons specified in Section 3(c) below. Unscheduled Outage Minutes shall be counted from the time that Customer notifies AccessGrid of an outage to the time that a representative of AccessGrid notifies Customer that the outage is resolved.

3. Service Level Credits

a. **Service Levels.** AccessGrid shall undertake reasonable efforts to make the monthly Service Availability to Customer equal to or greater than 99.9% (measured in minutes) per month or Customer shall be eligible for a credit for the calendar month's portion of the Service fees in the amounts set forth below, prorated accordingly in the event of an annual or quarterly Service fees.

Availability will be expressed as a percentage calculated in accordance with the following formula:

Availability % = (Scheduled Uptime Minutes – Unscheduled Outage Minutes) ÷ Scheduled Uptime Minutes

b. **Service Level Credits.** In the event that AccessGrid fails to meet the Availability objectives set forth above, it shall issue to Customer the following "Service Level Credits":

| System Availability (Monthly) | Service Level Credit (% of monthly Charges) |
|-------------------------------|---------------------------------------------|
| 99.8% – 98%                   | 5%                                          |
| 97.99% – 96%                  | 10%                                         |
| < 95.99%                      | 25%                                         |

c. **Exceptions.** Notwithstanding anything herein to the contrary, minutes in which the Service is not Available due to any of the following reasons shall not be considered Unscheduled Outage Minutes or a failure to meet the System Availability commitment for the purposes of the calculation of System Availability:

- (i) Failure of hardware, software or other equipment provided by Customer and used in connection with the Service;
- (ii) Customer's or its Authorized Users' inability to access its internet service provider via Customer's internal network gateway, or Customer's internet service provider's inability to access the Service due to technical difficulties of Customer's internet service provider;
- (iii) Scheduled Maintenance and Upgrades;
- (iv) Customer not providing information or approval that is necessary to bring the Service back;
- (v) Mutually agreed upon unscheduled maintenance which remediates a critical priority problem;
- (vi) Failures due to a Force Majeure Event or a catastrophic outages such as AWS, or power providers or other critical third party service providers outside of services to AccessGrid;
- (vii) A suspension of access due to the reasons described in the Agreement; and
- (viii) Emergency Maintenance.

## Exhibit B — Support Terms

AccessGrid will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 9:00 am through 5:00 pm Eastern time, with the exclusion of Federal Holidays ("**Support Hours**").

Customer may initiate a helpdesk ticket during Support Hours by calling (786) 906-4810 or any time by emailing [support@accessgrid.com](mailto:support@accessgrid.com).

AccessGrid will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.

## Contact Us

If you have any questions about this Agreement, please contact us at [support@accessgrid.com](mailto:support@accessgrid.com) or (786) 906-4810.

AccessGrid, Inc.  
120 Ne 27th St, Ste 700  
Miami, FL 33137