



# Terms & Conditions of Service Provision

CONFIDENTIAL

11 July 2022

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Version 3.1

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## ISO 9001 CERTIFICATION



Domicilium are certified to the International Standard for Quality Management Systems BS EN ISO 9001:2015 through Lloyd's Register Quality Assurance an internationally recognised Accreditation and Certification Body.

Some of the benefits to customers:

- Improved quality and service
- Delivery on time
- Right first-time attitude
- Fewer returned products and complaints
- Independent audit demonstrates commitment to quality
- Minimises mistakes
- Improves reporting and communications
- Better quality products and service
- More reliable production scheduling and delivery
- Standards maintained by annual assessments

Domicilium's LRQ certificate is available on request.

## ISO/IEC 27001 CERTIFICATION



Domicilium are certified to the International Standard for an Information Security Management System (ISMS) ISO/IEC 27001:2013 through Lloyd's Register Quality Assurance.

Some of the benefits to customers:

- Demonstrates to existing and potential customers that an organisation has defined and put in place best-practice information security processes
- Demonstrates commitment to information security at all levels of the organisation
- Certification demonstrates credibility and trust
- Provides customers and stakeholders with confidence in how you manage risk
- Helps to comply with other regulations (e.g. GDPR)
- Consistency in the delivery of your service or product
- Independent audit demonstrates commitment to security

Domicilium's LRQ certificate is available on request.

The Quality and Information Security Management Systems of Domicilium are applicable to:

- Telecommunications and Internet Service Provision
- Data Centre and Hosting
- Information Technology Technical Support and Helpdesk
- Security and Technical Consultancy
- Disaster Recovery
- Top Level Domain Management

The Information Security Management aspects are in accordance with the Statement of Applicability v2.7.

## THESE TERMS & CONDITIONS ARE MADE BETWEEN:

### **1. DOMICILIUM (IOM) LIMITED**

a company registered in the Isle of Man whose registered office is at The Isle of Man Datacentre, Ronaldsway Industrial Estate, Ballasalla, Isle of Man, IM9 2RS and whose registered number is 054878C (“Domicilium”)

### **2. THE CUSTOMER**

Whereby Domicilium agrees to provide to the Customer, the Services as specified under the Agreement.

## 1. INTERPRETATION

### 1.1. Terms

In these Terms and Conditions, the following expressions shall have the following meanings:

Term	Meaning
“Agent”	means the agent, if any, representing Domicilium in the sale of the Services to the Customer, or such other agent as Domicilium may nominate from time to time.
“Agreement”	means these Terms and Conditions and Schedule of Changes, the Service Level Agreement, the Non-Disclosure Agreement, the Order Form and all other documentation referred to in any of its terms. The order of precedence to resolve any inconsistency between different parts of the Agreement shall be (i) the Service Level Agreement, (ii) the Order Form, (iii) these Terms and Conditions and any valid variations, and the remaining documents that comprise the Agreement.
“Group Companies”	shall mean any holding company parent company or subsidiary company of the Customer or any company which together with the Customer is a subsidiary of another holding company “subsidiary” and “parent company” have the same meanings assigned to them as in section 736 of the Companies Act 1995 as amended.
“Customer Equipment”	the equipment the Customer owns or is responsible for.
“Dispute Resolution Procedure”	the procedure provided in more detail in Clause 10.6.
“Domicilium’s Network Acceptable Use Policy”	means Domicilium’s policy concerning acceptable Internet usage attached hereto (Clause 18).
“Domicilium Network”	means the infrastructure used for delivering customer services
“Domicilium Remote Access Services”	any service provided by Domicilium which permits access to the Customer’s network by means of secure on demand connections.
“Initial Term”	means a period of thirty-six months (36) months from the Start Date.



“Insolvency Event”	means if a party is deemed to be unable to pay its debts within the meaning of Companies Act 1931-1992, or calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed, or a resolution is passed by its directors to seek a winding up or administration order, or the party presents, or has presented, a petition for a winding up order, or presents, or has presented, a petition to appoint an administrator, or has an administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets.
“Order Form”	means the Service Order Contract and/or Co-location Agreement attached hereto.
“Re-terminate the circuit”	relocate the termination point of the dedicated leased line circuit provided by the telecommunications provider by which the Services are provided at the Customer’s premises (where applicable).
RIPE	the organisation from time to time that assigns IP Addresses for use by Internet Providers and their customers in Europe.
“Planned Change Management”	means any interruption to the Services which is announced by Domicilium via the REMEDY support system, as specified in the Change Management Procedure (attached hereto as Schedule 3). Domicilium will endeavour to schedule any such maintenance outside the customers operational hours.
“Service Credits”	the sums which become payable by Domicilium to the Customer under the terms of the Service Level Guarantee outlined in the Service Level Agreement.
“Services” or “Domicilium Services”	Domicilium’s services as described on the Order Form.
“Start Date”	the date that the Domicilium service is designated by the customer to be fully operational or can be successfully demonstrated by Domicilium to be fully operational.
“Working Day”	means Monday to Friday GMT 08:00–18:00 and not being public holidays in the Isle of Man or days on which the main clearing banks are closed for business in the Isle of Man or Saturday or Sunday in each week.

## 1.2. Clauses, Sub-Clauses and Schedules

References to Clauses, sub-Clauses, Schedules and Appendices are references to clauses, sub-clauses, schedules and appendices in this Agreement.

### 1.3. Clause Headings

The Clause headings in this Agreement are for ease of reference only and shall not be considered in the construction or interpretation of the Clauses to which they refer.

### 1.4. Statute or Statutory Provisions

Reference to any statute or statutory provision includes a reference to:

- a) that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated from time to time whether before or after the date of this Agreement; and
- b) all statutory instruments made pursuant to it.

## 2. TERMS OF PURCHASE

The documents that comprise the Agreement shall govern the relation between the parties thereto regarding the matters referred to therein to the entire exclusion of any other documentation proposed by either party.

### 3. SERVICES

#### 3.1. Service Agreement

Subject to compliance by the Customer with its obligations under the Agreement, Domicilium shall provide the Services to the Customer during the currency of the Agreement with reasonable care and skill and in accordance with the best practice prevailing in the communications service provider industry from time to time. Domicilium reserves the right to vary the Service at any time subject to the prior written consent of the Customer, such variations not to be unreasonably made by Domicilium and such consent not to be unreasonably withheld by the Customer.

#### 3.2. Ownership

Unless explicitly provided for in any of the documents, ownership of all of the equipment involved in the delivery of the Services shall not change as a result of the execution of any of the documents.

## 4. TERM

These Terms and Conditions shall subsist for the Initial Term with the option of further one-year periods extension. This contract will automatically renew for a further one-year term unless the Customer notify Domicilium of their desire to terminate within 3 months of the Initial Term.

The Customer may give such notice by email to [info@domicilium.com](mailto:info@domicilium.com).

In the case of the Customer requesting termination of Domicilium Remote Access Services, such notice may be given at any time but it will only take effect on the last day of the quarterly period commencing on the date of the Customer's Order Form. In the case of termination by Domicilium, Domicilium may give such notice at any time after the Initial Term by no less than three (3) months' notice in writing.

## 5. USAGE

### 5.1. Improper Use

Without prejudice to any other right the Customer shall take reasonable steps and implement commercially reasonable procedures to prevent any transmission or download by or on behalf of the Customer that could violate Isle of Man law, regulation or treaty or Domicilium's Network Acceptable Use Policy (clause 18) or could be in breach of the registered intellectual property rights of any person under Isle of Man law. The Customer shall (subject to the conditions contained in this Clause 5.1 and the limitation on its liability contained in Clause 15) keep Domicilium fully and effectually indemnified from and against all costs, claims, liabilities and demands relating to or arising from:

- a) any breach by the Customer of this Clause 5.1 ; or
- b) any criminal or civil legal action brought against Domicilium as a result of Domicilium's storage of such information or material.

A breach of this clause shall be dealt with in accordance with Domicilium Network Acceptable Use Policy.

### 5.2. Indemnity Conditions

In addition to the limitation on liability provided in Clause 15, the indemnification of Domicilium by the Customer in Clauses 5.1 and 7.3 are subject to the following conditions:

- a) Domicilium promptly notifies the Customer in writing of any action or claim;
- b) Domicilium makes no admissions or settlements without the Customer's prior written consent;
- c) Domicilium gives the Customer all information and assistance that the Customer may reasonably require; and
- d) Domicilium allows the indemnifier complete control over the litigation and settlement of any action or claim.

### 5.3. Indemnity Exclusion

The indemnities in Clauses 5.1 and 7.3 may not be invoked to the extent that the action or claim arises out of the Customer's compliance with any designs, specifications or instructions of Domicilium.

## 6. CUSTOMER EQUIPMENT

### 6.1. Installation

The Customer agrees that it shall have available from the date on which the Services is installed and commissioned at its premises all necessary preparations to allow an effective installation and continuing service.

### 6.2. Security

Subject to Clause 6.3, it is the sole responsibility of the Customer and not that of Domicilium to provide security with respect to any of the Customer's facilities or the facilities of others. The Customer shall be solely responsible for establishing and maintaining user-access security and network access. Domicilium shall be solely responsible for ensuring the security of its operations and complying with the Customer's security standards.

### 6.3. Skill and Care

Domicilium warrants, subject always to the provisions of Clause 15, that it shall exercise reasonable skill and care in the provision of the Services.

### 6.4. Remote Access Service

Where Domicilium constructs a Domicilium remote access service for the Customer as part of the Services, Domicilium warrants, subject always to the provisions of Clause 15, that it shall exercise reasonable skill and care in doing so.

## 7. DOMAIN NAME AND NETWORK NUMBER (WHERE APPLICABLE)

### 7.1. IP Addresses

Domicilium shall route existing IP addresses that were previously assigned to the Customer only if those addresses were assigned to the Customer directly and not through another Internet Service Provider. Domicilium shall not be held responsible if other Internet service providers refuse to accept these addresses. Domicilium shall assign new or additional IP addresses as requested by the Customer upon being provided with satisfactory documentation justifying the need for those addresses. The documentation must be in accordance with the policies set forth by RIPE. In certain circumstances it may be necessary for IP addresses to be approved by RIPE, and in such cases Domicilium shall not be responsible for any decision made by RIPE. When Domicilium assigns addresses to the Customer, those addresses are assigned only for the duration of the Services and become invalid at such time as Domicilium no longer provides the Services to the Customer. A temporary extension (usually thirty (30) days from the end of the Services) may be made at Domicilium's sole discretion. After termination or after such period (if any) those addresses may be reassigned to other customers by Domicilium. If the Customer wishes to apply for addresses that shall subsist beyond the duration of the Services, it must do so directly to RIPE. Any decision by RIPE or by another Internet service provider relating to IP addresses is the responsibility of RIPE or of that other Internet service provider and Domicilium accepts no responsibility for any such decision.

### 7.2. Legal Disputes

The Customer shall ensure that it has the legal right to use domain names and in the event of a dispute shall abide by the decision of the Domain Name Regulatory Body. Domicilium shall not be liable for any action brought in relation to the Customer's domain name and the Customer shall indemnify Domicilium against any such action, claims or liability.

### 7.3. Terms and Conditions

Domicilium will not be obliged to (but at its option may) release the domain name, unless all monies owed to Domicilium by the Customer under these Terms and Conditions have been received by Domicilium in full.

### 7.4. Additional Charges

In respect of any actions taken by Domicilium pursuant to Clause 7, Domicilium may levy reasonable additional charges on the Customer as agreed in advance.



## 8. SERVICES PRICING (WHERE APPLICABLE)

### 8.1. Services Pricing

Subject to Clause 8.2 below, the Customer shall pay fees to Domicilium as specified on the Order Form. All fees are exclusive of any applicable VAT which are chargeable in addition at the then current rate.

### 8.2. Leased Line

Leased line set up charges are subject to telecommunication provider site survey and may be over and above those stated on the Order Form. Domicilium may at its discretion bill the Customer for any such increase.

### 8.3. Initial Commitment

Upon execution of these Terms and Conditions, the Customer's fees shall include without limitation the following (save where otherwise specified):

- a) Domicilium's set-up fee(s), upgrade fee(s) (as applicable); (payable with order);
- b) Domicilium's service fees for the Initial Term (including any options selected by the Customer on the Order Form);
- c) Domain Name Charges (as applicable);
- d) Equipment lease fees (as applicable);
- e) Equipment purchase charges (as applicable);

The fees for the Initial Term whether paid or payable, are non-refundable except where Domicilium have committed a material breach. They are independent of the amount of traffic or system access by the Customer.

### 8.4. Invoicing

Domicilium (or the Agent on Domicilium's behalf) shall invoice and the Customer shall pay Domicilium's set-up fee and any other one-off fees (including any options selected in accordance with the Order Form) immediately upon the execution of these Terms and Conditions (at Domicilium's sole option the Customer shall also pay the fee for the first billing period upon execution of these Terms and Conditions) and shall pay the fee for the first billing period of the Services immediately upon the Start Date. Domicilium (or the Agent on Domicilium's behalf) shall invoice subsequent periods of Services separately to the Customer. Payment is due within fourteen (14) days from the date of the issue of the invoice.

### 8.5. Set-Off

Notwithstanding any other provision of these Terms and Conditions, Domicilium shall be entitled to set-off against an amount due for payment by any entity controlled by, controlling, or under common control with the Customer.

### 8.6. Domicilium Equipment

The Customer is responsible for any Domicilium equipment located at its premises and shall only use the Domicilium equipment and any associated software in accordance with any instructions and/or software license provided from time to time. The Customer may not add to, modify or in any way interfere with, the Domicilium equipment and Domicilium shall not be liable for any repairs of the Domicilium equipment other than those arising as a result of normal and proper use of it. The Customer shall insure any Domicilium equipment located on its premises from all risks equal to the full replacement value of the equipment and shall provide proof of such insurance to Domicilium within two (2) weeks of the Start Date.

### 8.7. Service Charges

Domicilium may from time to time vary the charges for the provided service. Domicilium will provide The Customer with 30 days' notice of any increase in charges.

## 9. TERMINATION

### 9.1. For Non-payment

If any Domicilium invoice remains unpaid twenty-one (21) days after its due date, Domicilium may without further notification or prejudice to any other remedy, suspend or disable the Services or, at its option, terminate the Agreement. Termination for non-payment shall not relieve the Customer of its responsibilities under the Agreement, including the responsibility to pay all fees up to the date of termination.

### 9.2. For Default

Either party may terminate the Agreement at any time if the other materially breaches this Agreement (as defined in Clause 9.4) and in the case of a breach capable of remedy fails to remedy the breach within thirty (30) days of a notice requiring the breach to be remedied.

### 9.3. Insolvency

Where one party suffers an Insolvency Event, then the other may, without prejudice to any other right or remedy, terminate the Agreement. Where the Customer suffers an Insolvency event and this occurs during the Initial Term, the Customer shall be liable for the balance of payments outstanding for the first year.

### 9.4. Material Breach

For the purpose of Clause 9.2 a material breach shall include:

- a) a breach which is so serious as to cause the defaulting party to be unable to continue to perform its obligations materially in accordance with the terms of the Agreement for the remainder of the contract period or which materially jeopardises the commercial interests of the other party;
- b) any wilful or fraudulent act of a party in breach of its obligations under the Agreement which, in the reasonable opinion of the non-defaulting party, renders it impractical to maintain the necessary relationship of trust and confidence in the other party for the balance of the contract period; or
- c) a breach by the Customer of the provisions of Clause 5.1 of these Terms and Conditions;
- d) if the Customer earns more than the acceptable number of service credits (as defined in the Service Level Agreement) for this service in any one quarter (each quarterly period commencing on the date of the Customer's Order Form).

## 10. ADDITIONAL SERVICE TERMS

### 10.1. No Domicilium Personnel at the Customer Premises

Neither Domicilium personnel nor equipment may be required by the Customer to be present at any time on the Customer's premises in providing the Services with the exception of Domicilium service engineers in connection with initial delivery of the Services or resolution of faults in the delivery of the Services. If the Customer requests Domicilium personnel to assist them on-site for any reason, an additional fee shall be payable to Domicilium.

### 10.2. Customer-provided Equipment

To enable Domicilium to provide the Services, the Customer agrees to abide by Domicilium's commercially reasonable recommendations and specifications regarding the existence, configuration and maintenance equipment used by the Customer (if any), the software used by the Customer and cabling required to integrate the Customer's host or local area network (LAN) into Domicilium's wide area network (WAN). The Customer's equipment must comply with the relevant portions of such recommendations and specifications, but such recommendations and specifications will not be changed by Domicilium during the term of the Agreement unless absolutely necessary.

### 10.3. Recommendations

Such recommendations and specifications, if any, are given solely for the protection of Domicilium's equipment and network and not the Customer's. The Customer may not therefore rely upon such recommendations and specifications in the design, maintenance or service of the Customer's own equipment, systems or LAN.

### 10.4. Support

Domicilium's customer service group shall use its best endeavours to provide telephone support 24 hours a day, seven days per week for 365 days per year and shall provide on-site engineering support in the event of a failure or non-performance of the Services in accordance with its Support Procedure as outlined in the Agreement.

### 10.5. Dispute Resolution

- a) Either party may call an extraordinary meeting of the parties by not less than two (2) days' written notice (or shorter if the parties agree) and each party agrees to procure that at least one (1) of its key employees shall attend all extraordinary meetings called in accordance with this Clause;
- b) The members of the relevant meeting shall use their best endeavours to resolve disputes arising out of the Agreement. If any dispute referred to at the meeting is not resolved at that meeting then either party, by notice in writing to the other, may refer the dispute to senior officers of the two parties who shall co-operate in good faith to resolve the dispute as amicably as possible within five (5) working days of service of such notice. If the senior officers fail to resolve the dispute in the allotted time, then the Dispute Resolution Procedure shall be deemed exhausted
- c) Recourse to the Dispute Resolution Procedure of this Clause 10.5 shall be binding on the parties as to submission to the resolution procedure but not as to its outcome. Accordingly, all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party's right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until five (5) working days after the parties have failed to reach a binding settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).

## 11. SERVICE LEVEL

The Customer may apply for Service Credits for service disruptions or failures in accordance with the Service Level Agreement for the Services.

## 12. RE-TERMINATION OF CIRCUIT

If the Customer considers it necessary to re-terminate the circuit, the Customer shall be responsible for all associated costs. Such costs will be billed by Domicilium in advance and shall be payable by the Customer prior to any re-termination. Domicilium shall not be responsible for any disruption to the Services attributable to the re-termination.

### 13. NETWORK INFRASTRUCTURE

From time to time, Domicilium may upgrade its network infrastructure. This may require the Customer to upgrade its equipment if the Services are to be continued. In that event, the Customer agrees to comply with all commercially reasonable upgrades to its hardware or software within thirty (30) days of receiving such a written request from Domicilium's technical staff. Domicilium shall not be responsible for degradation of or disruption to the Services if the Customer does not make the upgrade required. If Domicilium's upgrade of its network infrastructure means that the Customer is required to make commercially unreasonable upgrades to its hardware or software, then the Customer shall have the option to terminate the Agreement after giving Domicilium thirty (30) days written notice.



## 14. LIMITED WARRANTY

### 14.1. Written Description

Subject to Clause 3.1, Domicilium warrants that the Services shall not be substantially different from any written description of the Services previously supplied by Domicilium to the Customer.

### 14.2. Customer Responsibility

The Customer is responsible for assessing its own commercial needs, how the Services relate to the Customer and how the Customer should use the Services. The Customer warrants that it is familiar with services of this type and that it understands the level of service to be provided and the implications for the Customer's own business of the choices which the Customer made in completing the Order Form. Domicilium makes no warranty as to the value of the Services in the Customer's business or the results to be obtained from the use of the Services.

### 14.3. Use of Information

The Customer is solely responsible for the use of any information or other material obtained through the Services. Domicilium specifically excludes any responsibility for the accuracy or quality of information obtained through the Services, or that any other material obtained through the Services may be used in any way by the Customer without infringing the rights of any third parties. The Customer further acknowledges that these matters are outside the control of Domicilium.

## 15. LIMITED LIABILITY

### 15.1. Exclusions

Without prejudice to the express warranties contained in Clauses 6.3 and 6.4 above and to the maximum extent permissible in law, all conditions and warranties which are to be implied by statute or otherwise by general law into the Agreement or relating to the Services are hereby excluded.

### 15.2. Provisions

The following provisions in this Clause 15 set out each party's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the other party in respect of:

15.2.1. a breach of a party's contractual obligations;

15.2.2. a tortious act or omission for which a party is liable;

15.2.3. an action arising out of a misrepresentation by or on behalf of a party; arising in connection with the performance or contemplated performance of the Agreement or out of an act done or omission made as a consequence of the entry into the Agreement by a party.

### 15.3. Liability

Subject to Clauses 15.6 and 15.7, the total liability which a party shall owe to the other party in respect of a claim shall not exceed the sum equal to the then current contracted annual fee for the Services.

### 15.4. Loss

A party shall in no circumstances be liable to the other party, whether in contract, tort or otherwise, for loss, whether direct or indirect, of business, revenue or profits, anticipated savings or wasted expenditure or for any indirect or consequential loss whatsoever, or for the acts or omissions of other providers of telecommunication services or for faults or failures in their apparatus except where Domicilium has limited liability to the Customer in relation to the service level targets listed in the Agreement.

### 15.5. Data

A party shall in no circumstances (whether before or after termination of this Agreement) be liable to the other party for any loss of or corruption to data or programs and each party shall at all times keep adequate back-up copies of its data and programs.

### 15.6. Negligence

Notwithstanding anything to the contrary herein contained each party's liability to the other party for death or personal injury resulting from the negligence of a party, its employees, agents or sub-contractors shall not be limited save that nothing in this Clause 15 shall confer a right or remedy upon the other party to which the other party would not otherwise be entitled.

### 15.7. Validity

The exclusions from and limitations of liability set out in this Clause 15 shall be considered severable. The validity or unenforceability of any one clause, sub-clause, paragraph or sub-paragraph of this Clause 15 shall not affect the validity or enforceability of any other part of this Clause 15.

### 15.8. Termination of Agreement

The provisions of this Clause 15 shall survive the termination of the whole or a part of this Agreement.

## 16. EXCLUSIONS

Domicilium shall not under the terms of this agreement be liable for:

- a) any products, services or equipment which are not supplied or maintained directly or indirectly by Domicilium;
- b) the customers failure to maintain any products, services or equipment which form part of or are connected to the services covered under this agreement;
- c) the Customer's failure, inability or refusal to afford Domicilium's personnel proper access to the equipment covered under the terms of this agreement;
- d) with the exception of agreed changes and/ or updates to the equipment or services any modification or alteration of or attachment to the equipment or services or removal in full or part of the same.

## 17. GENERAL TERMS

### 17.1. Confidentiality

Each party undertakes that it will not at any time hereafter use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information concerning the business or affairs of the other party or such information regarding any client of the other party, which may have or may in future come to its knowledge by means of a breach of the Agreement and each party shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

### 17.2. Assignment

Neither party may sell, transfer or assign its rights or obligations under this Agreement without the written consent of the other party. No such assignment, even if consented to, shall relieve either party of its obligations under this Agreement prior to the date of the assignment.

### 17.3. Waiver

The waiver or failure of either party to exercise any right provided for in this Agreement shall not be deemed a waiver of that or any other right in this Agreement.

### 17.4. Invalidity

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect.

### 17.5. Whole Agreement

This Agreement, together with any document expressly referred to in any of its terms, contains the entire agreement between the parties relating to the subject matter covered and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters. No oral explanation or oral information or email given by any party shall alter the interpretation of this Agreement. Both parties confirm that, in agreeing to enter into this Agreement, they have not relied on any representation save insofar as the same has expressly in this Agreement been made a representation and agrees that it shall have no remedy in respect of any misrepresentation which has not become a term of this Agreement save that the agreement of the parties contained in this Clause shall not apply in respect of any fraudulent or negligent misrepresentation whether or not the same has become a term of this Agreement.

### 17.6. Notices

Notices sent pursuant to this Agreement shall be in writing and may be delivered by hand, sent by post or faxed with hard copy confirmation by post to the recipient at its address as shown on the Order Form or at such other address as may be notified in accordance with this Clause or, in the case of a company, to its registered office. Notices hand-delivered or faxed shall be deemed received on delivery and those posted on the second Working Day after they are posted.

### 17.7. Headings

The headings shall be disregarded in construing this Agreement.

### 17.8. Undertaking

The parties agree that the signing of this Agreement by Domicilium does not create a personal undertaking by the Domicilium signatory.

### 17.9. Capacity

Both parties acknowledge that they have read and understood this Agreement and agree to be bound by its terms.

### 17.10. Representations

The parties acknowledge that in entering into this Agreement they have not relied upon any representations other than those reduced to writing in this Agreement. The provisions of this Clause 17.10 shall not apply in the case of any fraudulent misrepresentation.

### 17.11. Force Majeure

Neither party shall be liable for any breach of this Agreement due to any cause beyond its reasonable control (save an obligation in respect of the payment of monies) including but not limited to Acts of God, flood, lightning or fire, industrial action, act or omission of government, or other competent authority, riot, war or act or omission of any other party for whom that party is not responsible.

### 17.12. Confidentiality

Unless otherwise appended to this document Domicilium and Customer Confidentiality will have been agreed under the terms of Domicilium's Non-Disclosure Agreement;

### 17.13. Data Protection

Unless otherwise appended to this document, Domicilium warrants that in respect of Data Protection:

It will only process personal data transferred to it by the Customer in accordance with the Customers instructions; and

It has appropriate technological and operational measures in place to safeguard against any unauthorised or unlawful processing of the personal data and against loss or destruction of, or damage to, the personal data; and

It will return the personal data and all copies of it immediately on demand.

Domicilium will indemnify the Customer against any claims made against the Customer by a data subject that in the course of the provision of Domicilium's services it has breached any of the warranties set out above.

### 17.14. Law

This Agreement shall be governed by Manx law. The parties submit to the non-exclusive jurisdiction of the Manx courts.

## 18. DOMICILIUM NETWORK ACCEPTABLE USE POLICY

The Domicilium Network is a resource from which we provide a variety of services to our customers. Our objective in managing this network is to:

- Provide a high quality, reliable service to our customers
- Respect the privacy of our customers
- Protect the security/integrity of our network and systems

To achieve these goals, we encourage responsible use of our network and third-party networks. Compliance with applicable laws is always a requirement.

### Policy Statement

Use of the Domicilium Network in a way that is contrary to our stated objective or our Acceptable Use Policy is prohibited.

### Scope

This Policy applies to the Domicilium Network worldwide, and to all of Domicilium's customers.

### Prohibited Uses

Examples of prohibited uses of the Domicilium Network are described below. The examples are guidelines and are not intended to be exhaustive.

#### **ILLEGAL/CRIMINAL ACTIVITY**

The Domicilium Network may not be used in connection with criminal or civil violations of laws, regulations, or other government requirements of any jurisdiction. Such violations include theft or infringement of copyrights, patents, trademarks, trade secrets, or other intellectual property; export control violations; fraud; forgery; pyramid or other prohibited business schemes; and theft, misappropriation, or unauthorised transmission or storage of funds, credit card information, personal information, or online services.

#### **SECURITY VIOLATIONS**

The Domicilium Network may not be used to violate the security of a network, service, or other system. Examples of security violations include hacking, cracking into, monitoring, or using systems without authorisation; scanning ports; conducting denial of service attacks; distributing viruses or other harmful software; smurf attacks or any DDOS attack; and unauthorised alteration or destruction of web sites or other information.

#### **THREATS**

The Domicilium Network may not be used to transmit or store material of a threatening nature, including threats of death or physical harm, harassment, libel, and defamation.

#### **OFFENSIVE MATERIAL**

The Domicilium Network may not be used to transmit or store material that is illegal according to the relevant national laws. Examples of material that might be subject to these laws may include:

Material of an offensive nature, including obscene and pornographic material (particularly pornography involving children) Indecent, abusive, libellous and hateful materials

Please note that this list is not exhaustive. Domicilium does not routinely monitor or police content on the Internet, it's customers or any third-party systems. It is the responsibility of the customers, system owners and their end-users to ensure that their use of the Internet is legal according to the criminal and civil laws of the relevant nation states.

### SPAM

The Domicilium Network may not be used to transmit SPAM emails. Spam includes any of the following activities:

- Sending any unsolicited email that could be expected in our judgment, to provoke complaints.
- Sending email that does not accurately identify the sender, the sender's return address, and the email address of origin.
- Sending unsolicited email without identifying in the email a clear and easy means to be excluded from receiving additional email from the originator of the email.
- Collecting the responses from unsolicited email.
- Sending email with charity requests, petitions for signatures, or any chain mail related materials.
- Transmitting email by or on behalf of a user of the Domicilium Network which uses a Domicilium mailbox for responses, or which promotes content hosted or transmitted using Domicilium facilities, or which states or implies in any way that Domicilium was involved in the transmission of such email or content.
- Posting a single message, or messages similar in content, to more than five online forums or newsgroups.
- Posting messages to an online forum or newsgroup that violates the rules of the forum or newsgroup.

### System Security

Networks or Systems connecting to the Domicilium Network must be properly configured to prevent unauthorised use. Examples of improper configuration include:

- Servers that can be exploited to conduct a denial of service attack
- Mail servers that permit the distribution of Spam i.e. Open Mail Relay
- FTP servers that may be used by others to illegally distribute licensed software

### Other

The Domicilium Network may not be used in a manner that:

- Damages our reputation or goodwill



- Violates another third-party acceptable use policy and/or terms of service
- Disrupts the Domicilium Network or any Domicilium service
- Interferes with another's use of the Domicilium Network or services

The resale of Domicilium Network services is not permitted, unless expressly permitted in a written agreement signed by Domicilium.

### Attempts

The Domicilium Network may not be used to attempt an activity prohibited by this Policy - whether or not successful.

### Indirect Use

A violation of this Policy by a person having only indirect access to the Domicilium Network through a customer or other user will be considered a violation by the customer or other user. This will be the case whether or not the violation was with the knowledge or consent of the customer or other user. Resellers are responsible for the actions of customers to whom they directly or indirectly provide services using the Domicilium Network. We will direct complaints regarding the actions of such customers to the reseller, but reserve the right to take direct action where we deem necessary.

### Responses to Violations

Domicilium will determine if an event violates this Policy. Whilst we do not routinely monitor, or censor, communications on the Domicilium Network, when we become aware of a violation of this Policy, we may take such action as we deem appropriate to address the violation. Violations of this Policy may result in:

- A demand for immediate removal of offending material
- Immediate temporary or permanent filtering
- Blocked access
- Suspension or termination of service
- Or other response appropriate to the violation

When appropriate, we allow a defined period of notice during which violations may be addressed voluntarily. However, we reserve the right to act without notice. We do not accept the liability for actions that we take in response to violations of this Policy. The responses described in this Policy are not exclusive and we may take any other technical or legal action we deem appropriate. We may cooperate with system administrators at other network or computing services providers to enforce this Policy or a policy of another provider. We may involve, and will cooperate with, law enforcement if criminal activity is suspected. Violators may also be subject to civil or criminal liability under applicable law.

### Incident Reporting

Complaints regarding violations of this Policy should be directed to the relevant abuse teams. Domicilium network customers should direct their complaints [info@domicilium.com](mailto:info@domicilium.com). Where possible, include details that would assist us in investigating and resolving the complaint (e.g. expanded headers and a copy of the offending transmission).

## Contact Information

If you have questions or comments about this Policy, please email them to [info@domicilium.com](mailto:info@domicilium.com).

## Important Customer Information

This Policy is not by itself sufficient to prevent possible harm to persons who use the Domicilium Network as a result of violations by other users. Domicilium network customers and users are responsible for taking such steps as they deem necessary to protect the security, integrity, and availability of their networks, systems, services, and information. Customers and users of the Domicilium network are responsible for restricting their own access to undesired content, sites, and services. Domicilium cannot accept liability for harm that results from violations of this Policy by other users of the network, even when we are aware of those violations. This Policy supplements, but does not supersede, the contracts between Domicilium and its customers; if such a contract restricts a use of the Domicilium Network that is not addressed in this Policy, the contract will govern with respect to such use. A violation of this Policy by a Domicilium customer is a material breach of the customer's contract with Domicilium and may result in termination or other consequences as specified in the contract. Refunds or credits are not issued in connection with actions taken for violations of this Policy.

Schedules appended to this Document

1. Schedule 1 – Additional Terms of Agreement
  - a) Confidentiality
  - b) Data Protection

## SCHEDULE 1

### ADDITIONAL TERMS OF AGREEMENT

#### 1. CONFIDENTIALITY

- 1.1 Each Party hereby undertakes, with respect to Confidential Information of the other Party that it (and in the case of Domicilium, the Service Personnel) shall keep the Confidential Information confidential and shall only use the Confidential Information for the purposes of this Agreement and shall take all necessary precautions to ensure that all Confidential Information is held in confidence.
- 1.2 Each Party shall inform the other Party in advance of disclosure of all Third Parties, agents or sub-contractors to whom it intends to disclose Confidential Information and the other Party shall have the right to veto the disclosure of Confidential Information to any such persons. In the event of such a veto, no Confidential Information shall be disclosed to any such vetoed person.
- 1.3 Nothing in this clause 1 shall restrict the disclosure of information which:
- a) is or becomes public knowledge other than by breach of this clause 1;
  - b) is in the possession of the receiving Party without restriction in relation to disclosure before the date of receipt from the disclosing Party;
  - c) is received from another person who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - d) is required to be disclosed by law or by a regulatory authority.
- 1.4 Domicilium acknowledges that any Confidential Information obtained from, or relating to the Customer, the Customer's Personnel or any of the Customers, Customers, by Domicilium and the Service Personnel in the course of, preparing for, or in connection with the establishment of or the performance of this Agreement is and shall remain the property of the Customer (as the case may be).
- 1.5 Domicilium shall comply with and procure that the Service Personnel shall comply with the directions for the time being of the Customer regarding Confidential Information provided, or obtained in connection with this Agreement.
- 1.6 Notwithstanding the provisions of this clause 1, the Customer may disclose any information provided by Domicilium to other Affiliates within the Customers Organisation or its Affiliates provided that the Customer shall take all reasonable steps to ensure that to the extent that such information forms part of the Domicilium's Confidential Information it is treated as confidential by the recipient and their employees.
- 1.7 Domicilium shall notify the Customer immediately of any breach by it or any of its Affiliates, or any of the Service Personnel of their obligations to maintain the Customer's Confidential Information as soon as such breach comes within its knowledge and shall assist the Customer as reasonably required, including doing all such acts and things as may be required to remedy the breach and, where possible, retrieving any Confidential Information, but Domicilium shall not be required to incur any expenditure as a result of this clause 1.

1.8 If so requested by the Customer (acting reasonably), Domicilium shall (and shall procure that any of its Service Personnel shall) promptly execute a confidentiality agreement on the commercially reasonable terms specified by the Customer from time to time.

## **2. DATA PROTECTION**

2.1 Domicilium undertakes to the Customer that it shall not, and shall procure that the Service Personnel shall not, disclose to any Third Party, nor process, any Personal Data or corporate data belonging to or controlled by the Customer as part of the Services, except to the extent and on the terms agreed in writing by both Parties.

2.2 Domicilium warrants, represents and undertakes to Customer that it shall at all times:

- a) comply with Data Protection Law in the relevant jurisdiction in which the Services are being provided;
- b) where applicable, process Personal Data or corporate data only as instructed and authorised by Customer, whether same is strictly necessary for the provision of the Services in accordance with this Agreement and for no other purposes;
- c) maintain the confidentiality and integrity of any Personal Data or corporate data received from the Customer;
- d) implement and maintain appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data or corporate data and against accidental loss or destruction of or damage to Personal Data or corporate data in accordance with all Applicable Laws and, in particular, Data Protection Laws;
- e) not transfer any Personal Data or corporate data received from or on behalf of the Customer outside the European Economic Area including any transfer via electronic media save with the express prior written consent of Customer;
- f) only retain personal data whilst there is a legal basis or requirement to do so;
- g) maintain proper records of any Personal Data or corporate data recovered from or on behalf of the Customer; and
- h) uphold the applicable data protection rights of the Customer.