



## **1. Privacy**

EpiGrid will use the Customer's personal information only as reasonably necessary to provide contracted services and to collect fees owed and will not disclose such information to any third party except as required by law as evidenced by an order of a court of competent jurisdiction and to collection services if needed. The Customer authorizes EpiGrid to use its name, business name and comments in marketing documents. At any time, the Customer can send a written notice to withdraw this authorization.

## **2. Description of Services**

EpiGrid agrees to provide Services to the Customer for a monthly fee. EpiGrid reserves the right to modify its network and facilities used to provide the Services for purposes including, but not limited to, accommodating evolving technology and increased network demand, and providing enhanced services. EpiGrid shall use reasonable efforts to notify the Customer in advance of any planned changes to EpiGrid's network or facilities that may adversely affect the Services.

## **3. Bandwidth Services**

EpiGrid will provide to the Customer Internet Connectivity, IP Addresses and Internet Traffic services (collectively, the Bandwidth Services), as specified in separate Service Order(s).

The Customer agrees to use Bandwidth as described in the Acceptable Use Policy and agrees that Bandwidth shall not exceed the number of gigabytes (GB) or megabits per second (Mbps) per month for the Services ordered by the Customer on the Service Order Form. If the Customer has purchased burstable Bandwidth, EpiGrid will monitor the Customer's Bandwidth usage and shall have the right to take corrective action if the Customer's Bandwidth usage exceeds the Agreed Usage. Such corrective action may include the assessment of Overage charges based on the per gigabyte or per Mbps price stated on the Service Order. The Customer is obligated to pay all Overage charges without notification of overages from EpiGrid. EpiGrid reserves the right to take corrective action if the burst Bandwidth far exceeds the Customer's committed rate and could adversely affect EpiGrid's network. If the Customer has purchased capped Bandwidth, EpiGrid reserves the right to take any action necessary to enforce the cap. If the Customer is able to exceed the cap set purposefully or by tampering or altering IP packets, the Customer will be subject to overage charges of three times (3x) the per gigabyte or per Mbps price stated on the Service Order and may have their services terminated at EpiGrid's sole discretion.

## **4. IP Addresses**

Any IP Addresses allocated to the Customer by EpiGrid must be maintained by the Customer in an efficient manner as deemed by ARIN and utilized at 80% within 30 days of assignment by EpiGrid to the Customer. Failure to comply with this Section may result in the revocation of IP Addresses by EpiGrid five days after notice is provided to the Customer. EpiGrid shall maintain and control ownership of all Internet Protocol



numbers and addresses that may be assigned to the Customer by EpiGrid, and EpiGrid reserves the right to change or remove any and all such Internet Protocol numbers and addresses, in its sole and absolute discretion. All IP requests must be fully justified.

## **5. Other Services**

Upon request by the Customer, EpiGrid may at its option, provide the Customer with technical and non-technical support, such as equipment reboots, troubleshooting, DNS and other support, in connection with the Services. The Customer agrees to pay the standard hourly rate associated with additional services, unless otherwise specified in the Service Order(s), for those other services that are outside the scope of, or not included in the Services.

## **6. Installation, removal, replacement, maintenance and access to equipment**

EpiGrid Technologies is the owner of the equipment and grants a limited license to the Customer to use this equipment. The Customer has no other rights related to the equipment. Physical access to the equipment by the Customer is strictly prohibited.

## **7. Immediate Threats**

If, in the determination of EpiGrid, acting reasonably, the Equipment, software or hosted applications used by the Customer or the activities of the Customer poses an immediate threat to the physical integrity of the Premises or the physical integrity or performance of the equipment or network of EpiGrid or any other user of the Premises, or poses an immediate threat to the safety of any person, then EpiGrid may perform such work and take such other actions that it may consider necessary without prior notice to the Customer and without liability for damage to the Equipment or Data for any interruption of the Customer's (or its Customers') businesses. As soon as practical after performing such work, EpiGrid will advise, by email, the Customer of the work performed or the action taken.

## **8. Billing**

Invoices are sent by email, upon request a copy can be sent by mail. First Month's Payment shown in the Service Order must be paid by the Customer to EpiGrid before commencement of the Term. All other invoices must be paid by the Customer within 15 days from the date of EpiGrid's invoices, which invoices will be issued 5 days before due date. The date the Services are made available to the Customer shall serve as the monthly anniversary date (For instance, if the Services were delivered on September 8, the eighth (8th) day of each month is the monthly anniversary date) for all future billings including one time fees, upgrades, additional services, cancellations, and service credits.

## **9. Payments**



The Customer will pay EpiGrid the One-Time Install Fees (Non-Recurring Costs) and Recurring Monthly Fees (Monthly Recurring Costs) specified in the Service Order(s), as well as any charges for Other Services. The Customer will also pay all applicable taxes levied against or upon the services stipulated in the Service Order (as amended by the parties from time to time) or otherwise provided by EpiGrid under this Agreement. Recurring Monthly Fees will be payable in advance upon the Customer's chosen payment period. All other fees and the cost will be payable monthly and payment due on the monthly anniversary date.

## **10. Payment obligation**

At the time the Customer submits a Service Order, EpiGrid reserves space, equipment and resources for meeting the Customer's specific needs. The Customer must pay for all ordered services.

## **11. Payment Options**

EpiGrid provides the following options for payment:

Checks, Credit Cards (VISA, MasterCard, American Express & Discover) and Wire Transfers

In the event a check is returned, EpiGrid will charge a returned check fee of \$35.00 or, if less, legal limit in the Customer's state or country. The Customer is responsible for payment of all returned check fees and any collection costs.

## **12. Late payment**

In the event a Customer's invoice is twenty (20) days past due (from the invoice Due Date) then EpiGrid reserves the right to suspend service or terminate until payment is received.

Any payment not made when due will be subject to interest of two percent (2%) per month compounded monthly (equivalent to a yearly interest rate of 26.86%).

## **13. Non-Payment Termination**

In the event the Customer fails to pay an invoice within 15 days of the due date, EpiGrid reserves the right to suspend the Customer's service. If the Customer is still past due on the 20th day from the due date on the invoice, EpiGrid reserves the right to terminate the Customer's service entirely.

If Services are terminated for non-payment, EpiGrid also reserves the right to refer the Customer's account to a third party collection agency and the Customer agrees to pay any required collection or legal fees.



#### **14. Overage Billing**

"Overage" is defined as usage of the Services provided by EpiGrid in excess of the allocated limitation. Overages are charged for Bandwidth and Professional Services (administrative time) used in excess of the amount described in the Service Order(s).

The Customer agrees to pay the Overage fees and charges for the EpiGrid services at the contracted rate for the Services. Bandwidth Overage fees are charged by the whole gigabytes (GB) or in increments of one fourth (1/4) megabits per second (Mbps). Professional Services Overage fees are charged in 30 minute increments.

Overage fees can be avoided by subscribing to a higher service plan.



## 15. Cancellation and Refunds

Any prepayment is a commitment regarding the payment period that cannot be refunded outside the terms of the satisfaction warranty which applies for 30 days following the opening of the account. Regarding mid-month or mid-period cancellations, EpiGrid will not issue pro-rated refunds for cancellations received in the middle of a payment cycle.

Refunds will not be given on a pro-rated basis for Services provided in a given billing period. Receipt by Customer of any Services will obligate the Customer to pay for the Services during that entire billing period.

## 16. Term and termination

***The initial term ("Term") of this Agreement is for One (1) Calendar Month (a.k.a. Month to Month).*** The Term shall begin upon the date of the Purchase Order and shall be for the period stated in this section, with the term being NO LESS THAN ONE FULL CALENDAR MONTH FOLLOWING ANY PRORATED PERIOD SHOULD SERVICES BEGIN PRIOR TO COMPLETION OF A FULL CALENDAR MONTH. Service(s) that begin on the first day of a calendar month will have fulfilled the INITIAL TERM (and SUBSEQUENT TERM(S) if automatically renewed from the prior month) at 11:59:59 PM on the last day of the calendar month.

The Term shall begin upon the date the Services are accepted by the act of APPROVING QUOTE (electronic signing of this document) OR EpiGrid receives the Customer's Purchase Order (email delivery from Customer to EpiGrid with Purchase Order attachment shall be deemed as receipt of Customer's Purchase Order) and shall be for the period stated in this section. The Term will automatically renew at the end of the Term for successive 1 month periods unless either party notifies the other in writing of its desire that the Agreement not be renewed, no later than thirty (30) days before the end of the term.

Either party may terminate this Agreement effective immediately and without notice upon any material breach by the Customer or by EpiGrid of any of the terms of this Agreement.

Customer may terminate this agreement without cause or penalty at any time during term upon prior written notice of sixty (60) days. In either event, EpiGrid shall have no obligation to refund any fees paid in advance by the Customer. Termination requests must be made by emailing to [support@epigrd.com](mailto:support@epigrd.com) or may be sent to:

EpiGrid  
P.O. Box 1273  
Gainesville, Ga 30503



## **17. Chargebacks and Payment Disputes**

The Customer agrees to first contact EpiGrid to attempt to resolve any billing disputes before contacting a bank, credit card company, or any other financial institution to dispute charges. The Customer further agrees that any billing disputes must be submitted in writing to EpiGrid's billing department within one month of the invoice payment in question.

In the event the Customer disputes charges due under this agreement, or Service Order(s), EpiGrid reserves the right to refer the account or sell the debt (plus any applicable fees) to a third party collection agency. EpiGrid also reserve the right to take further legal action.

Billing disputes must be made by emailing to [support@EpiGrid.com](mailto:support@EpiGrid.com) or may be sent to:

EpiGrid  
P.O. Box 1273  
Gainesville, Ga 30503

## **18. Storage and Security**

At all times, the Customer bears full risk of loss of any content and software the Customer places on the EpiGrid servers or storage. The Customer is entirely responsible for maintaining the confidentiality of its password and account information. The Customer acknowledges and agrees that they are solely responsible for all acts, omissions and use under and charges incurred with their account or password or in connection with the server or any of the content displayed, linked, transmitted through or stored on the server.

EpiGrid does not undertake any obligation to provide management or security services unless specifically requested in a Service Order. If any technology specifically associated with the Customer's account requires updating, they must make a request for such update through EpiGrid's ticketing system.

[Support@epigrid.com](mailto:Support@epigrid.com)

The Customer shall be solely responsible for undertaking measures to: (i) prevent any loss or damage to their content; (ii) maintain independent archival and backup copies of their content; (iii) ensure the security, confidentiality and integrity of their content transmitted through or stored on EpiGrid servers; (iv) ensure compliance with all laws and regulations applicable to data stored. EpiGrid shall have no liability to the Customer or any other person for loss, damage or destruction of any of the Customer's content.

## **19. Uptime Guarantee**



"Uptime" refers to the amount of time the Services are available, as measured solely and only by EpiGrid's internal monitoring systems. "Downtime" refers to the amount of time the Services are unavailable each month, as measured solely and only by EpiGrid's internal monitoring systems. EpiGrid guarantees that its Networking and Connectivity services will be available 100% of the time, with limited exceptions set forth below. In the event such level of service is not provided in any given month, EpiGrid will credit your account, for that specific month, in an amount as determined in the chart below, reflecting credit percentages of the monthly fees paid by the Customer to EpiGrid for the Services, but not payments made for any of the following products and services: software licenses, IP address charges, set up fees, shipping and handling, labor charges, and other services which are unrelated to Uptime.

- 100% will result in a credit of: 0%
- 99.1% to 99.9% will result in a credit of: 5%
- 98% to 99% will result in a credit of: 10%
- 95% to 97.9% will result in a credit of: 25%
- 90% to 94.9% will result in a credit of: 50%
- 89% or below will result in a credit of: 100%

To receive a credit, the Customer must make a request by sending an email message to [billing@EpiGridcloud.com](mailto:billing@EpiGridcloud.com). Each request in connection with this Agreement must include the dates and times of the Downtime, the name and IP address of the server or servers which experienced the Downtime. The request must be received by EpiGrid within ten (10) business days after the incident of Downtime. If the unavailability is confirmed by EpiGrid, credit will be applied to Your EpiGrid account within thirty (30) days of receipt of the credit request.

The total amount credited in a particular month under this Agreement shall not exceed the total amount of fees paid for such month for the affected Services. Credits are exclusive of any applicable taxes charged to the Customer or collected by EpiGrid and are the Customer sole and exclusive remedy with respect to any Downtime.

Downtime caused by any of the following shall not result in any obligation by EpiGrid to provide a credit:

- Force Majeure events
- Emergency maintenance
- Scheduled maintenance
- System upgrades
- Domain name system (DNS) problems outside of EpiGrid's control
- Issues with FTP, POP, IMAP, or SMTP Customer access
- Acts or omissions by the Customer or any of the Customer's employees or agents, resulting in downtime
- Any negligence, willful misconduct, or use of the services in breach of EpiGrid's Acceptable Use Policy
- Problems with users' web browsers, DNS, or other caching that might make it appear the Services are unavailable even though others can still access the EpiGrid servers.

## **20. Hardware Replacement Guarantee**



EpiGrid strives to maintain the integrity of the hardware used to provide Services, and any Downtime caused by hardware failure shall be credited pursuant to Section 19 of this Agreement. In the event of hardware failure or malfunction, EpiGrid reserves the right to first take reasonable steps to assess the problem and consider or attempt other solutions before replacing the hardware. Once EpiGrid determines that replacement is necessary, malfunctioning hardware will be replaced within 24 hours.

In the event that EpiGrid fails to meet this hardware replacement guarantee, EpiGrid will issue, to the Customer, account credits in the amount of 10% of the base monthly server rent for each hour after the first twenty-four (24) hours of the monthly service fee for the server in question to a maximum of 50% of the cost of the server itself (excluding any management, upgrades or additional services associated with the server in question.)

To receive a credit, the Customer must make a request by sending an email message to [support@EpiGrid.com](mailto:support@EpiGrid.com). Each request in connection with this Agreement must include the dates and times of the hardware replacement situation, the name and IP address of the server or servers which experienced delayed replacement. The request must be received by EpiGrid within ten (10) business days after the incident. Upon confirmation by EpiGrid, credit will be applied to the Customer EpiGrid account within thirty (30) days of receipt of the credit request.

## **21. Acceptable Use**

The Customer agrees that the Services will not be used to:

- Upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, Vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- Administer IRC;
- Harm minors in any way;
- Impersonate any person or entity;
- "Stalk" or otherwise harass another person;
- Forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Services;
- Upload, post, email, transmit or otherwise make available any Content that You do not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- Upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- Upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," or "pyramid schemes;"
- Upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- Intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission,





any rules of any national or other securities exchange, including, without limitation, the New York Stock Exchange, the American Stock Exchange or the NASDAQ, and any regulations having the force of law;

- Provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization(s) designated by the United States government as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act; and/or
- Collect or store personal data about other users in connection with the prohibited conduct and activities set forth in the paragraphs above.

## **22. Disclaimer of Warranties**

The Customer acknowledges and agrees that EpiGrid exercises no control over, and accepts no responsibility for, the content of the information passing through the host computers, network hubs and points of presence or the Internet. NEITHER EPIGRID, ITS EMPLOYEES, AFFILIATES, AGENTS, SUPPLIERS, THIRD-PARTY INFORMATION PROVIDERS, MERCHANTS, LICENSORS NOR THE LIKE MAKE ANY WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT FOR THE SERVICES OR ANY EQUIPMENT EPIGRID PROVIDES. NEITHER EPIGRID, ITS EMPLOYEES, AFFILIATES, AGENTS, THIRD-PARTY INFORMATION PROVIDERS, MERCHANTS, LICENSORS OR THE LIKE, WARRANT THAT THE SERVICES WILL NOT BE INTERRUPTED OR ERROR FREE; NOR DO ANY OF THEM MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION SERVICES OR MERCHANDISE CONTAINED IN OR PROVIDED THROUGH THE SERVICES. EPIGRID IS NOT LIABLE FOR THE CONTENT OR LOSS OF ANY DATA TRANSFERRED EITHER TO OR FROM THE CUSTOMER OR STORED BY THE CUSTOMER OR ANY OF THE CUSTOMER'S CLIENTELE VIA THE SERVICES PROVIDED BY EPIGRID.

## **23. Indemnification**

The Customer agrees to indemnify, hold harmless, and defend EpiGrid and all directors, officers, employees, and agents of EpiGrid from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative) and expenses (including but not limited to reasonable legal fees) arising out of or relating to the use of the Services by the Customer, including any violation of the Acceptable Use Policy set forth in this Agreement. Such claims shall include, but shall not be limited to, claims based upon trademark, service mark, trade name, copyright and patent infringement, trademark dilution, tortious interference with contract or prospective business relations, unfair competition, defamation or injury to reputation, or other injuries or damage to business.

## **24. Limitation of Liability**

IN NO EVENT SHALL EPIGRID BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, DATA OR USE, SUFFERED BY THE CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, TORT OR



STRICT LIABILITY OR OTHER LEGAL THEORY, EVEN IF EPIGRID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event will EpiGrid's liability for any damages, losses and causes of actions whether in contract or tort (including negligence or otherwise) exceed the actual dollar amount paid by the Customer for the Services during the 12-month period prior to the date the damage or loss occurred or the cause of action arose. The provisions of this Agreement pertaining to Uptime Guarantee provide the sole remedy to the Customer for system Downtime.

## **25. Utilization of Third Party Services**

EpiGrid reserves the right, and the Customer agrees to pay for, services of third party consultants hired by EpiGrid in its discretion to assist EpiGrid in providing the Services Ordered by the Customer. Fees for the services of third parties retained by EpiGrid will be charged to the Customer in the invoice covering the period during which the third party services were utilized by EpiGrid.

## **26. Force Majeure**

EpiGrid shall not be liable for failure or delay in performing its obligations under this Agreement if such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, terrorist or other attack, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Services.

## **27. Intellectual Property**

The Customer represents and warrants that their use of the Services shall not infringe the intellectual property or other proprietary rights of EpiGrid or any third party. The Customer further acknowledges that all rights, title and interests in any and all technology, including the software that is part of or provided with the Services and any trademarks or service marks of EpiGrid is owned by EpiGrid and/or its licensors. Unless otherwise specifically provided in this Agreement, the Customer shall have no rights, title, claims or interests in or to EpiGrid's intellectual property.



The Customer shall not copy, modify or translate any EpiGrid intellectual property or related documentation, or decompile, disassemble or reverse engineer the same, to use it other than in connection with the Services, or grant any other person or entity the right to do so. Unless otherwise specifically provided in this Agreement or a Service Order, the Customer is not authorized to distribute or to authorize others to distribute EpiGrid intellectual property in any manner without the prior written consent of EpiGrid.

EpiGrid respects the intellectual property of others, and we ask the Customer to do the same. EpiGrid may, in appropriate circumstances and at its discretion, disable and/or terminate the accounts of users who may be repeat infringers.

## **28. Governing Law and Forum Selection**

This Agreement shall be interpreted and construed according to, and governed by, the laws of the State of Georgia, without regard to conflict of laws principles.

## **29. Waiver and Modification**

Except as otherwise provided herein, this Agreement may not be amended except through a writing executed by the parties. Any failure or delay in exercising any right, remedy, or power under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided herein or by law or in equity. The waiver by any party of the time for performance of any act or condition hereunder shall not constitute a waiver of the act or condition itself.

## **30. Assignment and Severability**

This Agreement shall be binding upon and inure to the benefit of the Customer, EpiGrid and their respective successors, and assigns. The Customer may not assign this Agreement without the prior written consent of EpiGrid, which consent will not be unreasonably withheld. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

## **31. Additional Incorporated Agreements**

Additional amendments to the Agreements, when noted, are amendments to this Agreement and are to be incorporated into it. Examples include terms and conditions for promotional offers and other additional terms and conditions.

The Customer agrees that by creating, using, or otherwise engaging in business with EpiGrid, that they have fully read, fully understand and agree to these Terms and Conditions. The Customer understands that the Terms and Conditions in the Agreement are legally binding and that they are authorized to enter into such agreements on behalf of their organization.