

1. Definitions

Capitalised terms used in these terms and conditions shall have the following meanings:

"Acceptable Use Policy" means the acceptable use policy of Solar and/or the Supplier which relates to the Data Services, available at solar.co.uk and as updated from time to time;

"Anniversary Date" means any anniversary of the Commencement Date;

"ADSL Service" means broadband or any technology that replaces broadband in the future;

"Charges" as defined in the MSA Terms including the Set-up Charge and the Subscription Charges;

"Customer Agreement" means the agreement between Solar and the Customer pursuant to which Solar agrees, subject to the terms set out in the Customer Agreement, to provide the Equipment and/or Services;

"Commencement Date" as defined in the MSA Terms;

"Customer Equipment" as defined in the MSA Terms;

"Data Service" means a data telecommunications service provided by Solar to the Customer (including any Equipment provided by Solar which relates to the same), excluding any backup service;

"Fee" as defined in the MSA terms;

"Internet Standards" means all relevant existing and future protocols and standards applicable to the use and functioning of the Internet, including (without limitation) the following: RFC1009, RFC1122, RFC1123 and RFC1250;

"IP" means internet protocol;

"Minimum Term" as defined in the MSA Terms;

"MSA Terms" means Solar's Master Services Agreement terms and conditions which are attached or referred to in the Customer Agreement;

"Name" means any name specifically requested by, or allocated to, the Customer for use in relation to the Data Service including any domain name or mailbox name;

"Network" means the telecommunications network through which the Data Service is provided;

"Services" as defined in the MSA Terms including the Data Service;

"Service Description" means the description for the Data Service provided to the Customer prior to its signature of the Customer Agreement, which Solar may vary from time to time in accordance with the MSA Terms;

"Service Terms" as defined in the MSA Terms, which includes these Data Services Agreement terms and conditions, the Service Description and the Acceptable Use Policy;

"Set-Up Charge" means the Charges (if applicable) due for setting up fee the Data Service, as specified in the Customer Agreement;

"Site" as defined in the MSA Terms; and

"Subscription Charge" means the subscription charge for the Services, as specified in the Customer Agreement;

"Supplier" as defined in the MSA Terms.

References to "clauses" are to clauses of these terms and conditions (and not clauses of the MSA Terms), unless otherwise stated.

Customer requires and Solar agrees to perform or procure the performance of any re-wiring and/or reconnection, the Customer shall be charged an additional Fee.

3.2. The actual speed of the ADSL Service cannot be guaranteed and will depend on a number of factors including:

3.2.1. the quality of the line, environmental noise and the distance from the local exchange;

3.2.2. the number of other users using the line and local exchange when the ADSL Service is being used; and;

3.2.3. any traffic management measures put in place by Solar and/or the Supplier.

4. Charges and payments

4.1. Solar may invoice the Customer for the Set-Up Charge at any time on or after the Effective Date.

4.2. Solar may invoice the Customer for the Subscription Charge at any time on or after the Commencement Date and at the commencement of each quarter thereafter, unless otherwise stated in the Customer Agreement.

5. Duration and Termination

5.1. Either party may terminate the Customer Agreement in relation to the Data Services in accordance with these Data Services terms and conditions and/or the MSA Terms.

5.2. Solar may suspend the provision of the Data Services in accordance with clauses 16 and/or 17 of the MSA. If it does so and such suspension results from the Customer's breach of the Contract, prior to re-connection, Solar reserves the right to demand a refundable deposit from the Customer equal to one quarter of the Subscription Fee. On re-connection of the Data Service, a charge of £150 may be levied, at Solar's absolute discretion.

6. Use of the Services

6.1. Without prejudice to the MSA Terms, the Customer acknowledges that it is technically impossible to provide a fault-free Data Service.

6.2. In addition to its obligations in the MSA Terms, the Customer agrees with Solar and the Supplier:

6.2.1. not to knowingly intercept or attempt to intercept any message that passes over the Network;

6.2.2. not to knowingly or recklessly send any message or virus through the Network which causes or is likely to cause any harm to Solar, the Supplier, any of their communications systems and/or any of their customers;

6.3. The Customer shall only use the Data Service in accordance with:

6.3.1. the Acceptable Use Policy, which the Customer shall read prior to commencing use of the Data Service;

6.3.2. the Service Description; and

6.3.3. the Internet Standards and applicable policies of the Network.

6.4. For the purposes of this clause 6 and clauses 16 and/or 17 of the MSA it shall be irrelevant whether or not the Customer was aware of the breach.

6.5. If use of the Data Service by the Customer breaches the Customer Agreement, or if the Customer makes use of the Data Service to the detriment of Solar, the Supplier and/or its or their customers, Solar reserves the right to restrict the Customer's access to the Data Service until the Customer gives Solar an acceptable undertaking as to use.

6.6. Use of "IP Multicast" (sending internet protocol datagrams to a group of interested receivers in a single transmission) using the Data Service is prohibited other than with the express prior approval of Solar and then only by means provided and co-ordinated by Solar using the Data Service is prohibited.

6.7. The Customer shall procure that all users of the Data Service comply with the terms of this clause 6 and any other relevant terms of the Customer Agreement which relate to the use of the Data Service.

6.8. Solar and the Supplier may (without notice to the Customer) review or record usage (without notice to the Customer) of the Data Service to verify the Customer's compliance with, and may suspend or disconnect the Customer's access to the Data Service without Liability if it reasonably suspects that the Customer has breached, this clause 6 and/or any other relevant terms as to use of the Data Service within the Customer Agreement.

2. Service Terms

2.1. These Data Service Agreement terms and conditions shall apply to and be incorporated into the Customer Agreement when Solar is providing Data Services to the Customer pursuant to the Customer Agreement.

3. Installation and limitations

3.1. There may be a temporary loss of and/or interference to telephone services or other telecommunications services during installation of the Data Service (and/or any related Equipment) at the Site by Solar or its Supplier. Neither Solar or its Supplier will have any Liability to the Customer or any third party in relation to the same. Telephone socket extensions at the Site that are incorrectly wired may be disconnected by Solar during installation, without incurring Liability to the Customer. If

7. Third party network connections

If the Customer wishes to connect the Network to other wide area networks the Customer must seek Solar's prior written consent before doing so.

8. Name, intellectual property rights and IP addresses

- 8.1. The Customer warrants and represents that it is the owner of, or that it has been and is duly authorised by the owner to use, all rights in each Name.
- 8.2. The Customer acknowledges that Solar cannot guarantee that any Name will be available and/or approved for use.
- 8.3. If a Name infringes any third party rights (including, without limitation any intellectual property rights) or is illegal, offensive or immoral, or in Solar's opinion there are reasonable grounds for Solar to believe that this is the case: Solar may require the Customer to select a replacement Name. Until it does so:
 - 8.3.1. Solar may suspend the Data Service; and
 - 8.3.2. the Customer shall not use the Name in connection with the Data Service or any other Services and/or Equipment provided by Solar or a Supplier.
- 8.4. If the Data Service includes the registration of a Name on behalf of the Customer, the Customer acknowledges and agrees that:
 - 8.4.1. Solar does not represent, warrant or guarantee that any Name applied for will be available and/or capable of being registered on behalf of the Customer or that the use of such Name will not infringe any third party rights or be illegal, offensive or immoral. Accordingly, the Customer should take no action in respect of the Name until it has been notified that the requested Name has been duly registered. Solar will have no Liability relating to any such action taken by the Customer prior to such registration;
 - 8.4.2. the registration of the Name and its ongoing use by the Customer is subject to the relevant naming authority's terms and conditions of use. The Customer undertakes to Solar that the Customer will comply with such terms and conditions. The Customer hereby irrevocably waives any claims that the Customer may have against Solar in respect of any act or omission of a naming authority and, without limitation, the Customer acknowledges and agrees that any administration or other charge paid by the Customer in respect of the application to and/or registration or maintenance of a Name is non-refundable in any event; and
 - 8.4.3. Solar accepts no Liability in respect of the use of a Name by the Customer and the Customer indemnifies Solar against any Liability associated with the Customer's use of the Name. Any dispute between the Customer and any third party regarding a Name must be resolved between the parties concerned. Solar will take no part in any such dispute. Solar reserves the right, on becoming aware of such a dispute concerning a Name, at Solar's absolute discretion and without giving any reason, to either suspend or cancel the Data Service and any other Services associated with the Name, and/or to make such representations to the relevant naming authority as Solar deems appropriate.
- 8.5. Solar retains the right to withhold any domain name tag change until all sums due under the Customer Agreement are paid by the Customer.
- 8.6. If the Customer does not move a domain name registered by Solar to another internet service provider within one (1) month of termination of the Data Service, Solar may terminate the domain name with the applicable domain name authorities, registries and registrars.
- 8.7. The Customer shall not be entitled to use the trademarks, trade names, domain names, business names, logos or other proprietary identifying marks of Solar or the Supplier without Solar's or the Supplier's prior written consent.
- 8.8. Any IP address supplied by Solar or the Supplier is licensed to the Customer on a non-exclusive, non-transferable, revocable basis for use only in conjunction with the Data Service and will remain Solar's or its Supplier's property. Following disconnection of the Data Service any such IP addresses may be re-assigned to the Supplier or a third party. The Customer's licence to use those IP address will automatically terminate upon termination of the Data Service and the Customer shall not make any further use of the same. Solar reserves the right to charge the Customer a Fee for any IP addresses supplied by Solar or a Supplier.