

# Terms and conditions

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## Important information

These Standard Terms and Conditions together with any Specific Terms and Conditions for your Services, the Privacy Notice, the Data Processing Addendum and the Acceptable Use Policy form the Agreement between You and Us. If any of these Standard Terms and Conditions are inconsistent with any Specific Terms and Conditions for your Services, then the Specific Terms shall prevail.

### Definitions:

"Acceptable Use Policy" means the Claranet policy which forms part of this Agreement and sets out the remit for your use of the Services;

"Agreement" means any agreement to which these Standard Terms and Conditions together with any Specific Terms & Conditions for your Services and the Acceptable Use Policy are incorporated;

"Services" means the services and or products to be provided to You by Claranet;

"Term" means the duration of the Agreement;

"We" or "Us" means Claranet Limited, a company registered in England and Wales under company number 3152737 with registered office at 110 High Holborn, London, WC1V 6JS;

"You" means the person or company who purchases services from Claranet.

### Your agreement with us

By opening an account with Us, or accessing our Services, You indicate your acceptance of these Terms and Conditions and agree to be bound by them. If You do not agree with these Terms and Conditions, You should cancel any account set up.

By entering into the Agreement, you warrant and represent that you do so in the course of a business and not as a consumer.

### Standard terms and conditions

#### 1. Supply of your Service

- 1.1 These Standard Terms and Conditions apply to our provision and your use of your Service and to any equipment provided to You for your Service.
- 1.2 We reserve the right to alter or withdraw your Service at any time and will give You reasonable notice where possible.
- 1.3 We will provide your Service and deliver any equipment to the UK address provided by You unless the Specific Terms indicate otherwise.

#### 2. Paying for your Service

- 2.1 The charges for your Service or Services will be the charges applicable at the time of ordering the Service.

- 2.2 You must pay all charges for your Service and any equipment provided to You, including any charges for late payment.
- 2.3 Your method of payment will be either as set out in these Standard Terms and Conditions or as otherwise notified to You. All sums due under these Standard Terms and Conditions may be payable on demand in the event of payment terms being breached. Accounts in default may be charged interest on the outstanding balance at 4% per annum above HSBC's base lending rate from time to time. All payments due under these Terms and Conditions shall be made by You in full without any right of offset by You.
- 2.4 All sums due under these Standard Terms and Conditions are quoted exclusively of Value Added Tax, (unless as stated otherwise) or other applicable taxes which may from time to time be charged in accordance with the relevant regulations in force at the time and shall be paid by You.
- 2.5 We reserve the right to suspend or end your Service immediately in the event of any default in payment by You.
- 2.6 All subscription charges are due in advance.
- 2.7 Your bills will be available to download from an online portal, the address of which will be sent to You in your acknowledgement email. You agree to pay the charges within 14 days of receiving the invoice. You are responsible for checking receipt of all invoices. No hard copy invoices will be sent by post.
- 2.8 Payment for services must be made by either direct debit, Visa, Mastercard or American Express unless an alternative method is agreed by Us. Where it is agreed for You to pay by cheque or BACS, You agree to pay an additional £10 (including VAT) administration fee per invoice paid using this payment method.
- 2.9 We reserve the right to change the prices of our Services by giving You 30 days written notice of those changes.

### 3. Using your Service and Change of Service

- 3.1 You must use your Service in accordance with our [Acceptable Use Policy](#) and any reasonable instructions that We may give You from time to time. A breach of our Acceptable Use Policy will constitute a material breach of these Terms and Conditions and shall entitle Us to end our Agreement with You under clause 7.2.
- 3.2 You must not (or authorise or permit any other party to) use your Service for the transmission of any material which is in violation of any law or regulation, or which is defamatory, menacing, obscene, in breach of third-party intellectual property rights (including copyright) or in breach of trade secrets. Any breach of this clause will be deemed to be a material breach of these Terms and Conditions and shall entitle Us to end our Agreement with You under clause 7.2. Whether You are aware of the content or illegality of any material so transmitted or not shall be irrelevant to this clause.
- 3.3 In addition to our other rights, We may suspend your Service without notice and with immediate effect whilst We investigate any allegation that You are in breach of our Acceptable Use Policy or clause 3.2.
- 3.4 You acknowledge that We are unable to exercise control over the content of the information passing over our network and/or our services, and we hereby exclude all liability of any kind for the transmission or reception of infringing information of whatever nature.

- 3.5 You agree that any content, software or other copyright material We supply to You is for your own private use and You must not copy, change or publish the material or supply it to any person or use it for any business purpose.
- 3.6 If you have an internet access service from Us, You accept that you are using the internet at your own risk. You are responsible for making sure any equipment You use to access your Service is protected against viruses.
- 3.7 If your Service gives You content or software licensed by others who ask You to accept their terms of use, You must observe these terms.
- 3.8 We reserve the right to delete all email from a mailbox if it remains unaccessed for a period exceeding 120 days and to bounce any new mail destined for that mailbox until such time as the account is logged into.
- 3.9 At any time during or at the end of the Service Term, Claranet has the right to upgrade and/or migrate You to a different level or type of service if, in the opinion of Claranet, the existing Services being provided to You are or become inappropriate or insufficient to meet the your requirements and as a result, Claranet considers You require different Services which are more appropriate to your needs.
- 3.10 If You agree to change the Services in accordance with Claranet's recommendation, You may be liable for the higher fees and costs associated with the upgraded and/or migrated Services and any termination or cancellation fees associated with the terminated Services.
- 3.11 If You do not agree to the upgraded and/or migrated Services, Claranet shall be entitled to terminate the provision of the existing Services on providing 30 days' notice in writing. In the event that You choose not to upgrade and Claranet allows You to continue using the existing Services, any applicable SLA ceases to apply.

#### 4. Security and Data Protection

- 4.1 You are responsible for maintaining the confidentiality of your username and password and should not release them to any third party. You are fully responsible for all activities which occur under your username and password. Other users of your username and password shall be bound by these Standard Terms and Conditions as if they were You. You agree to immediately notify Us of any unauthorised use of your username or password or any other breach of security of which You become aware.
- 4.2 Please see our [Privacy Policy](#) for information on how We collect, store and deal with your personal data.
- 4.3 To the extent that We access or hold personal data which is submitted by You for use with the Services, the terms of the our Data Processing Addendum, which are hereby incorporated by reference, shall apply and both You and Us agree to comply with such terms.

#### 5. Suspending your Service

- 5.1 We may, with or without ending our Agreement, suspend the provision of your Service in whole or in part until further notice with immediate effect if We:
  - a. have reason to end this Agreement in accordance with clause 3.3 and clause 7;

- b. are obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other administrative authority; or
- c. need to carry out work relating to upgrading or maintenance of our network but providing that We have given You a reasonable period of notice practicable in the circumstances.

## 6. Liability

- 6.1 We cannot guarantee that your Service or the equipment We provide to You will be error or fault-free.
- 6.2 We will not be liable for any indirect loss, consequential loss, loss of profit, revenue, data or goodwill howsoever arising suffered by You or for any wasted management time or failure to make anticipated savings or liability You incur to any third party arising in any way in connection with this Agreement or otherwise whether or not such loss has been discussed by the parties pre-contract or for any account for profit, costs or expenses arising from such damage or loss.
- 6.3 No matter how many claims are made and whatever the basis of such claims, our maximum aggregate liability to You under or in connection with this Agreement in respect of any direct loss (or any other loss to the extent that such loss is not excluded by other provisions in this Agreement) whether such claim arises in contract or in tort or in any other way and whether or not caused by negligence or misrepresentation shall not exceed a sum equal to the fees paid by You for the specific Services in relation to which Your claim arises during the 6 month period prior to such claim.
- 6.4 We will be liable for loss or damage You suffer to your physical property arising from our negligence up to a maximum amount of £500,000 in any 12-month period.
- 6.5 We do not limit or exclude our liability for death or personal injury caused by our negligence, for fraud or for any other matter for which liability cannot be excluded or limited by law.

## 7. Term and Termination of your Service

- 7.1 The Term (including any minimum or subscription period) shall begin when we inform you that your Service is installed and ready for use.
- 7.2 Unless otherwise specified, Services are provided for a minimum contract Term of 12 months and unless cancelled in accordance with clause 7.5 below, Services will automatically be renewed for successive periods of thirty (30) days.
- 7.3 Notwithstanding clause 7.2, any terms relating to the use, purchase, or licensing of Microsoft products shall be subject to a minimum Term of twelve (12) months.

### Our rights

- 7.4 We (without prejudice to our other rights) may end our Agreement with You and cancel your Service immediately if:
  - a. You breach any clause under these Standard Terms and Conditions;
  - b. We are obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other administrative authority, to terminate your Service;



- c. You breach our Acceptable Use Policy; or
- d. the provision of your Service would give rise to or cause disruption to the services offered by us to our other customers.

7.5 We reserve the right to terminate this Agreement for any reason by providing You a minimum of 30 days' notice at any time.

### Your rights

7.6 You may end your Agreement with us and cancel your Service:

- a. By emailing [mspcancellations@uk.clara.net](mailto:mspcancellations@uk.clara.net) no less than 30 days prior to the renewal date of your Services;

7.7 If We have provided any equipment to allow You to use your Service, You agree to return it, following our instructions and at your cost.

### On ending the agreement

7.8 In the event of termination, whether initiated by You or us;

- a. cancellation charges may be payable by You as set out in the Specific Terms;
- b. You shall immediately cease to make use of your Service and return our equipment to us at your cost, unless We specify otherwise in these Terms and Conditions; and
- c. We will cease to provide your Service and certain consequences will flow from such termination including without limitation deletion of emails within your mailboxes.

## 8. General

8.1 Neither party to this Agreement shall be liable to the other for any delay or non-performance of its obligations under this Agreement to the extent that such delay or non-performance is due to a Force Majeure Event. You may not rely on a Force Majeure Event for any delay or non-performance of any obligation to pay Us under this Agreement.

8.2 We shall have the right to modify these Standard Terms and Conditions at any time. It is your responsibility to check these Standard Terms and Conditions for changes and to check for changes published on our site and we will not be responsible for any failure by you to so do. We will endeavour to inform You about a price increase, or a significant change to these Standard Terms and Conditions.

8.3 These Standard Terms and Conditions are governed by and shall be construed in accordance with the laws of England and Wales and You hereby submit to the exclusive jurisdiction of the English Courts.

8.4 You must not assign or purport to assign or otherwise deal with any of your rights and obligations hereunder, except if expressly agreed in writing by us.

8.5 We may, at any time assign, transfer charge, subcontract or deal in any other matter with all or any of its rights under the Agreement.

- 8.6 You agree that any notice or communications required or permitted to be delivered under this Agreement by Us to You shall be deemed to have been given if delivered by email, in accordance with the contact information You have provided.

## Specific terms

### 1. Broadband

This relates to all copper broadband (ADSL), fibre broadband (FTTC), fibre to the premises (FTTP), single order generic ethernet access (SOGEA) and single order asymmetric digital subscriber line (SOADSL) services sold by Claranet.

All broadband services provided by Claranet are on a best endeavours basis unless stated otherwise on the Service Order Form. In the event of a fault occurring Claranet will try to resolve the fault in as timely a manner as is reasonably possible. When a fault is raised it is the Customer's responsibility to perform any reasonable changes or tasks that Claranet requests in the process of attempting to fix the fault.

### 2. Capped services

If the service taken from Claranet has an advertised cap on the amount of data You can download each month then You will not be able to use the internet connection any further until an additional data allowance is purchased or until the monthly allowance is reset.

### 3. Enhanced Care

Customers who sign up to have Enhanced Care on their Broadband service will receive a credit note to the value of two months' service on their Broadband service product if a qualifying Service outage develops that is not fixed within a window of 20 hours from the time You notify Claranet of the Service outage. The credit note will only be applicable for the affected Service and will not apply to any other Services You may have with Claranet or elsewhere. A Service outage will not qualify for the credit note in any of the following circumstances:

- i. If the cause of or a contributing factor to the Service outage is found to be your own equipment is either unsuitable to use with the Broadband Service provided; is faulty; or is being used incorrectly. In this case, Claranet's findings will be explained to You and Claranet's decision will be final.
- ii. If You do not comply with any instructions that Claranet may give when attempting to resolve the Service Outage.
- iii. If the Service outage has been caused by a PSTN (Public Switched Telephone
- iv. Network) cease instigated by your telephone provider.
- v. If Claranet suspends or ceases the Service in accordance with any of clauses of the Standard Terms and Conditions.
- vi. If your Service has been cancelled in accordance with clause 7.

- vii. In the event of a Force Majeure. This means an event beyond the reasonable control of either the Customer or Claranet. This includes, but is not limited to, fire, storm, flood and extreme weather conditions, the outbreak of hostilities, riot, civil disorder or commotion, acts of terrorism, industrial disputes or act of any local or central government or other competent authority.

For the purpose of these Terms and Conditions a Service outage is defined as a period of time where You are unable to connect to the internet through their Broadband service despite attempts to make this connection. Once You have reconnected to the internet the Service outage will be classed as resolved and any future Service outage that may occur will be treated independently.

## Annex 1 – data processing addendum

**“Customer Personal Data”** shall mean personal data supplied to us by or on behalf of you and which is processed by us in connection with Services;

**“Data Privacy Laws”** shall mean the following as amended, extended or re-enacted from time to time.

- i. (i) EC Directive 1995/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data; (ii) EC Directive 2002/58/EC on Privacy and Electronic Communications;
- ii. EC Regulation 2016/679 (the **“GDPR”**) on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (when in force);
- iii. all local laws or regulations implementing or supplementing the EU legislation mentioned in (i)–(iii) above;
- iv. all codes of practice and guidance issued by national regulators relating to the laws, regulations and EU legislation mentioned in (i)–(iv) above.

**“Data Controller”** shall have the same meaning as defined in Data Privacy Laws; **“Data Processor”** shall have the same meaning as defined in Data Privacy Laws; **“Data Subject”** shall have the same meaning as defined in Data Privacy Laws;

**“Losses”** means losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses);

**“Processing”** shall have the same meaning as defined in Data Privacy Laws; **“Personal Data”** shall have the same meaning as defined in Data Privacy Laws; **“Processing Records”** shall have the meaning set out in clause 1.4(h)(i);

### 1. Data Protection

#### 1.1 Control of conflicts

In the event that this clause 1 conflicts with any other provision of the Services Agreement which this document updates, the provisions of this clause 1 shall prevail to the extent of such conflict.

#### 1.2 Appointment of us as your Data Processor



- a. The parties confirm that where Services comprise of our processing of your Personal Data, we shall be the Data Processor and you shall be the Data Controller with respect to such processing.
- b. If, as a consequence of our provision of Services, a party considers that the relationship between them no longer corresponds to the intention of the parties stated in clause 1.2(a) above then it shall notify the other party and the parties shall discuss and agree in good faith such steps that may
- c. be required to confirm the parties' intention.

### 1.3 General obligations of the parties

- a. Without prejudice to the remaining provisions of this clause 1, each party shall comply with the obligations imposed on it by applicable Data Privacy Laws with regard to your Personal Data processed by it in connection with Services, including, where applicable, appointing a data protection officer.
- b. Each party shall ensure that where Services require the processing of your Personal Data, the description of Services includes the following information:
  - i. The subject matter and duration of such Services;
  - ii. The nature and purpose of the processing of your Personal Data required by such Services;
  - iii. A description of the type(s) of your Personal Data processed in connection with such Services; and
  - iv. A description of the categories of the data subjects comprised within your Personal Data referred to in this clause.

### 1.4 Our obligations

- a. We shall process your Personal Data strictly in accordance with the documented your instructions including transfers of your Personal Data outside the EEA;
- b. We shall ensure that any persons authorised by it to process your Personal Data are subject to an obligation of confidentiality;
- c. We shall implement appropriate technical and organisational measures to ensure that your Personal Data is subject to a level of security appropriate to the risks arising from its processing by us, taking into account the factors stated in Article 32 of the GDPR;
- d. We shall notify you without undue delay of a personal data breach after becoming aware of it;
- e. Taking into account the nature of the processing, we shall assist you by using appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising a data subject's rights under the GDPR;

- i. Taking into account the nature of the processing and the information available to us, we shall assist you with regard to your compliance with its obligations under the following Articles of the GDPR: Article 32 (Security of processing);
  - ii. Articles 33 and 34 (Notification and communication of a personal data breach);
  - iii. Article 35 (Data protection impact assessment); and
  - iv. Article 36 (Prior consultation by you with the supervisory authority)
- f. Upon termination of Services that required the processing of your Personal Data (in whole or in part) we shall, at your election, deliver up or destroy such of your Personal Data which is in our possession, or under our control;
- g. We shall, at your request, provide you with all information necessary to demonstrate your compliance with its obligations under this clause 1.4, including allowing for and contributing to audits and inspections conducted by or on your behalf;
- h. We shall maintain written records of its processing of the your Personal Data (the **"Processing Records"**) as follows:
- i. the name and contact details of:
    - a. us and our sub-processors;
    - b. you;
    - c. where applicable, the representatives of you, us and its subprocessors, and our data protection officer;
  - ii. the categories of processing of the your Personal Data carried out on your behalf;
  - iii. transfers of your Personal Data to a third country or an international organisation, including the identification of that third country or international organisation and, where applicable, details of the suitable safeguards in place; and
  - iv. where possible, a general description of the technical and organisational security measures taken by us, our sub-processors and you.
- i. We and our sub processors and, where applicable, their representatives, shall make the Processing Records available to a supervisory authority on request.

#### 1.5 Costs of assistance

Where, by operation of clause 1.4 we are obliged to provide assistance to you, or to third parties at your request (including submission to an audit or inspection and/or the provision of information), such assistance shall be provided at your sole cost and expense, save where such assistance directly arises from our breach of its obligations under this Agreement, in which event the costs of such assistance shall be borne by us.

#### 1.6 Our appointment of sub-processors

- a. Notwithstanding any other provision of this Agreement, we shall be entitled to sub-contract any part of Services requiring the processing of your Personal Data, subject to the following conditions:
  - i. We shall notify you in writing of its intention to engage such subcontractor. Such notice shall give details of the identity of such sub-contractor and the services to be supplied by it;
  - ii. We shall be deemed to have approved the engagement of the subcontractor if it has not served a notice in writing upon us objecting to such appointment within 7 days of the date that the notice is deemed to be received by you in accordance with clause 14.

#### 1.7 Liability

- a. Subject to clause 1.7(c) and the provisions Article 82(3) of the GDPR, if a party is liable for Losses paid to a third party which directly arise from the other party's breach of its obligations under the GDPR (the "defaulting
- b. party"), the defaulting party is liable to the other party for those Losses.
- c. Subject to clause 1.7(c) and the provisions Article 82(3) of the GDPR, we are liable to you where Losses have been incurred and paid by the you to a third party which directly arise as a consequence of us acting outside or contrary to your lawful instructions with regard to that part of the Services comprising of the processing of your Personal Data.
- d. Where, in accordance with the provisions Article 82(3) of the GDPR, both parties are responsible for the act, or omission to act, giving rise to the payment of Losses under clauses 1.7(a) or 1.7(b), then a party shall only be liable to the other party for that part of such Losses which are in proportion to their respective responsibility.