

## AU DOMAINS FUND TERMS AND CONDITIONS

### 1. TERMS USED IN THIS DOCUMENT

**Agreement** means an Au Domains Fund Licensing Agreement.

**Commencement Date** means the date on which any Licensing Agreement has been signed by both You and Us.

**Fees & Charges Schedule** means the schedule of fees and charges payable by You for the use of the Au Domains Fund Licensing Agreement.

**Further Term** means the further term of the Licensing Agreement calculated in accordance with clause 3.2.

**Intellectual Property** includes but is not limited to present and future trademarks, patent rights, copyright, design rights, trademark rights, technical information, confidential information, ideas, know-how, expertise, systems, techniques, procedures, policies, manuals, forms and agreements owned by Us and used in relation to the Au Domains Fund Licensing Agreement.

**Initial Term** means the initial term of any Au Domains Fund Licensing Agreement calculated in accordance with clause 3.1.

**Support Agreement** means the Support Agreement as set out in the Au Domains Fund Licensing Agreement.

**Term** means the Initial Term and any Further Term.

**Us/We/Our** means Au Domains Fund ABN 84 479 276 835.

**You/Your** means the Organisation, Person or Persons applying for use of an Au Domains Fund Licensing Agreement.

### 2. LICENCE

2.1 We operate solely as an “Intellectual Property Owner and Provider” of Global Invisible Trade and as such, we enable new projects to be commercialized under our Licensing Agreements.

### 3. TERM

#### 3.1 Initial Term

The Agreement will commence on the Commencement Date and will continue for a period as outlined in the Agreement.

#### 3.2 Further Term

(a) At the expiration of the Initial Term, the Agreement will continue for a further period as outlined in the Agreement unless either You or We give a notice terminating the Agreement.

(b) At the expiration of any Further Term, the Agreement will continue for a further period as outlined in the Agreement unless either You or We give a notice terminating the Agreement.

### 4. FEES

4.1 We will charge You the fees & charges set out in the Fees & Charges Schedule within the Agreement.

4.2 You agree to pay GST as required in accordance with clause 10 below on the services provided pursuant to the Agreement.

4.3 You acknowledge that You must keep the details of the Fees & Charges Schedule and any Agreement generally confidential in accordance with clause 18 below.

### 5. SUPPORT

5.1 We will provide technical support to You in accordance with the Agreement. You acknowledge that the response times set out in the Agreement are target times only. We will use our best endeavors to meet those target response times however You will have no claim against us if we are unable to meet them. You are entitled, at Your discretion, to terminate the Agreement if We fail to meet those response times on a continual basis.

## **6. INTELLECTUAL PROPERTY**

6.1 You acknowledge that We retain all right, title and interest in all the Intellectual Property.

## **7. WARRANTIES**

### **7.1 Our Warranty**

- (a) We warrant that We will supply the Au Domains Fund services to You under the terms of the Agreement.
- (b) We shall make all reasonable attempts to ensure that the Au Domains Fund services are available 24 hours a day 7 days a week.
- (c) We will endeavour to provide product support in accordance with clause 5 above, and as outlined in the Agreement.
- (d) We will comply with any and all laws and regulations that govern the provision of the Au Domains Fund services and support.

### **7.2 Your Warranty**

- (a) You will comply with all laws and regulations that govern the use of the Au Domains Fund services.
- (b) You will not sub-license the rights granted under the Agreement to any other person or entity, without the written consent of Au Domains Fund.
- (d) You will not apply for a business name, company name, domain name or any other trading entity that incorporates the Au Domains Fund services in any way.

## **8. LIMITATION OF LIABILITY**

- 8.1 All Au Domains Fund services are delivered over telecommunications carrier networks, and We are therefore not able to guarantee that there will be no interruptions to service. All services are delivered as best efforts.
- 8.2 Performance of the services are dependant on factors outside of our control, including traffic on and technical difficulties with the internet, telephone networks, SMS and email systems where they apply to your service. In no event will either party be liable to the other for any consequential special or incidental damages and including without limitation, damages resulting from loss of profits whether based on breach of contract, tort (including negligence), product liability or otherwise. This limitation will apply even if We have been advised of the possibility of such damages. We shall not be obliged to put in place any substitute or alternative service should there be a failure of or delay in providing the service.
- 8.3 We and Our agents cannot and must not be held responsible or liable for any losses suffered.

## **9. CUSTOMER COMPLAINTS**

- 9.1 We are committed to providing You with excellent service. If Our service or support has not met Your expectations, We would like to know. Your feedback can assist Us in improving Our business.
- 9.2 If You have a complaint or would like to provide Us with feedback on Our services You can contact Us in any of the ways listed below.  
**By email** at [admin@crowdclub.com.au](mailto:admin@crowdclub.com.au) or  
**By writing to Us** at 199 Toorak Road, South Yarra, Victoria 3141
- 9.3 We will contact You in relation to Your complaint within 48 hours of receiving Your complaint. We will endeavour to resolve Your complaint at that time. If We are unable to resolve your issue at the time, We will give you an estimate on how long We believe it will take to address Your complaint. We aim to resolve all customer complaints within 10 working days.
- 9.4 We endeavour to resolve all customer complaints however if You are unsatisfied with how We have dealt with Your complaint You may contact the Office of Fair Trading (or equivalent consumer body) in Your state for further assistance.

**10. GST**

- 10.1 Where any Supply under the Agreement is or becomes subject to GST, an amount equal to the GST paid or payable in respect of the Supply will be added to the fee paid or payable for the Supply under the Agreement.
- 10.2 The provisions of this clause 10 apply notwithstanding any other clause of the Agreement whatsoever.
- 10.3 Each party agrees to do all things, including providing invoices and other documentation that may be necessary or desirable to enable or assist the other party to claim any credit, set off, rebate, or refund in relation to any amount of GST paid or payable in respect of any Supply under the Agreement.
- 10.4 In this clause 'Supply' means any form of supply whatsoever and includes any supply within the meaning of any Commonwealth, State or Territory legislation imposing or relating to the imposition of GST.

**11. ASSIGNMENT**

- 11.1 You agree that the Agreement is personal to You. You must not assign, sub-license, transfer, mortgage or charge the Agreement or any of Your rights under this Agreement without the written consent of Au Domains Fund.
- 11.2 We may assign the Agreement at any time without Your consent if We cause any assignee to enter into a Deed of Assignment and Covenant agreeing to be bound by the terms of the Agreement.

**12. SEVERANCE**

- 12.1 In the event of any covenant or other provision of the Agreement be acknowledged by the parties or found by a court to be invalid, illegal, unlawful or otherwise being incapable of enforcement such court or other provision will be severed from the remainder of the Agreement and will be deemed never to have been part of it and all other covenants and provisions of the Agreement shall nevertheless prevail and remain in full force and effect and be valid and fully enforceable and no covenant or other provision hereof shall be construed to be dependant upon any covenant or provision unless so expressed therein.
- 12.2 In the event of any such provision being severed pursuant to this clause the parties shall endeavour to agree upon provisions in substitution therefore which are not illegal and which substantially express the meaning of the severed provisions.

**13. AMENDMENT**

Except for any amendment or variation to the Agreement by Us which is specifically permitted under the terms of the Agreement, an amendment or variation to the Agreement is not effective unless it is in writing and signed by the parties.

**14. FURTHER ASSURANCES**

Each party will (and will procure every other person as required) do all things (including executing all documents) necessary or desirable to give full effect to the Agreement and the transactions contemplated by the Agreement.

**15. GOVERNING LAW**

Au Domains Fund Licensing Agreements are governed by and construed in accordance with the laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of that state, and courts of appeal from them. Each party waives any right it must object to an action being brought in those courts, including, without limitation, by claiming that the action has been brought in an inconvenient forum and those courts do not have jurisdiction.

**16. WAIVER**

- 16.1 A party's failure or delay to exercise a power or right does not operate as a waiver of the power or right.
- 16.2 The exercise of power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 16.3 A waiver is not effective unless in writing.

16.4 A waiver of a power or right is effective only in respect of the specific instances to which it relates and for the specific purpose for which it is given.

**17. COUNTERPARTS**

The Agreement may be executed in any number of counterparts and by facsimile counterparts and by different persons on separate counterparts. All such counterparts shall together constitute the one Agreement.

**18. CONFIDENTIALITY**

18.1 Confidential Information means all financial and business information of whatever kind relating to the disclosing party (including profit projections, research, diagrams, plans, Intellectual Property) or used by the disclosing party and disclosed to the recipient party prior to or at or after the execution of the Agreement and includes:

- (a) the details of the fees & charges set out in the Fees & Charges Schedule in the Agreement.
- (b) the terms of the Agreement.
- (c) all statements whether oral or in writing made to or at or after the execution of the Agreement.
- (d) Any other information disclosed by the disclosing party to the recipient party during the term of the Agreement; and
- (e) All information or knowledge acquired by the recipient party because of access to any Confidential Information.

18.2 The recipient party agrees that it will:

- (a) treat the Confidential Information as subject to a duty of confidence and will only use the Confidential Information in a manner consistent with the terms of the Agreement.
- (b) except as is permitted specifically under the Agreement, will not in any other way use the Confidential Information without the prior written consent of the disclosing party.
- (c) ensure that all written material provided by the disclosing party to the recipient party as the result of the Agreement is safely and securely stored when not in use and the recipient party acknowledges that such material including all copies remain the exclusive property of the disclosing party; and
- (d) cause all of its employees to enter into a Confidentiality Agreement in such form as the disclosing party requires from time to time.

18.3 This clause will survive and continue in full effect following termination of the Agreement.