CloudFiler SaaS License Agreement

Version: 2022-06-01

Parties

This software as a service ("SaaS") Agreement ("Agreement") is a legal agreement between the purchaser ("Customer") of one or more licenses ("License") of the CloudFiler service ("Service") and the service provider, Dinamich Ltd ("Dinamich") a UK business, registration number 13699428 (each of whom are a "Party" to this Agreement).

By purchasing a License you confirm that you have the authority to enter into this agreement on behalf of your organisation and that both you and your organisation accept the terms or this Agreement.

1. Interpretation

1.1. In this Agreement, clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:

1.2. an expression which denotes any gender includes the other gender; a person includes a natural and an artificial or juristic person; the singular includes the plural and vice versa;

1.3. the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

Account – is the service connection identifier unique to a User and identified by one or more email addresses unique to that person.

Agreement – refers to the terms and clauses of this agreement, as amended from time to time.

Business Hours - means between the hours of 09.00 and 17:30 GMT Monday to Friday excluding UK Bank Holidays.

Content – the data stored by the User or Customer via the Service.

Documentation – the web content and help documentation made available via the CloudFiler website or other media, which describe the services or provide user instructions and technical documentation.

Effective Date - the date the Customer entered into this Agreement.

Initial Subscription Term – the Customer's initial subscription period as set on the Effective Date.

Insolvency Event – any of the below events:

- A board, general or creditor's meeting is held to determine whether to wind up the Party;
- A resolution is passed for the winding up of the Party;
- A petition for the Party's winding up is made;
- A winding up petition for a Party is advertised in the London Gazette

- The Party enters into a creditors' voluntary arrangement or creditors voluntary liquidation;
- a receiver or administrative receiver is appointed over a Party;
- a court of competent jurisdiction makes an order to wind up the Party;
- an application for bankruptcy is made against the Party; or
- the Party enters into an insolvent voluntary arrangement.

Point of Contact – a person within the Customer organisation who is identified by the Customer as a contact regarding a particular matter e.g. billing, license management, technical support.

Renewal Period - the period is any agreed period of license subscription following the Initial Subscription Term.

Service – means the CloudFiler service and Software, which provides an email filing user interface with internet-based storage and search service as defined and updated on the CloudFiler website from time to time.

Software – all software and applications created and provided by Dinamich to deliver the Service.

Subscription Fees - the subscription fees payable by the Customer to Dinamich for the User Subscriptions, as set out on the CloudFiler' website and amended from time to time.

Subscription Term - means the Initial Subscription Term together with any subsequent Renewal Period.

Supported Interfaces – means CloudFiler's own user interfaces and APIs as updated from time to time.

User - an employee, agent or independent contractor of the Customer who is assigned an Account and hence access to the Service by the Customer.

User Subscriptions - the user subscriptions purchased by the Customer which entitle Users to access and use the Services in accordance with this Agreement.

2. Obligations of Users of the Service
   2.1. Customer agrees that:
   2.1.1. each Account will only be used by one User; a single Account shared by multiple people is not permitted; and
   2.1.2. Customer is responsible for maintaining the security of their Accounts and passwords. Dinamich cannot and will not be liable for any loss or damage from the Customer's failure to protect User Accounts; and
   2.1.3. they are responsible for all Content saved into the Service via their Accounts, and;
   2.1.4. they shall be responsible for any breach of this Agreement originating from their Accounts.
   2.1.5. Customer agrees that they will not:
   2.1.6. use the Services for any illegal, malicious or unauthorised purpose;
      2.1.6.1.   connect to the Service other than via the Supported Interfaces;
      2.1.6.2.   through using the Services, violate any applicable laws and regulations (including but not limited to copyright or trademark laws);

2.1.6.3. modify, adapt or hack the Services or modify another website so as to falsely imply that it is associated with: the Services, CloudFiler, or any other Dinamich service;

2.1.6.4. reproduce, duplicate, copy, sell, resell or exploit any portion of the Services, use of the Services, or access to the Services without the express written permission by Dinamich;

2.1.6.5. decode, reverse engineer, disassemble, decompile or otherwise translate or convert the Software or any part of it, except to the extent that the foregoing acts are permitted by law;

2.1.6.6. upload, post, host, or transmit unsolicited email, SMSs, "spam" messages or any material that is offensive, threatening, libellous, defamatory, pornographic, obscene or otherwise objectionable;

2.1.6.7. transmit any worms or viruses or any code of a destructive nature.

2.1.7. Dinamich reserves the right to deny access to the Service of any Customer or User that is believed to have caused such breach.

3. Account Terms

3.1. Subject to the Customer purchasing the User Subscriptions in accordance with clause 6, the restrictions set out in this Agreement and other terms of this Agreement, Dinamich hereby grants to the Customer a non-exclusive, non-transferable right to permit the Users to use the Services during the Subscription Term solely for the Customer's internal business operations and not for commercialisation or resale.

3.2. The Customer accepts responsibility for the use and security of any login identifiers, encryption keys, passwords or other access controls provided to Customer for use of the Service.

3.3. The Customer agrees that:

3.3.1. they take responsibility for the use of the Service by their staff and will ensure that staff adhere to the terms of this Agreement

3.3.2. they will via the CloudFiler portal, identify one or more Points of Contact for billing, licensing or other purposes. In the event that Dinamich are unable to contact the Customer via one Point of Contact they will try the next. If neither respond in a period acceptable to Dinamich, Dinamich reserve the right to email any Users to find the appropriate person.

3.4. Dinamich shall provide technical support via the range of media and during the times detailed on their website and revised from time to time at Dinamich's sole and absolute discretion.

3.5. The support service is not a substitute for training and Dinamich reserve the right to deny support services or require that questions are channelled through an appropriate Point of Contact.

3.6. The Customer understands and accepts that:

3.6.1. Dinamich uses third-party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Services; and

3.6.2. while Dinamich prohibits offensive conduct and Content posted on the Services, Customer recognises that Users could be exposed to such materials. Customer agrees that Dinamich shall not be held responsible for the Content and that they use the Service at their own risk.

3.7. The Customer may use the Services solely as permitted and intended to host the Customer's Content. The Customer may not use the Services in violation of Dinamich's intellectual property rights or other rights or in violation of applicable law.

3.8. If Dinamich become aware of any Content hosted on their service that is in breach of this agreement they may ask the Customer to remove the Content. In the unlikely event that the Customer refuses to remove it, Dinamich reserves the right to remove both the Content and the originating Account(s).

3.9. If a Customer's usage of the Service negatively impacts the provision of the Service to other customers, Dinamich will contact the Customer to find a solution. In the unlikely event that the parties are unable to agree a solution, Dinamich reserves the right to restrict the service to Customer and in extremis, terminate this Agreement.

3.10. Dinamich reserves the right to provide without notice new features that augment or enhance the Services, including the release of new tools and resources.

3.11. Dinamich reserves the right to update these terms from time to time. If the licensing terms are updated, the software will present the new terms and require you to accept them before continuing. You can review the current terms and conditions of the Services at any time at: https://cloudfiler.io/pages/cloudfiler-saas-agreement.

4. Dinamich's obligations

4.1. Dinamich shall endeavour to provide the Service in accordance with its description in the Documentation, but cannot guarantee continuous provision of the Services.

4.2. Dinamich and its hosting providers retain 3 copies of each file on 3 separate servers to safeguard the Customer's Content. We also maintain back-ups in order to provide service continuity.

4.3. Dinamich shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer's Content. Dinamich shall not: (a) modify the Customer's Content; (b) disclose Customer's Content except as compelled by law or as expressly permitted in writing by the Customer; or (c) access Customer's Content except to provide the Services and prevent or address service or technical problems, or at the Customer's request in connection with customer support matters.

4.4. Dinamich undertakes that the Service will be performed substantially in accordance with the Documentation and with reasonable skill and care.

  4.4.1. this undertaking shall not apply to the extent of any non-conformance which is caused by use of the Service contrary to Dinamich's Documentation, or modification or alteration of the Service by any party other than Dinamich or its duly authorised contractors or agents. Notwithstanding the foregoing, Dinamich:

    4.4.1.1. does not warrant that Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by Customer through the Services will meet Customer's requirements; and

    4.4.1.2. 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, and Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

4.5. The Agreement shall not prevent Dinamich 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.

5. API Terms

Where Dinamich have agreed to provide Customer with access to their Content via an Application Programming Interface ("API"), the following apply:

5.1. Any use of the API, including use of the API through a third-party product that accesses the CloudFiler Service, is bound by this Agreement plus the following specific terms:

5.1.1. In order to ensure that all customers receive a reliable and fast service, it is important that Customer's own use of the APIs is sensible. So abuse or excessively frequent requests to CloudFiler Services via the API may result in the temporary or permanent suspension of the Customer's access to the API. Dinamich, in its sole discretion, will determine abuse or excessive usage of the API which negatively impacts the Services for other customers. Dinamich will make a reasonable attempt to warn the Customer and/or User prior to suspension.

5.1.2. Dinamich continually improves its Software and reserves the right at any time to modify or discontinue, temporarily or permanently, any API (or any part thereof).

6. Payment

6.1. Customer shall pay to Dinamich the Subscription Fees for the Initial Subscription Term on the Effective Date.

6.2. Customer is responsible for any and all applicable taxes.

6.3. Where automatic payment has been agreed, the Customer shall provide: a valid credit card, bank account information authorised for automatic payment, or other acceptable method of payment to Dinamich and shall take all necessary steps to authorise automatic payment of the Subscription Fees.

6.3.1. By accepting this Agreement, Customer authorises Dinamich to automatically charge the said method of payment in respect of the Subscription Fee for the Initial Subscription Term and all subsequent Renewal Periods.

6.3.2. If a Customer's auto-renewal method fails, Dinamich will notify the Customer by email. If no payment is received within 14 days, Dinamich will suspend the Service. If after 30 days the required level of payment has not been received, Dinamich reserve the right to terminate the Agreement.

6.4. Payment of any amount owed by Customer to Dinamich pursuant to this Agreement shall be paid within 30 days following invoice from Dinamich. In the event any overdue amount owed by Customer is not paid following 10 days notice from Dinamich, then Customer shall incur a late payment charge at the rate of 3% per month on any overdue amount.

6.5. Any additional payment terms between Dinamich and Customer shall be agreed in writing and set out in an invoice, billing agreement, or other written document.

6.6. Where the Customer purchases licences for additional Users during the year, Dinamich shall consolidate all licences to align the Services to a single renewal date.

6.7. Invoices and receipts are produced electronically and will be sent by email to the designated Point of Contact. Dinamich does not provide printed invoices or receipts.

7. Term & Termination

7.1. This Agreement shall, unless otherwise terminated as provided in this clause 7, commence on the Effective Date and continue for the Initial Subscription Term. At the end of the Initial Subscription Term and provided that the Initial Subscription Term is for a period of 12 months or longer, this Agreement shall automatically renew for successive periods of 12 months (each a Renewal Period), unless:

7.1.1.   the Customer terminates the Agreement via the CloudFiler website at least 30 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

7.1.2.   by Dinamich providing 30 days written notice of termination via an email to the nominated Point of Contact; or

7.1.3.   otherwise terminated in accordance with the provisions of this Agreement.

The Initial Subscription Term together with any subsequent Renewal Periods shall constitute the Subscription Term.

7.2. Without affecting any other right or remedy available to it, Dinamich may immediately terminate this Agreement or any Services if:

7.2.1.   the Customer has used or permitted the use of the Services otherwise than in accordance with this Agreement; or

7.2.2.   the Customer fails to pay any fees when due.

7.3. Either Party may terminate this Agreement or any Services with immediate effect:

7.3.1.   If it has notified the other Party in writing that it is in breach and such breach is not remedied within 30 days; or

7.3.2.   If the other Party experiences an Insolvency Event.

7.4. Either Party may terminate this Agreement or any Services for any reason upon submitting 30 days' notice.

7.5. If the Customer cancels the Agreement before the end of the Customer's current paid up period, cancellation will take effect immediately. The Customer will not receive a refund for any outstanding period of Services and the Customer will not be charged again.

7.6. If the Agreement is terminated for any reason, all Content will be immediately inaccessible via the Services. Dinamich will retain the Content for an additional 30 days to provide the Customer with sufficient time to reinstate their Agreement if required, thereafter Dinamich reserve the right to irretrievably delete the Content.

7.6.1.   The Customer can elect to have the Content deleted immediately by sending a written request from an authorised representative to Dinamich.

8. Copyright and Content Ownership

8.1. The Customer and Users acknowledge and agree that Dinamich and/or its licensors own all intellectual property rights in the Services and Software. Except as expressly stated herein, this Agreement does not grant the Customer or User 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 Services.

9. Customer and User data

9.1. Customer shall own all right(s), title and interest in and to all of the Content and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Content.

9.2. Whilst Dinamich maintains backups and multiple copies of all Content, it is the Customer's responsibility to retain its own copies in the event of loss of Content for any reason. Customer agrees that Dinamich will not be liable under any circumstances for any consequences arising from lost or corrupted Content which would not have been lost if such procedures had been maintained.

9.3. Without prejudice to clause 9.2, Dinamich will endeavour to ensure that Content is maintained securely and backed up from time to time during the term of the Agreement. In the event of any loss or damage to Content, Customer's sole and exclusive remedy with respect to Dinamich shall be that Dinamich endeavours to restore the lost or damaged Content from the latest available backup of such data that Dinamich maintains. Dinamich shall not be responsible for any loss, destruction, alteration or disclosure of Content caused by any third party (except those third parties sub-contracted by Dinamich to perform services related to data maintenance and back-up).

9.4. Where Content has been deleted or removed by Customer, or by Dinamich in accordance with Customer's instructions, it shall be at Dinamich's absolute discretion as to whether it will provide any service for the recovery of this Content.

10. New & legacy data storage

10.1. The annual licensing fee covers the cost of processing and storage of messages created and filed during that year of licensing. In subsequent years there is no additional charge for the storage of messages filed in this way, so long as there is no break in the licensing.

The Customer has the option to purchase annual storage tokens enabling the Customer to file and maintain legacy data in the service.

11. Fair usage

11.1. The Customer understands and accepts that Dinamich have designed the system and set the pricing to match the typical usage of customers, and that Dinamich cannot allow any one customer to use the service in an unintended way that is to the detriment of either Dinamich or their customers. Excessive usage could be, but is not limited to:

11.1.1. Significantly higher volumes of data ingress and egress per user than the average customer organisation

11.1.2. Customers creating their own applications via the CloudFiler API which are poorly written and threaten the performance of the service for others

11.2. If a breach of this clause has the potential to significantly impact the performance of the service for other customers, Dinamich will undertake to engage with the Customer to find a mutually acceptable solution. Dinamich reserves the right to: throttle the service to the breaching customer, or where this is impractical, either halt the service to the breaching customer or charge more for the Service.

11.3. If within 30 days of notifying the customer of such breach, no agreement can be found, Dinamich reserve the right to terminate the agreement.

12. Indemnity

12.1. The Customer shall defend, indemnify and hold Dinamich harmless against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and legal fees) arising out of or in connection with the Customer's use of the Services, provided that:

12.1.1. the Customer is given prompt notice of any such claim;

12.1.2. Dinamich provide reasonable cooperation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

12.1.3. the Customer is given sole authority to defend or settle the claim.

12.2. In the defence or settlement of any claim, Dinamich may procure the right for the Customer 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 on 5 business days' notice to the Customer.

12.3. In no event shall Dinamich, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

12.3.1. a modification of the Services by anyone other than Dinamich; or

12.3.2. the Customer's use of the Services is in a manner contrary to the instructions given by Dinamich; or

12.3.3. the Customer's use of the Services after notice of the alleged or actual infringement from Dinamich or any appropriate authority.

13. Limitation of Liability

13.1. This clause sets out Dinamich's entire liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

13.1.1. arising under or in connection with this Agreement;

13.1.2. in respect of any use made by Customer of the Services and Documentation or any part of them; and

13.1.3. in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

13.2. Except as expressly and specifically provided in this Agreement:

13.2.1. Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by Customer, and for conclusions drawn from such use. Dinamich shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Dinamich by Customer in connection with the Services, or any actions taken by Dinamich at Customer's direction;

13.2.2. 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 the Agreement; and

13.2.3. the Services and the Documentation are provided to Customer on an "as is" basis.

13.3. Without prejudice to clauses 6.2 and 6.3, Dinamich's total aggregate liability in contract (including in respect of the indemnity at clause 12), tort (including negligence or breach of statutory duty), misrepresentation, or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the lesser of £100,000 or 150% of the value of the last 12 months Subscription Fees paid for the Service giving rise to the liability.

13.4. Nothing in this Agreement excludes Dinamich's liability for:

13.4.1. death or personal injury caused by Dinamich's negligence; or

13.4.2. fraud or fraudulent misrepresentation.

14. Warranties and Representations

 14.1. Dinamich warrants and represents to the Customer that:

  14.1.1. it owns the Software;

  14.1.2. it has the right to grant to a licence to use the Services as set out in this Agreement;

  14.1.3. it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this agreement.

  14.1.4. the use of the Services in accordance with the terms of this Agreement will not infringe the intellectual property rights of any third party; and

  14.1.5. the Service will perform substantially in accordance with its documentation and specification.

 14.2. Dinamich does not warrant that:

  14.2.1. the Services will meet the Customer's specific requirements;

  14.2.2. the Services will be uninterrupted, timely, or error-free;

  14.2.3. the results that may be obtained from the use of the Services will be accurate or reliable; or

  14.2.4. any errors in the Service will be corrected.

 14.3. The Customer expressly understands and agrees that Dinamich shall not be liable for any:

  14.3.1. indirect, incidental, special, liquidated, consequential or exemplary damages, and/or;

  14.3.2. damages for loss of profits, goodwill, use, data or other intangible losses (even if Dinamich has been advised of the possibility of such damages), resulting from:

   14.3.2.1. the use or the inability to use the Service;

   14.3.2.2. the cost of procurement of substitute goods and services resulting from any goods, data, information or services purchased or obtained or messages received or transactions entered into through or from the Services;

   14.3.2.3. unauthorised access to or alteration of the Customer transmissions or data; (iv) statements or conduct of any third-party on the Service;

   14.3.2.4. or any other matter relating to the Services.

  14.3.3. The Customer warrants and represents that the provision of the Service and/or the rendering of the Services by Dinamich in terms of this Agreement shall not give rise to:

   14.3.3.1. a breach of any licensing arrangement or agreement concerning the Customer's computer systems, including, without limitation, the Customer's software;

   14.3.3.2. or an infringement of any copyright or similar right held by any licensor/s of any of the Customer's computer systems and, in particular, the Customer's software.

 14.4. If, in Dinamich's opinion, the supply of the Service and/or the rendering of any of the Services will constitute a breach of any license or the infringement of any copyright or similar right held by any person in respect of any of the Customer's computer systems and/or the Customer's computer software, Dinamich shall not be obliged to provide the Service.

 14.5. 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.

15. Force Majeure

15.1. Dinamich shall not be liable to Customer for any delay or non-performance of Dinamich's obligations under this Agreement arising from any cause or causes beyond Dinamich's reasonable control.

16. Confidentiality

16.1. Each Party shall retain in confidence and require its employees, agents and contractors, to retain in confidence all information contained in the Services and all information and know-how, regardless of form, transmitted to such Party that the disclosing Party has identified as being proprietary and/or confidential or which, by the nature of the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary and/or confidential ("Confidential Information"). The receiving Party shall retain Confidential Information in as secure a manner as reasonably possible, but in no event less secure than the receiving Party retains its own Confidential Information. Confidential Information shall remain the sole property of the disclosing Party and shall not be disclosed to any third Party without the express written consent of the disclosing Party (except, solely for the receiving Party's internal business needs, to third parties who are bound by a written agreement with the receiving Party to maintain the confidentiality of such Confidential Information in a manner consistent with this Agreement).

16.2. Confidential Information shall not include any information that:

16.2.1. is at the time of disclosure or subsequently becomes publicly available without the receiving Party's breach of any obligations owed the disclosing Party;

16.2.2. became known to the receiving Party prior to the disclosing Party's disclosure of such information to the receiving Party;

16.2.3. became known to the receiving Party from a source other than the disclosing Party other than by the breach of an obligation of confidentiality owed to the disclosing Party;

16.2.4. is independently developed by the receiving Party; or

16.2.5. is produced in compliance with applicable law or a court order, provided the other Party is given reasonable notice of such law or order and an opportunity to attempt to preclude or limit such production. This Agreement constitutes the proprietary information of Dinamich.

16.3. This confidentiality clause 16 shall survive termination of the Agreement.

17. Data Protection

17.1. Where applicable, each Party undertakes to comply with its obligations under any relevant data protection laws including (where applicable) the UK Data Protection Act 1998.

17.2. If Dinamich processes any personal data on the Customer's behalf when performing its obligations under this Agreement, the parties record their intention that the Customer shall be the data controller and Dinamich shall be a data processor and in any such case:

17.2.1. the Customer acknowledges and agrees that the personal data may be transferred or stored in the country where the Customer and the Users are located and outside of the European Economic Area in order to carry out the Services and Dinamich's other obligations under this Agreement;

17.2.2. the Customer shall ensure that they are entitled to provide the relevant personal data to Dinamich so that Dinamich may lawfully use, process and transfer the personal data to perform its obligations under this Agreement;

17.2.3. the Customer shall ensure that the relevant third parties have been informed of, and where necessary, have given their consent to, such use, processing and transfer as required by all applicable data protection laws;

17.2.4. each Party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

18. No Waiver

No delay, neglect or forbearance on the part of either Party in enforcing against the other Party any term of this Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of the Party under this Agreement.

19. Severability

If it is held under any enactment or rule of law that any provision of this Agreement is void or otherwise ineffective in whole or in part then any other part and the other terms of this Agreement shall continue in full force and effect.

20. Entire Agreement

This Agreement is the complete and exclusive statement of the agreement between the Customer and Dinamich which supersedes all proposals or prior agreements oral or written save any expressly agreed terms that have been signed by an authorised representative of Dinamich and the Customer or User and save as expressly set out in this Agreement all representations, conditions or warranties express or implied statutory or otherwise are excluded, to the maximum extent permitted by law.

21. Variation

A variation of this Agreement requested by the Customer is not effective unless in writing and signed by authorised senior representatives of both parties.

22. Notices

22.1. Any notice or consent required or given under this Agreement shall be in writing, in English, either personally delivered or sent by email or by first class airmail, and sent to the registered address of the receiving Party or such other address as such Party may from time to time designate by notice to the other Party.

22.2. Communications shall be deemed to have been received as follows:

22.2.1. (if sent by post) five business days after posting;

22.2.2. (if delivered by hand) on the day of delivery, if delivered at least two hours before the close of Business Hours, and otherwise on the next business day;

22.2.3. (if sent by email) upon receipt of an email reply confirming the receipt of the message. An automatic reply shall not be deemed as the acknowledgement of an email message.

23. Publicity

Dinamich may, without the prior written consent of the Customer show on the CloudFiler website and in customer presentations that Dinamich are providing software or services to the Customer.

However, Dinamich may not without the prior written consent of the Customer use the Customer's name in any paid advertising.

24. Third Party Rights

The parties do not intend that any term of this Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a Party to this Agreement.

25. Assignment

25.1. The Customer shall not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

25.2. Dinamich 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.

26. No Partnership or Agency

Nothing in the 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).

27. Law

27.1. This Agreement shall be governed by and construed in accordance with the law of England.

27.2. The English courts shall have exclusive jurisdiction to determine any disputes which may arise out of, under, or in connection with this Agreement.