

Business ADSL & FTTC Terms & Conditions

GENERAL PROVISIONS

These Conditions set out the terms under which Scholar Web Services will provide Services to the Client (as such terms are defined below). Scholar Web Services Web Services reserves the right to change, add, subtract or in way alter these Conditions without the prior consent of the Client. An update to date copy of these terms and conditions can be found on the Scholar Web Services Website.

Definitions

“Account Manager” shall mean the Client’s designated point of contact for sales queries, product advice and general questions;

“Activation” occurs when the relevant Service is available for use by the Client;

“Agreement” means these terms and conditions together with the Service Schedule;

“Scholar Web Services Limited” and “Scholar Web Services” refers to Scholar Web Services Limited whose registered office is 5, The Heights, 5 Warren Edge Road, Bournemouth, Dorset, BH6 4AU, UK.

“Cerberus Networks” and “Cerberus” shall mean Cerberus Networks Limited, a company incorporated in England and Wales whose registered office is at 9 Walmgate Road, Greenford, Middlesex, UB6 7LH;

“Client”: the Client, as identified on the Service Schedule.

“Internet” shall mean the worldwide collection of private and public router-based networks that are interconnected via gateways and exchange points, and which all utilise the TCP/IP protocol suite;

“Initial Period” shall mean the initial billing period as stated on first invoice for the Services set out in the Service Schedule;

“Minimum Term” shall mean the minimum period of three or twelve months during which the Client must pay for the relevant Service. In all cases the relevant Notice must be given in writing;

“Network” shall mean the Cerberus DSL network;

“Notice” shall mean the number of days written notice to cancel the relevant Service as specified under Subsequent Term (Notice Period) on the Service Schedule. Notice must not be considered as received by Scholar Web Services unless the Client has received acknowledgement by post or email;

“Order” shall mean any request by the Client to provide Service regardless of whether the request is submitted via Scholar Web Services’ online ordering portal, via fax, post or email. Orders are not accepted via the telephone;

“Quarter” shall mean the period of three months commencing on the specified date;

“Quotation” shall mean a written summary of Services and pricing valid for 30 days provided to the Client for the purposes of submitting an Order to Scholar Web Services;

“Recurring Charges” means those amounts payable by the Client to Scholar Web Services Web Services on a recurring basis for the Service as set out in the Service Description of the Service Schedule;

“Service” shall mean the products or services offered by Scholar Web Services and specified in the relevant Order;

"Website" shall mean the website at <http://www.scholarwebservices.com>

1 CLIENT ORDER

1.1 These terms and conditions apply to the Client's Order for Internet services and apply in addition to Scholar Web Services Web Services' standard terms and conditions of trading.

1.2 Scholar Web Services reserves the right not to accept an Order at its discretion.

1.3 Services are provided in accordance with each Order.

1.4 Orders will only be accepted if submitted via the Scholar Web Services Website or in writing in relation to a specific Quotation supplied to the Client by Scholar Web Services.

1.5 Orders must not be considered as received or accepted by Scholar Web Services unless the Client has received acknowledgement by post or email from Scholar Web Services.

2 SERVICE ACTIVATION

2.1 Before being able to activate the Service, Scholar Web Services will use its best endeavours to:

2.1.1 verify that the Client's premises listed in the Order are in an area in which the Service is available; and

2.1.2 carry out a line test to check that the Client's line can support the Scholar Web Services ADSL Service ordered.

2.2 Occasionally it will not be possible to establish whether the Service can be activated until after activation of the Service is attempted at the Client's premises.

2.3 Scholar Web Services will send an Order confirmation by email to the Client once the Order has been accepted.

2.3.1 If the Client chooses to cancel the Order after confirmation but before the Service has been committed to be activated on a specific date the Client will not be liable for any fees.

2.4 Scholar Web Services will send an email to the Client once a date has been set for the Activation of the Service or installation of any equipment necessary for the Activation of the Service. This email will normally be sent within 48 hours of the Order being accepted by Scholar Web Services although may be delayed by provisioning issues outside of Scholar Web Services' control and for which Scholar Web Services cannot not be held liable.

2.4.1 If the Client chooses to cancel the Order after the committed date but before activation the Client agrees to pay the full activation charges as well as the service rental for Minimum Term. This is irrespective of whether the Client uses the Service.

2.5 Installation of the Service may be subject to a survey carried out by Scholar Web Services, or an agent contracted by Scholar Web Services to undertake the survey. The Service may not be provided where the survey carried out is incomplete or unsatisfactory. Scholar Web Services reserves the right to charge for such surveys although Scholar Web Services will advise the Client of any charges before work is undertaken and Scholar Web Services will not carry out any chargeable work without agreement in writing from the Client.

2.6 If the Service cannot be activated Scholar Web Services will notify the Client as soon as possible and the order will be cancelled. Scholar Web Services may propose an alternative Service (where available). If Scholar Web Services has supplied the Client with any equipment as part of the Service the Client must return such equipment with original packaging to Scholar Web Services in the same condition as it was provided within 7 days, or the Client will be liable for fees details in clause 5.

2.7 Scholar Web Services will use all reasonable endeavours to provide the Service within 10 business days of order acceptance by Scholar Web Services, but cannot be held responsible if provision takes longer or is not possible.

2.8 If Scholar Web Services is unable to activate the Service according to the Client's Order due to the Client's act or omission, or due to incorrect information being provided by the Client, Scholar Web Services reserves the right to charge the Client the agreed connection fee and service rental for the Minimum Term.

2.9 Occasionally visits to the Client's premises will be required to resolve provisioning issues or Service faults. These visits are sometimes carried out by BT. Scholar Web Services will liaise with the Client to arrange the timing of these appointments. It is also possible that BT may contact the Client directly in relation to the appointment. The Client agrees to pay any charges made by BT in the event the Client is responsible for any faults found.

2.10 Where required and to allow the installation to proceed the Client will, at their own expense:

2.10.1 obtain all necessary consents, including consents for any necessary alterations to buildings;

2.10.2 take up, or remove, any fitted or fixed floor coverings, ceiling tiles, suspended ceiling and partition covers;

2.10.3 provide any electricity and connection points required by Scholar Web Services or any contracted agents of Scholar Web Services.

2.11 During Activation of the Service the Client may temporarily lose the use of the Client's other telecommunications services on the telephone line used for the Service.

2.12 If the Client requires a static IP address the Client will need to specify this in the Client's Order. If the Client does not specify this requirement the Client will receive either a dynamic or a static IP address based on the standard configuration for the Service.

2.13 If the Client wishes the Service to be activated on a specific date this must be notified to Scholar Web Services in writing at the time of order. It is not always possible to arrange or delay activation to a specific date. Scholar Web Services will use best efforts but cannot guarantee to arrange activation for a specific date, but cannot be held liable if this is not possible.

2.14 If the Client is migrating an existing service from another provider Scholar Web Services cannot be held responsible if the previous service provider ceases service before Scholar Web Services has activated its Service.

3 SERVICE PROVISION

3.1 Scholar Web Services will provide the Service in a manner befitting a competent telecommunications service provider. Scholar Web Services may subcontract the provision of all or any part of the Services to third parties.

3.2 Changes may be made to the Network or the technical specification of a Service from time to time; if these changes will detrimentally affect the Service, Scholar Web Services will inform the Client in advance.

3.3 Scholar Web Services ADSL Services are capable of synchronising to the exchange equipment at up to 24Mbps downstream and 2.5Mbps upstream (76Mbps and 19Mbps for FTTC) as a theoretical maximum per PSTN line. The actual speed of the Service will depend on the length of the telephone line and the quality of the copper. These are factors which are outside of our control and for which Scholar Web Services cannot accept any responsibility.

3.4 When a line is of a very poor quality or has a very long length, it may not be possible to provide the Service.

3.5 It is technically impracticable for Scholar Web Services to provide a 100% fault-free Service and Scholar Web Services does not warrant or undertake to do so.

4 COMMENCEMENT AND TERM

4.1 Following Activation, the Service shall continue to be provided for a period equal to the Minimum Term. If the Client cancels this Agreement during the Minimum Term they will be charged for the remainder of the Minimum Term.

4.2 Cancellation requires 1 months' prior written notice

4.2.1 Termination notification by the Client must be made in writing to Scholar Web Services Web Services to the following address:

Accounts Department

Scholar Web Services Limited

Basepoint Business Centre

Office 59

Aviation Park West

Hurn

Christchurch

Dorset

BH23 6NX

Or by email to;

accounts@scholarwebservices.com

4.2.2 Any notification of termination by the Client must be authorised by the contact on the order or a staff member with suitable authority and must specify the telephone number of the Service and the date on which Service is to be terminated.

4.2.3 Termination notification by Scholar Web Services to the Client will be made by email to the contact stated on the Order by the Client's Account Manager or a member of the Operations Department.

4.2.4 The Client must not assume that Scholar Web Services has received notice of Termination unless Scholar Web Services has confirmed this in writing, or the Client has used registered post. Proof of postage is not taken as proof of delivery.

4.2.5 Upon Termination of a FTTC/FTTP Service or FTTC migration to an LLU or MPF provider, Scholar Web Services will charge the Client a cessation fee of £45+VAT.

5 ROUTER OR MODEM EQUIPMENT

5.1 The warranty on any router equipment supplied by Scholar Web Services is a on a return-to-base basis under the standard manufacturer warranty. Should the Client require a replacement router for equipment under warranty and supplied by Scholar Web Services, the Client must return the faulty equipment to Scholar Web Services at the Client's expense. Upon receipt of faulty equipment, Scholar Web Services will test the faulty equipment and, if no fault is found, return the equipment to the Client at the Client's expense. If a fault is found, Scholar Web Services shall send the faulty equipment to the manufacturer on a next business day delivery. Should the Client wish to receive replacement equipment on a next-day advance replacement basis (whereby Scholar Web Services ship replacement equipment in advance of receipt of the faulty equipment from the Client), they must purchase this service as additional to the broadband service package.

6 USE OF SERVICE

6.1 The Client shall not use the Service:

6.1.1 in breach of Scholar Web Services' Acceptable Usage Policy;

6.1.2 in connection with the carrying out of any fraudulent, criminal, or any other illegal activity;

6.1.3 to send, knowingly receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing or in breach of copyright, confidence, privacy or any other rights;

6.1.4 to cause annoyance or needless anxiety;

6.1.5 to send or provide or, knowingly receive responses to, any spam or unsolicited advertising or promotional material;

6.1.6 to knowingly or recklessly transmit any electronic material (including viruses) which shall cause or is likely to cause detriment or harm in any degree to computer systems owned by Scholar Web Services or other Internet users;

6.1.7 in a manner which restricts or inhibits any other user from using or enjoying Scholar Web Services' products or services;

6.1.8 to utilise excessive amounts of bandwidth (as outlined in the AUP);

6.1.9 in breach of any reasonable instructions given by Scholar Web Services;

6.2 Scholar Web Services shall have the right to examine, from time to time, the use to which the Client puts the Services and the nature of the data/information that the Client is transmitting or receiving via the Services where such examination is necessary: (i) to protect / safeguard the integrity, operation and functionality of Scholar Web Services' and Cerberus Networks (and neighbouring) networks; or (ii) to comply with police, judicial, regulatory or governmental orders, notices, directives or requests.

6.3 The Client agrees to indemnify Scholar Web Services and its subcontractors from any liability or claim arising out of, or any penalty or fine imposed in respect of, the Client's breach of clause 6.

7 SERVICE SUSPENSION AND ALTERATION

7.1 Scholar Web Services may suspend the provision of the Services or any part thereof, and/or disconnect the Client's facilities from the Network with no liability to the Client for any loss or damages the Client suffers as a consequence of such suspension if and to the extent that:

7.1.1 Scholar Web Services has reasonable grounds to believe that the Services are being used in breach of Clause 6; or

7.1.2 the Client's use of the Network may damage or disrupt the proper functioning of the Network; or

7.1.3 Temporarily, for operational or technical reasons;

7.1.4 the Client does not pay Scholar Web Services' invoices within the credit terms shown on the Service Schedule.

7.2 Scholar Web Services shall give the Client as much notice of a suspension under Clause 7.1 as is reasonably practicable in the circumstances.

7.3 Scholar Web Services shall be entitled to terminate or modify the Service, without any liability whatsoever, if any license or authorisation which Scholar Web Services requires in order to provide the Service is not obtained, withdrawn or otherwise cancelled; in the event of a modification that is

detrimental to the Service the Client shall have the right to terminate this Agreement by giving Notice in writing in accordance with Clause 4.

7.4 Scholar Web Services will provide the Service at the premises specified in the Client's Order. If the Client wishes to move the Service to new premises, this will be treated as a cease of Service at the old premises with applicable notice and new provide at the new premises with applicable activation fees.

8 CHARGES AND CREDIT TERMS

8.1 Scholar Web Services only accepts payment by standing order or electronic payment i.e. BACS . Scholar Web Services may at its discretion only restrict the methods by which it will accept payment.

8.2 Prices stated or quoted by Scholar Web Services do not include VAT unless explicitly stated in writing.

8.3 On the date that Cerberus Networks activates the Client's Service, Scholar Web Services shall invoice the Client for the Activation Charges and the Initial Period.

8.3.1 The Client agrees that thereafter, the Recurring Charges for the Services shall accrue and Scholar Web Services will charge the Client quarterly in advance unless otherwise explicitly agreed in writing;

8.3.2 All amounts due under this Agreement to be paid by the Client to Scholar Web Services shall be paid in full (without deduction or withholding except as required by law) and the Client shall not be entitled to assert any credit, set-off or counterclaim against Scholar Web Services in order to justify withholding payment of any such amount in whole or in part;

8.3.3 The initial payment shall be made once the Service is activated;

8.3.4 Services invoiced monthly can only be paid via Direct Debit which has to be setup at the time of order;

8.3.5 Direct Debit payments will be taken for the activation costs as well as ongoing monthly rentals after a minimum of 5 working days notice;

8.3.6 If Scholar Web Services cannot collect a Direct Debit payment, because the Client has cancelled the instructions with the Client's bank or there are insufficient funds in the Client's account, a processing fee of £75+VAT will be applied to the outstanding balance;

8.3.7 Scholar Web Services reserves the right to immediately suspend all Services on the Client's account should the Client's Direct Debit fail for any reason outside Scholar Web Services' control. Re-activation will incur a further charge as detailed in 8.4

8.3.8 payment of subsequent invoices shall be made within 14 days of receipt;

8.4 Where the Client disputes any amount due under an invoice the Client shall notify Scholar Web Services in writing within 7 working days of receiving the invoice. The parties hereby agree to act in good faith and use reasonable endeavours to resolve the disputed sum within 30 days of notification of the dispute by the Client. Scholar Web Services reserves the right to suspend the Service if the dispute is not resolved within the 30 day time period. Notwithstanding any other provision of this Agreement, Scholar Web Services shall have no liability to the Client for any loss or damages the Client suffers as a consequence of such suspension.

8.5 Scholar Web Services may, at their own discretion, charge interest on any overdue amounts payable from the due date (whether before or after judgment) at the rate of 5 percent per annum above the Sterling base rate of Natwest Bank PLC.

8.6 Any and all prices given as a Quotation are subject to change in accordance with standard terms and conditions. All Quotations are based on information supplied to Scholar Web Services by the

Client. In delivering the Service additional and supplemental work may be required and the Client agrees to pay such additional amounts subject to their prior to approval.

8.7 Scholar Web Services reserves the right to charge for debt collection, following failure to pay by the Client.

9 TERMINATION

9.1 Scholar Web Services may terminate this Agreement by notice, such notice to take effect forthwith if:

9.1.1 the Client has not paid following suspension under clause 8.4; or

9.1.2 the Client has committed a material breach of this Agreement; or

9.1.3 the Client fails to pay its debts when they become due; or

9.1.4 any meeting is convened for the purpose of considering a resolution, or any petition is presented or any other steps taken, for the purpose of making an administration order against the Client, or for the Client's winding-up or dissolution, or any similar action or steps are taken in relation to the Client and such action or steps are not withdrawn within 30 days; or

9.1.5 any administrator, administrative or other receiver or trustee or similar officer is appointed over the Client or any steps are taken to do the same to the Client.

9.2 The termination or expiry of this Agreement shall be without prejudice to the rights and liabilities of either of Scholar Web Services or the Client accruing up to such date.

10 SERVICE TECHNOLOGY

10.1 ADSL over shared line:

10.1.1 The Service uses Asymmetric DSL (ADSL) technology, operating over an existing, Client provided, BT PSTN line. It is not deployable on a PSTN line with certain products already installed;

10.1.2 It is the Client's responsibility that their phone line continues to work throughout the life of the Service;

10.1.3 ADSL2+ Services employ the ADSL2+ G.992 Annex-A and Annex-M variants of the ADSL standard according to the Service provided and the suitability for each of the copper line;

10.1.4 ADSL2+ Services employ the ADSL2+ G.992 Annex-A variant of the ADSL;

10.1.5 ADSL MAX Services employ the ADSL G.DMT standard according to the Service provided and the suitability for each of the copper line;

10.1.6 Scholar Web Services may, upon request, offer products over BT PSTN lines supplied by Scholar Web Services. In this event, the Client agrees to pay all call charges incurred from usage of the PSTN service.

11 DELIVERY

11.1 The Client acknowledges and agrees that acceptance of an Order and/or installation is not a guarantee that the Service can be successfully Activated. The factors that may limit the ability of Scholar Web Services to provide Services include but are not limited to:

11.1.1 geographic availability. Products are available over a standard BT PSTN line within certain footprints. The transmission performance of some metallic loops will mean that it is technically impracticable to provide Service to all Clients;

11.1.2 line characteristics. Each DSL Service states a line length over which Clients are likely to be able to receive the Service under a conservative set of assumptions;

11.1.3 BT exchange conditions and systems.

12 DATA PROTECTION

12.1 Scholar Web Services shall be entitled to store and process personal data provided on the Service Schedule form for its internal use and for the purposes of providing the Service.

12.2 The Client has the right to request a copy of information relating to the Client that is held by Scholar Web Services, by written request to Scholar Web Services upon payment of an administration fee.

12.3 The Client may change appropriate personal information relevant to them held by Scholar Web Services at any time, by advising Scholar Web Services in writing.

12.4 From time to time Scholar Web Services will contact the Client about other Scholar Web Services products and services. If the Client does not wish Scholar Web Services to contact them, it is their responsibility to inform Scholar Web Services.

13 SERVICE LEVEL AND CREDITS

13.1 Service level agreements or guarantees (SLAs) comprise of the following:

13.1.1 Scholar Web Services will aim to Accept or reject orders for the provision of a line within seven business days following submission of an Order;

13.1.2 Scholar Web Services will provide a telephone support system available during each working day between 09:00 and 17:30;

13.1.3 in the unlikely event that the Client experiences a total loss of Service on a Business Service for more than forty eight (48) consecutive hours, the Client will be compensated for each day's disruption (including the first forty eight (48) hours) by a credit towards the Service fee equivalent to the amount the Client would have paid for Service on those days;

13.1.4 in order to receive this credit, the Client will need to notify Scholar Web Services as soon as the Service failure occurs;

13.1.5 service credits will be applied to the Client's account and will not be issued in the form of a cash or other payment;

13.2 The SLA does not cover hardware which has been provided by the Client or by Scholar Web Services. Every effort will be made to minimise disruption caused by a faulty router but service credit will only be paid on the 'wires only' part of the Service.

13.3 The SLA does not come into effect until after the Service has been successfully activated and used by the Client to gain access to the Internet for the first time.

13.4 The SLA will not apply unless the Client provides all reasonable information and co-operation as requested by Scholar Web Services that may be necessary to resolve a fault.

13.5 The Client agrees that the service credits, as stated in clause 13.1, are an equitable remedy in respect of all loss or damage which the Client may suffer as a result of such loss of Service, and that it shall be the Client's sole and exclusive remedy in respect of such loss of Service.

13.6 The Client will not be entitled to Service Credits if a service fault is due to use of incompatible router equipment or any router equipment on the Service that has not been declared to be compatible with the Service by Scholar Web Services in writing. Scholar Web Services reserves the right to charge for support of such equipment at hourly rates of £80.00 + VAT/hour.

13.7 The Client will not be entitled to service credits if the Client has changed or reset the configuration on the routing equipment for the Service provided by Scholar Web Services or by the Client without the explicit instruction to do so by Scholar Web Services. Scholar Web Services reserves the right to charge for support of such equipment at hourly rates of £80.00 + VAT/hour.

14 LIABILITY

14.1 Scholar Web Services gives no warranty and makes no representation in respect of the Services including, without limitation, the availability of such Services save as specified in the Terms and Conditions and hereby excludes, to the fullest extent permitted by law, all conditions, warranties, terms, undertakings and representations, express or implied, whether by statute, common law or otherwise in relation to such Services.

14.2 Scholar Web Services shall not be liable to the Client whether in contract, tort, by statute or otherwise in respect of any loss of profits and/or for any special, indirect, incidental or consequential loss or damage arising out of or in connection with the appointment of the Client and/or the use of the Services:

14.2.1 loss of revenue; and/or

14.2.2 loss of anticipated savings; and/or

14.2.3 loss of business and/or goods; and/or

14.2.4 loss of goodwill; and/or

14.2.5 loss of use; and/or

14.2.6 loss and/or corruption of data and/or other information, and/or

14.2.7 downtime; and/or

14.2.8 any damage relating to the procurement by the Client or third party Client of any substitute services.

14.3 For the avoidance of doubt, neither the types of loss and/or damage specified in clauses 14.2.1 to 14.2.8, inclusive, nor any similar types of loss and/or damage shall constitute direct loss for the purposes of this Agreement.

14.4 In no event shall Scholar Web Services' liability to the Client, whether in contract, tort, by statute or otherwise exceed the greater of £2,500 (two thousand five hundred pounds sterling).

14.5 Nothing in this Agreement shall exclude or restrict the liability of either party for fraudulent misrepresentation and/or for death or personal injury arising as a result of the negligence of that party, its officers, employees, agents and/or subcontractors.

15 FORCE MAJEURE

No failure or omission by Scholar Web Services to carry out or observe any of the terms and conditions of this Agreement shall give rise to any claim against Scholar Web Services or be deemed a breach of this Agreement if such failure or omission arises from a cause of force majeure, an act of God or any other cause beyond the reasonable control of Scholar Web Services.

16 MISCELLANEOUS

16.1 No waiver by either party of any provisions of this Agreement shall be binding unless made expressly and confirmed in writing. Any such waiver shall not apply to any subsequent or other matter, non-compliance or breach.

16.2 This Agreement represents the entire understanding between the parties in relation to the matters dealt with herein and supersedes all previous covenants and representations made by either party, whether oral or written.

16.3 This Agreement is specific and limited to the Client and may not be assigned, sub-contracted or otherwise dealt with by the Client without the prior written consent of Scholar Web Services.

The Client shall comply with any and all rules, laws, statutes, enactments, orders, regulations, codes of practice and/or similar instruments applicable to the performance of its obligations under this Agreement.

17 LAW

This Agreement shall be governed by and construed exclusively in accordance with English law, and the parties hereby submit to the exclusive jurisdiction of the English courts.