

DOMOTZ

SERVICES SUBSCRIPTION AGREEMENT

TERMS AND CONDITIONS

These are the terms on which DOMOTZ INC. ("we" or "Domotz") enable you, the Subscriber ("you" or "Subscriber"), to access our integrated technology platform, as outlined in further detail in this Agreement, our website and the Documentation, which is available to Subscribers via the internet.

These Terms of Service (the "Terms"), including any extension, annex and update, together with the Domotz Privacy Policy govern the way you will use our platform and all related services.

Please read these terms carefully before you download any Domotz Software, use any Domotz Services, or purchase any Domotz Hardware or Service Credits. These terms explain who we are, how we will provide the Services to you, what to do if there is a problem and other important information.

Please refer to our Privacy Policy for information on how we collect, use and disclose information from our users. You acknowledge and agree that your use of the Services is subject to our Privacy Policy.

ACCEPTANCE

You are deemed to have accepted the terms of this Agreement and will have created a binding contract with Domotz upon any of the following events: (a) download or installation of any Domotz Services or related Software or Hardware; (b) access to or use of any Domotz Services or related Software or Hardware; (c) payment for Domotz Services or related Software, Hardware, Subscription, or Service Credits; (d) entering into an order form for Domotz Services or related Software, Hardware, Subscription or Service Credits; or (e) clicking an "accept" button or other similar acknowledgment indicating your acceptance of this Agreement. If you do not agree to be bound by this Agreement, you may not access or use the Services or any related Software or Hardware. Please read through the entirety of this Agreement to review important provisions regarding intellectual property, disclaimers, limitations of liability, indemnification, waivers, exclusive law and jurisdiction for resolution of disputes and other legal restrictions.

By using our Services, you agree to be bound by these Terms. If you don't agree to be bound by these Terms, do not use the Services. If you are accessing and using the Services on behalf of a company (such as your employer) or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity and each of its affiliates to these Terms. In that case, "you" and "your" will refer to that company or other legal entity and its affiliates.

INFORMATION ABOUT US AND CONTACT DETAILS

The subscription services provided by Domotz to you under this Agreement including the Domotz website, cloud services, mobile and web applications and other services and functionality ("**Services**") are provided by DOMOTZ INC, a company incorporated in Delaware (EIN 32-0467127). Our office at 120 East 13065 South, Suite 200, Draper, Utah 84020, USA. You can contact us by emailing our customer service team at support@domotz.com. If we have to contact you, we will do so by telephone or by writing to you at the email address you provide to us in your order.

OUR AGREEMENT WITH YOU

You may use the Services only if you are 18 years or older and capable of forming a binding contract with Domotz and are not barred from using the Services under applicable law.

It is a requirement of use of the Domotz Services, Software or Hardware that you accept these terms and conditions. Once you have created a Domotz account and accepted these terms, you will be able to access our products and Services.

1 DEFINITIONS

1.1 Capitalised words in this Contract have the following meaning:

It is a requirement of use of the Domotz Services, Software or Hardware that you accept these terms and conditions. Once you have created a Domotz account and accepted these terms, you will be able to access our products and Services.

"Agreement" = These terms and conditions, the online order form and any other documents incorporated by reference, such as the Privacy Policies which are available through the Domotz website.

"Business Day" = a day other than a Saturday, Sunday or public holiday when banks are open for business.

"Documentation" = the official published service description and other documentation made available to Subscribers by Domotz via the Domotz website, which sets out a description of the Services and the user instructions for the Services.

"Domotz Agent Software" = the agent software which is pre-installed in customised products (such as the Domotz Box) or which Subscribers can download onto a compatible device for the purpose of monitoring and interacting with other devices in the home or office.

"Domotz App" = the mobile and web applications which interface with the Domotz Agent Software via the cloud allowing Subscribers to access the Services in order to monitor compatible devices (different versions of the mobile app are available depending on the intended use).

"Domotz website" = the website which Domotz provides to make use of the Services, located at [www.domotz.com] or such additional or replacement website as may be notified to Subscribers by Domotz from time to time.

"End Users" = Individual, also referred to as "data subjects", whose network is monitored by Subscribers.

"Domotz Hardware" = hardware which may be purchased from Domotz in order to run the Domotz Agent Software (which may include products from Domotz such as the Domotz Box or from third parties such as the Domotz Raspberry Pi).

"Privacy Policies" = Domotz's Products and Services Privacy Policy, which describes how Domotz and its affiliates collect, use, share and store Subscriber information in the course of providing the Services, available at <https://www.domotz.com/product-privacy-policy.php> and the Web Site Privacy Policy, available at <https://www.domotz.com/privacy-policy.php>, as each may be amended and updated from time to time.

"Service Credits" = Pay-as-you-go credits purchased by Subscribers from the Domotz Website which may enable Subscribers to access and use the Services flexibly in accordance with this Agreement.

"Services" = the subscription services provided by Domotz to Subscribers under this Agreement including the Domotz website, cloud services, mobile and web applications and other services and functionality, and related Software made available as part of the Services as more particularly described in the Documentation.

"Software" = all software used by Domotz and/or made available to Subscribers in connection with the provision of the Services, including the Domotz Agent Software, Domotz Apps and the online software applications provided or made available by Domotz as part of the Services.

"Subscriber" = all direct customers of the Domotz Services.

"Subscriptions" = An active subscription sold by Domotz to allows access and use of the Services in accordance with this Agreement.

"Support Services Policy" = Domotz's policy for providing support in relation to the Services as made available at the Domotz Website or such other website address as may be notified to Subscribers from time to time.

"User Data" = the data and information input into or collected by the Domotz Agent Software, the Domotz App or generated in the course of using the Services;

"Virus" = any software, code, file or programme which may prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any

programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

2 Services

2.1 "**Domotz Pro**" is designed to provide remote monitoring and management services in compatible technology installations in accordance with clause 2. The Services are described in further detail in the Documentation (and as may be subsequently revised with written agreement from Domotz).

2.2 Subscribers are permitted to use the Services provided that the Subscriber has purchased and activated Service Credits or purchased a Subscriptions for each network being monitored

2.3 With respect to the Services:

2.3.1 Users of Domotz Pro can upgrade their Subscription if additional functionality is required;

2.3.2 Subscriber shall provide Domotz with accurate, complete and up-to-date information with regard to their account, and they should update such information, as needed, to keep it accurate, complete and up-to-date. If you don't, we might have to suspend or terminate your Account.

2.3.3 Subscribers shall keep a secure password for their use of the Services and each Subscriber shall keep his password confidential. Subscribers agree not to disclose their Account password to anyone and to notify Domotz immediately of any unauthorized use of their Account.

2.3.4 Rights granted to Subscribers are non-exclusive. Subscribers obtain no preferential rights to specific territories, markets, customers, pricing or otherwise. Domotz reserves the right to engage additional Subscribers.

2.4 Subscribers shall not access, store, distribute or transmit any Viruses, or any material, or otherwise use the Services in any manner that:

2.4.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.4.2 facilitates illegal activity;

2.4.3 depicts sexually explicit images;

2.4.4 promotes unlawful violence;

2.4.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

2.4.6 is otherwise illegal or causes damage or injury to any person or property;

and Domotz reserves the right, without liability or prejudice to its other rights to Subscribers, to disable Subscriber's or an individual End User's access to any material that breaches the provisions of this clause.

2.5 Subscribers shall not:

2.5.1 except to the extent expressly permitted under this Agreement or as may otherwise be allowed by any applicable law which is incapable of exclusion by Agreement between the parties:

(a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software or Hardware in any form or media or by any means; or

(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the

Software; or

2.5.2 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services; or

2.5.3 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except bona fide End Users of a Subscriber who have purchased Service Credits as permitted under clause 2.2;

2.5.4 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 2; or

2.5.5 attempt to obtain, access or derive in any fashion the underlying source code of the Software used in the Services, recognising that this Agreement does not convey any rights to source code and that all such rights in and to the source code of the Software are reserved to Domotz.

2.6 Subscribers shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Domotz. Subscribers are liable for all unauthorised access to or use of the Services and/or the Documentation that occurs through their account.

2.7 Domotz may offer additional products, services or enhanced functionality for Subscribers or End Users to purchase in accordance with the terms of this Agreement ("**Additional Services**"). At the Subscriber's or End User's option, the parties may agree in writing for the provision of Additional Services during the term of this Agreement by completing a specified order form.

2.8 The fee for providing Additional Services under this Section will be agreed by the parties prior to the performance of such Additional Services.

3 maintenance

3.1 Domotz shall provide the Services to Subscribers on and subject to the terms of this Agreement.

3.2 Domotz generally intends to use commercially reasonable efforts to make the Services available 24 hours a day, seven days a week, except for:

3.2.1 planned maintenance carried out during the maintenance window (to be reasonably advised via Domotz' website or software application from time to time); and

3.2.2 temporary suspension without notice, for security reasons, systems failure, emergency maintenance and repair, events of force majeure or other circumstances that warrant suspension in the reasonable determination of Domotz.

Subscribers will not be entitled to any refund or rebate for such suspensions, and Domotz does not guarantee any specific level or availability or that the Services will be free from interruptions.

3.3 Domotz will, as part of the Services, provide Subscribers with Domotz's standard customer support services during Normal Business Hours in accordance with Domotz's Support Services Policy in effect at the time that the Services are provided. Domotz may from time to time amend the Support Services Policy in its sole and absolute discretion.

3.4 Subscribers provide Domotz with permission to remotely access their network for the sole purpose of maintenance and support and hereby expressly consent to such access by Domotz, its affiliates or its contractors.

3.5 Domotz may from time to time develop patches, bug fixes, updates, upgrades, and other modifications to improve the Software and Services ("**Updates**"). These may be automatically installed on some versions of Domotz Hardware without any additional notice or consent from Subscribers or End Users. For other versions of Domotz Hardware you may be required to install and download Updates. If you do not want such Updates, your remedy is to terminate your account and stop using the Services immediately. Your continued use of the Services is your agreement to receive Updates from Domotz.

4 USER DATA

4.1 Domotz does not have a direct contractual relationship with the End User. Domotz acts as a data processor on behalf of the Subscriber who retains ownership and control of the User Data.

4.2 Subscribers shall own all right, title and interest in and to all of their User Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality thereof.

4.3 By entering into this Agreement, Subscribers are deemed to have read and accepted the terms of Domotz's Privacy Policies, which are expressly incorporated herein by reference and contain important information including but not limited to:

4.3.1 the type of information Domotz collects;

4.3.2 how Domotz uses such information;

4.3.3 the circumstances in which Domotz shares Subscriber information with third parties;

4.3.4 how Domotz products and services interact with third parties; and

4.3.5 how Subscriber information is stored and protected.

4.4 Domotz shall follow its storage and archiving procedures for User Data as set out in its Privacy Policies, as such document may be amended by Domotz in its sole discretion from time to time. In the event of any loss or damage to User Data, the Subscriber's sole and exclusive remedy shall be for Domotz to use reasonable commercial endeavours to restore the lost or damaged User Data from the latest back-up of such data maintained by Domotz in accordance with the archiving procedure described in its Privacy Policies. Domotz shall not be responsible for any loss, destruction, alteration or disclosure of User Data caused by any third party.

5 HARDWARE, AGENT SOFTWARE AND MOBILE APPLICATION

5.1 In order to make use of the Services, Subscribers will require certain hardware, software and/or applications as set out in this clause.

5.2 In order for the Domotz Services to work, a Domotz Agent Software must be installed in the End User's network. The Domotz Agent Software is available in the following ways:

5.2.1 Self-Installed Domotz Agent Software. This is available on the Domotz Portal, for download and installation on compatible non-Domotz hardware and Operating Systems

5.2.2 Third-party Hardware Domotz Agent. This version of the Domotz Software Agent is available on certain hardware products sold and distributed by third parties.

5.2.3 Domotz Hardware. This version of the Domotz Software Agent is available on the Domotz Hardware, sold by Domotz either directly or through its authorized resellers.

5.3 Subscribers who purchase Domotz Hardware are not required to install and upgrade the Agent Software as it is pre-installed and maintained by Domotz. Subscribers who use self-installed Domotz Agent Software are required to install the additional upgrades from time to time, which are freely available and may be downloaded from the Domotz Portal. Subscribers who use the Third-party Hardware Domotz Agents may need to comply with specific installation and upgrade procedures. Features of the Agent Software may vary between various Domotz Hardware, self-installation packages, and third-party products. Domotz grants to Subscribers a non-transferable, non-exclusive, temporary licence to install, use and operate the Agent Software in accordance with and subject to the restrictions of this Agreement.

5.4 Where Subscribers purchase Domotz Hardware, the additional terms set out in Annex 1 attached hereto and incorporated herein to these terms shall apply.

5.5 In order to remotely access the Services a mobile device, Subscribers will be required to download and install a copy of the Domotz App on their mobile device. Domotz grants to Subscribers a non-transferable, non-exclusive, temporary licence to install, use and operate the Domotz App in accordance with this Agreement.

5.6 The use of the Domotz Agent Software and/or Domotz App may be subject to additional terms and conditions imposed by third parties and/or open source licence terms which may be notified at the time of download (and which take precedence over this Agreement in relation to their use). Subscribers agree to comply with any such terms and acknowledge that use of Domotz Software does not limit or curtail Subscribers' rights under the applicable open source licence terms. A list of the open source licences relevant to users of the Services is available on the Domotz website.

5.7 From time to time, Domotz may offer Subscriber the opportunity to interface its hardware, Software and Services with third-party products and services. The Subscriber or End-User's consent is required for such interface and which may be withdrawn at any time.

Once consent is given, End-Users acknowledge that Domotz may exchange information with third parties to enable the effective interface of the products and services. Once the information is shared with any third party, it will be subject to their privacy policy and Domotz will have no control over its use, transmission or storage. Domotz disclaims any and all liability for any data security breaches or misuse of data caused by third parties.

6 DOMOTZ'S OBLIGATIONS

6.1 Domotz undertakes that the Services will be performed using commercially reasonable efforts substantially in accordance with the Documentation.

6.2 The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Domotz's instructions, or modification or alteration of the Services by any party other than Domotz or Domotz' duly authorised contractors or agents. Notwithstanding the above, Domotz:

6.2.1 does not warrant that Subscribers' use of the Services or Software will be uninterrupted or error-free, or that the Services, Software, Documentation and/or the information obtained by Subscribers through the Services or Software will meet Subscribers' requirements; and

6.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, or any other elements provided by or controlled by third parties and Subscribers acknowledge that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities or other third party elements.

6.3 This Agreement shall not prevent Domotz from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

6.4 Domotz will use commercially reasonable efforts to maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

7 SUBSCRIBER OBLIGATIONS

7.1 Subscribers shall:

7.1.1 provide Domotz with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by Domotz in order to provide the Services, including but not limited to User Data, security access and configuration information;

7.1.2 comply with all applicable laws and regulations with respect to its activities under this Agreement;

7.1.3 ensure that they use the Services, Software, Hardware and Documentation in accordance with the terms and conditions of this Agreement and remain responsible for any breach of this Agreement;

7.1.4 ensure that its network and systems comply with the relevant specifications provided by Domotz from time to time where required for use of the Services; and

7.1.5 be solely responsible for procuring and maintaining its network connections and telecommunications links, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to Subscribers' network connections or telecommunications links or caused by the internet.

8 CHARGES AND PAYMENT

8.1 To access the Services, Subscribers must purchase Subscriptions or a sufficient number of Service Credits via the Domotz Website or authorized third-party vendor. All relevant information concerning price, duration, activation and other matters relating to use of the Service Credits or Subscriptions is provided on the website and may change from time to time. Once your purchase is complete, you will receive an email from us confirming your purchase.

8.2 When you provide your credit card details to Domotz, you authorise Domotz to bill such credit card. Your credit card details and all other personal information will be handled in accordance with our Privacy Policy.

8.3 All amounts and fees stated or referred to in this Agreement:

8.3.1 shall be payable in the applicable currency specified on the online order form;

8.3.2 cancellations and refunds are subject to a **14 day** money-back guarantee and subsequently at the sole discretion of Domotz;

8.3.3 are exclusive of value added tax or other sales or use taxes, which Subscribers agree to pay at the appropriate rate.

8.4 Domotz shall be entitled to vary the fees for Service Credits or licences, and other charges at any time. Such price changes will not affect existing Service Credits or licences already purchased.

9 PROPRIETARY RIGHTS

9.1 You acknowledge and agree that Domotz and/or its licensors own all intellectual property rights in the Software, the Services, Hardware and the Documentation. Except as expressly stated herein, this Agreement does not grant Subscribers any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Software, the Services, Hardware or the Documentation.

9.2 Subscriber is granted a limited, revocable, non-transferable license during the term of its subscription to use the Domotz brand and trademark and use of the phrase "powered by Domotz" in the marketing of services to End Users provided such use complies with any branding guidelines available at the Domotz Website. Domotz reserves all other rights in its brand, trademarks and other intellectual property. Subscribers acknowledge and agree that they will not, at any time, whether during or after termination of this Agreement:

9.2.1 adopt or use any trademarks, symbol or device which incorporates or is confusingly similar to the Domotz trademarks;

9.2.2 apply anywhere in the world to register any trademarks identical to or resembling the Domotz trademarks so as to be likely to deceive or cause confusion;

9.2.3 use the Domotz trademarks as part of any corporate, business or trading name or style of the Subscriber; or

9.2.4 register any domain name anywhere in the world which incorporates or is similar to any Domotz trademarks.

9.3 Subscribers acknowledge that Domotz trademarks are the property of Domotz and that Subscribers do not have any right, title or interest in or to Domotz trademarks and that any goodwill arising out of Subscribers' use of Domotz trademarks shall accrue to the benefit of Domotz. Insofar as any goodwill or other rights may have accrued to a Subscriber by reason of the use of Domotz trademarks by a Subscriber and/or by the Subscriber being connected with Domotz trademarks in the course of trade, a Subscribers shall hold all such goodwill and other rights on trust for Domotz and shall, if requested by Domotz, execute such assignments of such goodwill and other rights to Domotz (or its nominee) as Domotz may direct.

10 INDEMNITY

10.1 Subscribers shall defend, indemnify and hold harmless Domotz, its affiliates and their respective officers, directors, employees, contractors, agents and customers against any claims, actions, proceedings, losses, damages, expenses and costs (including, without limitation, court costs and reasonable legal fees, and any claims) arising out of or in connection with Subscribers' use of the Services, Software, Hardware or Documentation (other than those which arise from a breach of this Agreement by Domotz), provided that:

10.1.1 Subscribers are given prompt notice of any such claim;

10.1.2 Domotz provides reasonable co-operation to Subscribers in the defence and settlement of such claim, at the Subscriber's expense; and

10.1.3 Subscribers are given sole authority to defend or settle the claim.

10.2 Domotz shall defend Subscribers, their officers, directors and employees against any claim to the extent that the Services or Documentation infringes any United States patent and shall indemnify Subscribers for any amounts finally awarded against them in a non-appealable judgment by a court of competent jurisdiction, provided that:

10.2.1 Domotz is given prompt notice of any such claim;

10.2.2 Subscribers provide reasonable co-operation to Domotz in the defence and settlement of such claim, at Domotz's expense; and

10.2.3 Domotz is given sole authority to defend or settle the claim.

10.3 In the defence or settlement of any claim, Domotz may procure the right for Subscribers to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement without further liability.

10.4 In no event shall Domotz, its employees, agents and sub-contractors be liable to Subscribers to the extent that the alleged infringement is based on:

10.4.1 a modification of the Services or Documentation by anyone other than Domotz; or

10.4.2 use of the Services or Documentation in a manner contrary to the instructions given by Domotz; or

10.4.3 use of the Services or Documentation after notice of the alleged or actual infringement from Domotz or any appropriate authority.

10.5 The foregoing and clause 11.1.2 state the sole and exclusive rights and remedies of Subscribers and Domotz (including Domotz's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

11 LIMITATION OF LIABILITY ; DISCLAIMER

11.1 This clause sets out the entire liability of Domotz (including any liability for the acts or omissions of its employees, agents and sub-contractors) to Subscribers.

11.1.1 IN NO EVENT SHALL DOMOTZ, ITS AFFILIATES, CONTRACTORS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "**DOMOTZ PARTIES**") BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR ANTICIPATED PROFITS, ECONOMIC LOSSES, LOSS OF OR DAMAGE TO DATA, AND LOSS OF GOODWILL, EVEN IF ANY OF THE DOMOTZ PARTIES HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PARAGRAPH SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR ANY REASON AND SHALL REMAIN IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF ANY REMEDY HEREIN.

11.1.2 IN NO EVENT SHALL THE DOMOTZ PARTIES' LIABILITY, IN THE AGGREGATE FOR ANY DAMAGES TO SUBSCRIBER OR ANY OTHER PARTY EXCEED THE SUBSCRIPTION FEES PAID TO DOMOTZ BY SUBSCRIBER FOR THE SERVICES DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO THE CLAIM, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, PRODUCTS LIABILITY, EQUITY OR OTHERWISE.

11.1.3 IN THE EVENT THAT SUBSCRIBER SEEKS TO ASSERT A CLAIM AGAINST ANY OF THE DOMOTZ PARTIES ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, SUBSCRIBER SHALL BRING THE CLAIM WITHIN ONE (1) YEAR OF THE OCCURRENCE OF THE EVENTS GIVING RISE TO THE CLAIM OTHERWISE THE CLAIM SHALL BE DEEMED WAIVED AND BARRED FOREVER.

11.2 Except as expressly and specifically provided in this Agreement:

11.2.1 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

11.2.2 the Services and the Documentation are provided to you on an "as is" basis.

11.2.3 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, DOMOTZ MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, (INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, INTEGRATION, NON-INFRINGEMENT OR TITLE) WITH RESPECT TO THE SOFTWARE, DOCUMENTATION, OR SERVICES PROVIDED HEREUNDER, OR ANY MODIFICATION, REVISIONS, OR DERIVATIVE WORKS OF THE SOFTWARE, DOCUMENTATION OR SERVICES. DOMOTZ DOES NOT WARRANT THAT THE SOFTWARE, DOCUMENTATION OR SERVICES WILL BE ERROR-FREE.

11.3 Nothing in this Agreement excludes the liability of Domotz that is prohibited by applicable law from being disclaimed.

12 TERMINATION

We may terminate your access to and use of the Services, at our sole discretion, at any time and without notice to you. You may cancel your Account at any time from your profile area of the Domotz portal, or by emailing us at support@domotz.com. Upon any termination, discontinuation or cancellation of Services or your Account, all provisions of these Terms which by their nature should survive will survive, including, without limitation, ownership provisions, warranty disclaimers, limitations of liability, and dispute resolution provisions.

13 FORCE MAJEURE

Domotz shall have no liability to Subscribers under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Domotz or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, acts of third parties, provided that Subscribers are notified of such an event and its expected duration.

14 CONFLICT

If there is an inconsistency between any of the provisions in the main body of this Agreement and the Documentation, the provisions in the main body of this Agreement shall prevail.

15 CHANGES TO THESE TERMS

We may modify the Terms at any time, in our sole discretion. If we do so, we'll let you know either by posting the modified Terms on the Site or through other communications. It's important that you review the Terms whenever we modify them because if you continue to use the Services after we have posted modified Terms on the Site, you are indicating to us that you agree to be bound by the modified Terms. If you don't agree to be bound by the modified Terms, then you may not use the Services anymore. Because our Services are evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.

16 VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17 WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18 RIGHTS AND REMEDIES

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19 SEVERANCE

19.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20 ENTIRE AGREEMENT

20.1 This Agreement, and any documents referred to in it, constitute the whole Agreement between the parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter they cover.

20.2 The parties acknowledges and agree that in entering into this Agreement, neither rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

21 ASSIGNMENT

21.1 Subscribers shall not, without the prior written consent of Domotz, whether by operation of law or otherwise assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

21.2 Domotz may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22 NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power). Furthermore, nothing in this Agreement creates or establishes a dealership or franchise relationship between the parties. Subscriber expressly waives any dealership or franchise rights and agrees not to assert dealership or franchise relationship exists.

23 THIRD PARTY RIGHTS

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24 NOTICES

24.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes, or sent by fax or e-mail to the other party's fax number or e-mail address as set out in this Agreement.

24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender). [An e-mail will be deemed to have been received in real time.]

25 GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of Illinois, USA. The parties expressly disclaim application of the United Nations Convention on the International Sale of Goods.

26 EXCLUSIVE JURISDICTION ; COSTS

Each party irrevocably agrees that the state or federal courts located in Cook County, Illinois, USA shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Each party waives all defenses to this exclusive jurisdiction including, without limitation, defenses of forum nonconveniens. In connection with any judicial proceedings relating to or arising from any disputes under this Agreement, Domotz shall be entitled to recovery of its reasonable costs and expenses (including without limitation attorneys' fees and costs) incurred with respect to those claims upon which it prevails. Prior to pursuing judicial action, Subscriber agrees to notify Domotz of the claim in writing with sufficient detail and attempt to resolve the claim informally through good faith discussions for a period of sixty (60) days in an effort to avoid judicial action. Each party waives the right to a trial by jury.

25 ELECTRONIC COMMUNICATIONS & NOTICES

Domotz may communicate with you by means of electronic communications, including (i) sending electronic mail to the email address you provided during registration or (ii) posting notices or communications through the Services. You agree that Domotz may communicate with you by means of electronic communications concerning this Agreement (including revisions or amendments), notices or disclosures regarding the Services, invoicing and payment and any other matter relating to this Agreement. You should maintain

copies of electronic communications by printing a paper copy or saving an electronic copy. Electronic communications shall be deemed received by you when Domotz sends the electronic communication to the email address you provided at the time of registration or as appropriately revised by you thereafter, or when Domotz posts the electronic communication through the Services. For those communications or records that Domotz is otherwise required under applicable law to provide in a written paper form to you, you agree that we may provide such communications or records by means of electronic communications. The following additional terms will apply to such electronic communications: (1) you may contact us to request another electronic copy of the electronic communication without a fee; (2) you may request a paper copy of such an electronic communication, and Domotz reserves the right to charge a fee to provide such paper copy; (3) you may contact Domotz to update your registration information used for electronic communications or to withdraw consent to receive electronic communications. Notwithstanding the foregoing, statements, notices and other communications to you may be made by mail, email, postings or other reasonable means. Notice to Domotz may be made by mail to: support@domotz.com

26 ELECTRONIC CONTRACTING

Through your downloading, installation of, use of, or payment for the Services, Hardware or other act of assent, you acknowledge that you have read and accept this Agreement and that this Agreement is a legally binding contract between you and Domotz. You agree that this means of contracting is acceptable and is as enforceable as a written paper agreement signed by the parties hereto. If you are entering into the Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity and its affiliates to this Agreement. If you do not have such authority or do not agree with the terms of this Agreement, then you must not accept this Agreement and may not use the Services, Software or Documentation.

27 USE OF SUBSCRIBER'S NAME

Subscriber hereby agrees that Domotz may list Subscriber as an existing or prior Subscriber of Domotz' in literature and publications distributed by or on behalf of Domotz with written permission from Subscriber.

28 EXPORT COMPLIANCE

Subscriber acknowledges that the Software, Hardware and all related technical information, documents and materials are subject to export controls under the U.S. Export Administration Regulations. Subscriber covenants and agrees to comply with all import and export control regulations of the United States with respect to the Software and Hardware. Without limiting the foregoing, Subscriber acknowledges that it may not re-export or divert the Software, Hardware or any related technical information, document or material, or direct derivatives thereof, to any country set forth on the U.S. Department of Commerce's list of T-7 countries, including any future changes to the government's list of T-7 countries.

29 THIRD PARTY SOFTWARE

To the extent the Software or Hardware contains any third party software code, such third party software may be subject to additional third party terms and conditions which shall control and govern Subscriber's use of the third party software. Domotz makes no representation or warranty regarding third party software and assumes no liability for any claims arising from third party software, all of which claims Subscriber hereby waives and agrees not to pursue against Domotz.

ANNEX 1

ADDITIONAL HARDWARE TERMS

1. REJECTION OF ADDITIONAL OR DIFFERENT TERMS. The terms of this Agreement and Annex 1 are the exclusive terms upon which Domotz is willing to sell its own 'D' branded Hardware. These terms supersede and replace any prior agreement, undertaking, representation or warranty whether in writing or oral. Any different or additional terms and conditions on Subscriber's purchase order or other documentation shall not be binding on Domotz and are hereby expressly objected to and rejected. For avoidance of doubt, these Terms apply only to Domotz Hardware branded with the 'Domotz' or 'D' logo and sold by Domotz either directly or through its authorized resellers.

2. DELIVERY AND ACCEPTANCE. Risk of loss or damage to Hardware shall pass to Subscriber upon Domotz's delivery to a carrier. Any delivery dates shown are approximate only and Domotz shall have no liability for any delays in delivery. Subscriber shall inspect Hardware for any damage within three (3) days after receipt. Failure to identify any damage and reject Hardware in writing within the three (3) day period shall constitute acceptance of the Hardware.

3. LIMITED WARRANTY. Domotz warrants that Domotz Hardware will conform in all material respects to the Documentation and be free from defects in material or workmanship for a period of **12 months** from the date of purchase ("**Warranty Period**"). If, during the Warranty Period, the Subscriber notifies Domotz in writing of any fault or defect which prevents any Domotz Hardware from functioning in accordance with the Documentation, Domotz will, at its sole option and free of charge to Subscriber, repair, replace or refund the purchase price paid.

DOMOTZ MAKES NO OTHER EXPRESS REPRESENTATIONS OR WARRANTIES AND MAKES NO IMPLIED REPRESENTATIONS OR WARRANTIES INCLUDING, WITHOUT LIMITATION, IMPLIED REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, USAGE IN TRADE, COURSE OF CONDUCT, NON-INFRINGEMENT OR INTEGRATION. DOMOTZ'S LIABILITY ON ANY WARRANTY CLAIM SHALL BE LIMITED TO THE ACTUAL PURCHASE PRICE PAID. DOMOTZ SHALL NOT BE RESPONSIBLE TO SUBSCRIBER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOSS OF DATA, REVENUES, SALES, BUSINESS, GOODWILL OR USE.

The foregoing warranty expressly excludes and Domotz will not repair, replace, or provide refunds to Customers in the following instances:

- If the alleged defect arises because Subscriber (or someone acting under the Subscriber's instruction) has altered or repaired Domotz Hardware without the prior written consent or authorization of Domotz;
- If Subscriber did not follow any applicable instructions for proper storage, usage, or maintenance of Domotz Hardware;
- If Subscriber has failed to notify Domotz of any defect where the defect should have been reasonably apparent on inspection; or
- If Subscriber fails to notify Domotz of any defect within 12 months of purchase.

This warranty does not cover the cost of shipping the defective hardware to Domotz for repair, or the cost of shipping the repaired or replacement hardware to Subscriber. The above represents the Subscriber's sole and exclusive remedy and is contingent on the Subscriber providing all necessary information to assist Domotz in attempting to resolve the alleged fault or defect.

Product

[Features](#)

[Pricing](#)

[Domotz Box](#)

[Case Studies](#)

[Customer Reviews](#)

[21-day free trial](#)

Company

[About us](#)

[Careers](#)

[Press](#)

Resources

[User Guide](#)

[Blog](#)

[Contact us](#)

[Knowledge base](#)

[Community](#)



© 2019 DOMOTZ, INC.

[Website Policy](#) | [Product & Services Privacy Policy](#) | [GDPR Compliance](#) | [Terms and Conditions](#)