

# **Terms and Conditions of Use of the DomAquaree hotspot**

## **1. Subject and scope of these Terms and Conditions of Use**

In combination with the German Telecommunication Act (*Telekommunikationsgesetz*) the following Terms and Conditions govern the use of the WLAN hotspot (hereinafter called the “Hotspot”) of the Werbegemeinschaft DomAquaree GbR (hereinafter called the “Werbegemeinschaft DomAquaree”), Karl-Liebknecht-Strasse 5, 10178 Berlin located at the DomAquaree site in Berlin. These Terms and Conditions of Use particularly govern the rights and obligations of the Werbegemeinschaft DomAquaree as well as the users of the Hotspot (hereinafter called the “Users”) in connection with the use of the Hotspot.

## **2. Services of the Werbegemeinschaft DomAquaree**

- (1) The Werbegemeinschaft DomAquaree provides access to the Internet in the form of WLAN access (“Hotspot”).
- (2) The provision of the Hotspot is based on the relevant technical and operational facilities. There is no entitlement to a functioning Hotspot or a specific geographical coverage of the Hotspot.
- (3) In addition, the Werbegemeinschaft DomAquaree does not guarantee that use of the Hotspot can be free from malfunctions and drop-outs. There is also no entitlement to a specific transmission speed.
- (4) The Werbegemeinschaft DomAquaree reserves the right to amend, restrict or discontinue the access to the Hotspot without prior notice at any time in the event of necessary technical repair and maintenance work.
- (5) There is no right that specific services can be used via the Hotspot. Thus, in particular, ports may be blocked. It will normally be possible at least to surf the Internet as well as send and receive emails. The prerequisite for the use of the Hotspot is a terminal in working order (e.g. a tablet, smartphone, laptop etc.) with a WLAN-enabled interface. A suitable operating system, web-browser and up-to-date driver software for the WLAN hardware and the TCP/IP network protocol must be installed.

Logging in is possible in accordance with the requirements of the log-in process of the Hotspot portal.

### **3. Security**

Data transfer between the Hotspot and the User's terminal is not encrypted. We cannot therefore rule out that third parties gain unauthorised access to the data which is to be transferred or the terminals used. Corresponding VPN software should therefore be used for sensitive data. The operator does not provide any additional security measures (e.g. virus protection, firewall or similar).

### **4. Access and use**

- (1) It is a condition of use that you first register to use the Hotspot and/or accept the validity of these Terms and Conditions of Use at the beginning of the use of the Hotspot. This can normally be done by selecting the Hotspot as a WLAN network in the terminal via a down-loadable registration form or a welcome page.
- (2) There is no entitlement to use of the Hotspot. The Werbegemeinschaft DomAquaree is at liberty to restrict or discontinue access to the Hotspot at any time without giving reasons.
- (3) The most recent version of these Terms and Conditions of Use apply; these are down-loadable when logging onto the Hotspot.

### **5. Access data**

- (1) In so far as the User has entered log-in data (e.g. user name, password, email address, etc.) in the course of registration, he must keep these secret and not make them accessible to third parties.
- (2) In so far as the User has received registration data, he must ensure that only the User accesses and uses the Hotspot with this user data. The Werbegemeinschaft DomAquaree must be informed without delay in so far as facts exist which are grounds for assuming that unauthorised third parties have gained or will gain knowledge of the access data.
- (3) The User is liable according to the provisions of law for all use and/or other activity conducted using the User's personal access data.

## **6. Obligations and duties of the User**

The User has the following duties in particular:

- (1) The User is obliged to truthfully provide any information about his person given in the context of the use of the service.
- (2) The User is obliged to comply with the applicable laws when using the Hotspot.
- (3) If the User makes use of third party services via the WLAN he must bear the resultant costs himself.
- (4) Further obligations arising from other provisions of these terms and Conditions of Use remain unaffected.

## **7. Prohibited activities**

When using the Hotspot the User is prohibited from all activities which are in breach of applicable law, infringe the rights of third parties or the principles of the protection of minors. The following activities are particularly prohibited:

the posting, distribution, offering and promotion of content, services and/or products which are pornographic, infringe laws for the protection of minors, data protection law and/or other law as well as content, services and/or products which are fraudulent;  
the publication of content through which other subscribers or third parties are insulted or vilified and making such content accessible;  
the use, provision and distribution of content, services and/or products which are protected by law or are encumbered with third party rights (e.g. copyright) without being expressly authorised to do so;  
making works which are protected by copyright publically available or other activities in breach of copyright law, especially by the use of what are called “Internet swap meets” or file-sharing services;

In addition and also irrespective of any possible infringement of law by posting the User’s own content on the service-provider’s web-site, and also when communicating with other users (e.g. by sending personal messages, participating in discussion forums etc.) the following activities are prohibited: the transmission of above-average data volumes and particularly the sustained transmission of such data volumes; the hosting of a web-server or other servers by the use of a Hotspot belonging to the service-provider;

the modification of the prescribed DNS server in the network settings of the service-provider's Hotspot; the sending of junk or spam emails and chain letters; the dissemination of viruses, Trojans and other harmful files; the dissemination of salacious, obnoxious, obscene or vilifying content and communication as well as content and communication of a sexual nature; the sending of content and communications which lends itself to the promotion or support of racism, fanaticism, hate, physical violence or unlawful actions (whether explicitly or implicitly); requesting other users or third parties to disclose passwords or personal data for commercial, illegal or unlawful purposes.

Every action which is likely to prejudice the smooth running of the Hotspot, particularly disproportionately overloading the systems, is also prohibited.

The Werbegemeinschaft DomAquaree reserves the right to take down such content by suitable filtering.

## **8. Responsibility for content**

The User himself is responsible to the Werbegemeinschaft DomAquaree and third parties for the content which he accesses, posts or distributes in any way via the Hotspot. The content is not subject to any verification by the Werbegemeinschaft DomAquaree.

## **9. Blocking access**

The Werbegemeinschaft DomAquaree reserves the right to block users' access to the Hotspot at all times temporarily or permanently if there is specific evidence that the User is or was in breach of these Terms and Conditions of Use and/or applicable law, or if any other legitimate interest in such blocking exists.

## **10. Indemnification**

(1) The User himself is responsible for all actions which he undertakes in connection with the use of the Internet via our Hotspot.

(2) The User will hold the Werbegemeinschaft DomAquaree harmless from all demands which third parties assert against us for reason of an infringement of legal provisions, third party rights (particularly personal, copyright and trade mark rights) by the User or

the infringement by the User of contractual obligations, warranties or guarantees, including the costs of any necessary legal defence (lawyers' and court costs in the amounts defined by law).

(3) In the event of the assertion of claims within the meaning of Clause 10, Paragraph 2, the User is obliged to cooperate fully without delay in establishing the facts of the matter and making the information needed by the Werbegemeinschaft DomAuarée for this purpose available in a suitable manner.

## **11. Data protection**

(1) The Werbegemeinschaft DomAuarée ensures that personal data is only collected, saved and processed in so far as this is necessary for the performance of the contractual service and is allowed by law or ordered by the legislature.

(2) In the event that statements of consent under data protection law are obtained from the User in the context of the use of our services, the User's attention is drawn to the fact that these statements can be withdrawn at any time with effect for the future.

(3) In order to perform the services of the Hotspot it is necessary to make use of the personal data of the User's terminal. In this connection the MAC addresses of terminals are also saved. In addition, log files about the nature and extent of the use of the services are also saved if necessary. This data cannot be directly assigned to the person of the User.

## **12. Final provisions**

(1) These Terms and Conditions of Use are governed by the law of the Federal Republic of Germany but with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

(2) In so far as the User is a trader, a legal entity under public law or a Special Fund (*Sondervermögen*) established under public law, our Head Office is the sole place of jurisdiction for all disputes arising from the contractual relationship.

(3) The liability of the Werbegemeinschaft DomAuarée is determined by the provisions of the German Telemedia Act.

(4) If, in the event of a dispute about the cases specified in §47a of the German Telemedia Act, the User intends to initiate arbitration proceedings with the Federal Network Agency (*Bundesnetzagentur*) he must file an application for this with the

Federal Network Agency in Bonn.

(5) If individual provisions of these Terms and Conditions of Use should be or become invalid, this does not affect the validity of the remaining provisions.

(6) A list of the partners affiliated with the Werbegemeinschaft DomAquaree GbR can be examined after making a written request to **[alexandra.meyder-cyrus@apleona.com](mailto:alexandra.meyder-cyrus@apleona.com)** and **[ulrike.dawartz@apleona.com](mailto:ulrike.dawartz@apleona.com)** .