

Terms and Conditions to the EnerStar Communications Customer Agreement.

These Terms and Conditions (“**Terms and Conditions**”) are an integral part of the EnerStar Rentals & Services Ltd. (“**EnerStar Solutions**”) Communications Customer Agreement and describes the additional terms and conditions between EnerStar and the Customer and are a part of and incorporated by reference into the EnerStar’s Communications Customer Agreement for our Communication Services, which include, but are not limited to, Starlink’s satellite-based data service, Wi-Fi service and the Services. The terms “**Agreement**” and “**Customer Agreement**” mean the Communications Customer Agreement which include these Terms and Conditions and the Starlink Policies and Agreements, defined below. For purposes of these Terms and Conditions, EnerStar may be referred to herein as “**EnerStar**”, “**Us**” or “**We**”, and Customer may be referred to herein as “**Customer**” or “**You**”. In addition, EnerStar and Customer may be referred to herein individually as a “**Party**” or together as the “**Parties**.” The Parties hereby agree as follows:

1. EnerStar ‘LEO’ Satellite Communication Service.

1.1 **Services.** EnerStar will provide to You Starlink’s two-way satellite-based data service, on-site Wi-Fi service and additional communication services and products (collectively, the “**Service**” or “**Services**”). You have selected the type and extent of the Services and the items of Equipment You desire. EnerStar will provide You the service package You selected and which are set forth on the Customer Agreement into which these Terms and Conditions have been incorporated by reference. The Customer Agreement sets forth the specifics of the Services you have selected and the Equipment You have purchased or leased, as well as such other terms and conditions as are specific to You. You agree that Your usage of the Service is subject to the Starlink Terms of Service, Starlink Acceptable Use Policy, Privacy Policy, Starlink Specifications, Software License & Usage Terms, Intellectual Property and Supplemental CCPA (“**Starlink Policies and Agreements**”) and the Starlink Limited Warranty, Disclaimers, Remedies, and Liabilities, which are available at <https://www.starlink.com/legal> and which also form part of this Agreement and which are also incorporated herein by reference. You also agree that You are bound by and will comply with all of the covenants and agreements set forth in the Starlink Policies and Agreements.

1.2 **Fees for Services.** In consideration for EnerStar providing the Services to You according to the terms of this Agreement, You agree to pay to EnerStar the fees for the Services as set forth on the Customer Agreement. (“**Service Fees**”). The Service Fees may be updated from time-to-time upon not less than 30 days advance written notice to You and will be applicable from the inception of the immediately following billing period.

1.3 **Limitations.** Anticipated speed and latency are dependent on the service plan You chose in the Customer Agreement. Although it is anticipated that download speeds and latency will meet those specifications, You acknowledge and agree that the stated speeds and uninterrupted use of the Services are not guaranteed by Starlink or EnerStar and that actual speeds will likely be lower than the maximum specified speeds during times of high usage.

1.4 **Data Usage.** Data availability is subject to provisions of the plan You selected. Data usage beyond thresholds outlined in Your plan will be subject to network traffic management restrictions. Should data usage exceed limits provided for in Your plan and if You desire to secure additional priority data usage beyond such thresholds, you agree to pay EnerStar for such excess priority data usage. Such charges will be determined by the Customer Agreement. The data service is prepaid and automatically renews each calendar. There is no allowance for rollover of unused data to a subsequent month.

1.5 **LEO Network System Access.** You agree that the LEO Network System can and may be accessed by Starlink and EnerStar to perform support actions, request diagnostic information, monitor performance, and provide research for improvement purposes.

2. Term.

2.1 **General.** The term of this Agreement commences on the date Your Service is activated and continues for the duration of the Minimum Service Term (defined below). After the Minimum Service Term

expires, the term of this Agreement will automatically renew on a month-to-month basis, unless You have agreed to a new Minimum Service Term under another service plan offered by EnerStar (“**Term**”).

2.2 **Minimum Service Term.** For purposes of this Agreement, “**Minimum Service Term**” means a _____-month period commencing on the date Your Service is activated. If You terminate your Service prior to the expiration of the applicable Minimum Service Term, You shall continue to be obligated to remit your monthly Service Fee for the portion of the Minimum Service Term which follows the termination of Your Service. In addition, you may be obligated to promptly remit to EnerStar a transfer fee in the amount of \$ _____ USD (the “**Transfer Fee**”)

3. **Equipment and Installation.**

3.1 **Equipment.** Unless expressly set forth in the Customer Agreement for Your Service, Your purchase of the Starlink Services require the use of Starlink Equipment which you are required to purchase upon the terms and conditions set forth in the Customer Agreement. The term “**Starlink Equipment**” means the Starlink dishes, Wi-Fi routers and power supplies listed in the Customer Agreement. For the avoidance of doubt, upon payment in full of the purchase price set forth in the Customer Agreement, You will own the Starlink Equipment. To enhance the utility of the Starlink Services the items of ancillary equipment identified in the Customer Agreement “**Ancillary Equipment**” have been made available to You to purchase or lease. For purposes of this Agreement, “**Purchased Equipment**” means the Starlink Equipment and those Ancillary Equipment items which You have chosen to purchase, “**Leased Equipment**” means those Ancillary Equipment items which You have chosen to lease and “**Equipment**” means the Purchased Equipment and the Leased Equipment. EnerStar will provide the Leased Equipment to You for such period as You and EnerStar agree upon from time-to-time on a separate ticket to Your prescribed job and the Leased Equipment will be billed to You at the rate which has been agreed upon. The Purchased Equipment and the Leased Equipment will be provided to You for the price and upon the other terms and conditions set forth in the Customer Agreement.

3.2 **Replacement and Return of Leased Equipment.** Unless expressly set forth in the Customer Agreement, EnerStar has the right, in its sole discretion, to provide or replace items of Leased Equipment with new or reconditioned similar items of Leased Equipment. EnerStar also has the right to remove, or require the return of, any or all items of Leased Equipment (whether in working order or not) upon cancellation or disconnection of Your Service for any reason. Provided that You are in compliance with all of the terms and conditions of this Agreement, while You receive Service under this Agreement, EnerStar will, at no additional charge to You, replace Leased Equipment that EnerStar, in its sole discretion, determines to be defective (“**Defective Equipment**”). Notwithstanding the foregoing, however, unless EnerStar agrees to the contrary in writing, You agree to pay all service charges incurred in installing Leased Equipment and replacing items of Leased Equipment, including, but not limited to, travel time and service time charges. Moreover, You acknowledge and agree that You shall bear the sole cost and expense of Leased Equipment to be replaced because You or any third party misused, damaged or destroyed the Leased Equipment (including, but not limited to, all travel time and service time charges incurred in installing the replacement). You shall notify us promptly of any defect in, damage to, destruction of, or accident involving Your Leased Equipment by calling Your designated EnerStar representative at _____. All maintenance and repair of Equipment shall be performed by us or our designee(s). EnerStar will charge You and You agree to pay for any repairs that are necessitated by any damage to, or destruction or misuse of, the Leased Equipment and You shall be responsible for any associated shipping costs.

3.3 **Ownership of the Leased Equipment by EnerStar.** Title to, and ownership of the Leased Equipment shall at all times remain with EnerStar. Our ownership of the Leased Equipment may be displayed by notice contained on it. We reserve the right to make filings with governmental authorities we determine necessary to evidence our ownership rights in the Leased Equipment, and You agree to execute any and all documents as we determine necessary for us to make such filings. You shall not pledge, sell, mortgage, otherwise encumber, give away, remove, relocate, tamper with, or alter the Leased Equipment (or any notice of our ownership thereon) at any time. We will perform any reinstallation, return, or change of the Leased Equipment at our service rates in effect at the time of such service.

3.4 **Care and Return of the Leased Equipment.** You agree to be solely responsible for preventing the loss, damage, or destruction of the Leased Equipment. Unless expressly set forth in the Customer Agreement for Your Service, if You cease to be a EnerStar Customer for any reason (whether voluntarily or involuntarily), You must call Your designated EnerStar representative at _____ within seven days after the termination of Your Service to arrange for the return of all of the Leased Equipment. You acknowledge that You must return the Leased Equipment to EnerStar in good working order, normal wear and tear excepted. If any item of Leased Equipment is stolen or otherwise removed from the installed location without Your authorization, You must immediately so notify EnerStar in writing. If You notify EnerStar in writing of the theft or removal within three business days after such theft or removal, You will not be liable for unauthorized use that occurs after we have received Your notification.

3.5 **Disclaimer of Warranties.** YOU ACKNOWLEDGE THAT THE EQUIPMENT MAY BE NEW, USED OR REFURBISHED. ENERSTAR PROVIDES THE EQUIPMENT TO YOU “AS IS, WHERE IS”, AND MAKES NO WARRANTIES OF ANY KIND OR NATURE, EITHER EXPRESSED OR IMPLIED, REGARDING THE EQUIPMENT. ALL WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED AND EXCLUDED. ENERSTAR IS NOT RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE RELATING TO THE EQUIPMENT.

3.6 **Installation.**

3.6.1 **Authority.** You hereby authorize EnerStar or its designated service provider (as defined in the Customer Agreement) to perform the installation of the Equipment at the installed location. It is Your responsibility to ensure compliance with all applicable building codes, zoning, ordinances, business district or association rules, covenants, conditions, and restrictions, and lease obligations, landlord/owner approval/requirements related to the Service and the designated installation applicable to the Service (and the installation of the Service), to pay any fees or other charges, and to obtain any permits or authorizations necessary for the Service and the installation of the Leased Equipment (collectively, “**Legal Requirements**”). We will not be required to execute any agreements with any third party in connection with the installation. You are solely responsible for any fines or similar charges for violation of any applicable Legal Requirements. You are also solely responsible for paying any associated fees or other charges, and to obtain any permits and other authorizations necessary for the Services and the installation of the Equipment. Should use of the Services require any construction or alteration to property, EnerStar shall not be obligated and shall have no liability to reimburse any expenses to restore property to the same physical state as prior to delivery of the Services. If You approve a roof mount installation, You acknowledge the potential risks associated with this type of installation (including, without limitation, with respect to any warranty that applies to Your roof or roof membrane). If You do not approve EnerStar’s suggested equipment installation location You understand that alternative locations may impact the data accessibility of Your entire site.

3.6.2 **Access to Your Location and Network.** You acknowledge and agree that EnerStar or its designated service provider must have complete access to all Equipment necessary to utilize the Service, wherever located, and, in certain circumstances, Your computer, network or other devices to install and maintain the Leased Equipment, including the receiver (which may require roof access). This will include attaching the Leased Equipment to Your computer or other devices, and, if applicable, installing software on Your network, computer or other network devices, and configuring Your network, computer or other network devices to optimize the performance of the Service. You confirm that You have reviewed the installation plan and have agreed to any and all associated charges. You are responsible for backing up the data on Your computer or other devices and we highly recommend that You do so prior to permitting access to Us or to one of our designated service providers. EXCEPT AS ARISES FROM THE GROSS NEGLIGENCE OF ENERSTAR OR ITS DESIGNATED SERVICE PROVIDERS, NEITHER ENERSTAR NOR ITS DESIGNATED SERVICE PROVIDERS SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY LOSSES RESULTING FROM THE EQUIPMENT OR ANY INSTALLATION, REPAIR, OR OTHER SERVICES ASSOCIATED WITH THE EQUIPMENT, INCLUDING, WITHOUT LIMITATION, DAMAGE TO THE CUSTOMER LOCATION OR LOSS OF SOFTWARE, DATA, OR OTHER INFORMATION FROM YOUR COMPUTER, NETWORK OR OTHER

DEVICES. Time frames for installation, if any, are not guaranteed and may vary depending on the types of installation services requested and other factors. If we determine in our sole discretion that there are unacceptable hazards associated with the installation, we may discontinue the installation at any point and terminate this Agreement without liability.

3.6.3 **Software License for Equipment.** The Equipment does or may contain software and/or other intellectual property that are subject to license agreement(s). Any breach of such license agreement(s) constitutes a breach of this Agreement. See Starlink's Software License & Usage Terms, which are available at <https://www.starlink.com/legal> and which are incorporated herein by reference.

3.7 **Service Calls.** Unless EnerStar agrees to the contrary in writing, You agree to pay all service charges with respect to all services calls necessary to activate, maintain and de-activate Your Service and to install, maintain, replace and/or re-take possession of the Equipment, including, but not limited to, travel time and service time charges, at EnerStar's then standard service call charges.

4 Users of the Service; Responsibility and Supervision.

4.1 **Account Set-Up.** We may, in our discretion, provide one or more administrative portals or websites available to You in connection with Your use of the Service and Your usage of data ("Account Access") or, as applicable to the Service selected, so You can administer end users' access to the Service and review data usage reports. In connection with Account Access and discussions with us regarding Your account, we may furnish You with one or more user identifications or passwords. You are responsible for it and its authorized users' confidentiality of such information. You are also responsible for verifying and maintaining the account, options, settings, and other parameters under which the Service are used. We may discontinue Account Access at any time in our discretion.

4.2 **Customer Responsibility.** It is Your responsibility, at Your expense, to obtain, maintain, and operate suitable and fully compatible computer equipment required to access the Service unless such equipment is provided by EnerStar pursuant to the terms of the service package chosen by You. You are responsible for all access to and use of the Service and Account Access through Your account or password(s) and for any fees incurred for the Service, or for software or other merchandise purchased through the Service, or any other expenses incurred under this Agreement, including, without limitation access and use by Your employees, agents, contractors, patrons or customers, and representatives. You are responsible for backing up (a) any data You submit, receive, or transfer over the Service, including, without limitation, Your email, and (b) any data, files, programs, or applications on any device You connect to the Service. You acknowledge that You are aware that content accessible on or through the Service may contain material that is unsuitable for minors. You are responsible for supervision of usage of Your account by minors. You hereby ratify and confirm and shall be responsible for any obligations incurred by a minor using Your account.

5 Fees and Payment

5.1 **Fees, Taxes and Other Charges.** You agree to timely pay all fees due and owing to EnerStar under this Agreement, including without limitation, the activation fee, monthly Service fees, the purchase price for Purchased Equipment, rental fees for Leased Equipment, installation fees, data usage fees, customer service calls and costs for repair or replacement of damaged Equipment, Transfer Fees, if any, and any and all other amounts due and payable under this Agreement. You also agree to pay as and when due (i) all applicable taxes with respect to the Equipment and Services purchased and/or leased hereunder, including, but not limited to, value added, consumption, sales, use, gross receipts, excise, access, and bypass (for which we do not collect and remit on Your behalf), (ii) all other fees and surcharges related to Your use of the Service, Your purchase of the Starlink Equipment and the Purchased Equipment, Your lease of Leased Equipment, Your use or purchase of software or hardware, if any, and (iii) all additional government fees, rights of way fees or charges, license or permit fees, and any other duties, fees, charges or surcharges imposed on, incident to, or based upon the sale or lease of Starlink Kit, Purchased Equipment and Leased Equipment, the installation of the Equipment and Starlink Kit and your use of the Services. The rate for the Services and the Leased Equipment are as provided in the Customer Agreement as such rates are updated from time-to-time in the manner herein provided (the "Rate").

The purchase price for the Purchased Equipment is likewise set forth in the Customer Agreement and the schedules thereto. The Rate for the Leased Equipment will be billed to the site where used.

5.1.1 **Commencement; Billing Policies.** Unless otherwise set forth in the Customer Agreement, You will pay the Rate for the Services and the Leased Equipment, if any, each month in advance during the Term and for so long as You are an EnerStar Customer, commencing on the date we activate the Service, and we may bill other one-time Service/Leased Equipment charges and fees in advance or arrears as We determine appropriate in our sole discretion. In addition, We may, in our discretion, bill You for some aspects of the Service or the lease of the Leased Equipment individually after they have been provided to You; these include, but are not limited to, charges for priority data usage above Your data allowance. You acknowledge that EnerStar shall have the right, but not the obligation, to offset any amounts owed to You by EnerStar against any amounts You owe to EnerStar hereunder. Your account will continue until You cancel Your account in accordance with the method or methods specified by the Section in this Agreement entitled “**Modification, Rights of Cancellation or Suspension.**”

5.1.2 **Billing and Charges.** We will send Your billing statements to the email address You provide to us, and You agree that this is sufficient notice for all purposes as to charges incurred and paid or to be paid to us. You understand and agree that You will not receive a paper statement in the mail. Additional terms relating to pricing that are an integral part of this Agreement are contained in a Customer Agreement. EnerStar reserves the right to correct and charge under-billed or unbilled amounts for a period of 180 days after (i) any incorrect statement was issued or (ii) a statement should have been issued. Payment of the outstanding balance is due in full within 15 days of the date of invoice.

5.1.3 **Administrative Fees.** If we do not receive Your electronic payment by its due date or Your payment is returned, we may charge You administrative late or nonpayment fees. Such charges could apply monthly until all delinquent amounts are paid in full. If Your bank or other financial institution fails to honor the electronic funds transfer out of Your bank account (“**EFT Payment**”) or credit card or debit card payment (“**Card Payment**”), we may charge You a collection fee. You acknowledge that these fees are not interest or finance charges and are reasonably related to the actual expenses we incur due to non-payment.

5.2 **Disputes and Partial Payments.** If You think a charge is incorrect or You need more information on any charges applied to Your account, You should promptly contact Your designated EnerStar representative at _____. You must contact us within 60 days of receiving the statement on which the error or problem appeared. We will make a statement available to You for each billing cycle showing payments, credits, purchases, and other charges. We will not pay You interest on any overcharged amounts later refunded or credited to You. We may, but are not required to, accept partial payments from You. If You make a partial payment, we will apply it to amounts owed by You starting with the oldest outstanding amount. If You send us checks or money orders marked “payment in full” or otherwise labeled with a similar restrictive endorsement, we may, but are not required to, accept them, without waiving any of our rights to collect all amounts owed by You under this Agreement. If we choose to use a collection agency or attorney to collect money that You owe us, You agree to pay the reasonable costs of collection, including, without limitation, collection agency fees, reasonable attorney’s fees, and court costs.

5.3 **Reactivation.** To reactivate suspended Service, You must bring Your account current through the month of reactivation by making payment in full of any outstanding balance. In addition, We may, in our discretion, require a deposit before reactivating Your Service and We may charge a fee to reactivate Your Service. The amount of the deposit will not exceed an amount equal to six times the monthly Service Fee. Any amounts You deposit will appear on Your statement as a credit, and service charges, the reactivation fee, if any, and other fees will be invoiced as described above. If You fail to pay any amount on a subsequent bill, we will deduct the unpaid amount each billing cycle from the credit amount. Credit amounts will not earn or accrue interest.

5.4 **Credit Inquiries and Reporting.** You authorize us to make inquiries and to receive information about Your credit experience from others, including, without limitation, credit reporting agencies, to enter this information in Your file, and to disclose this information concerning You to third parties for reasonable business purposes. You authorize EnerStar to report both positive and negative information about Your payment history to any credit reporting agencies.

6 Modifications, Rights of Cancellation or Suspension.

6.1 **Modification of this Agreement.** We may modify this Agreement, which includes the incorporated policies, prospectively (and not retroactively), including, without limitation, our pricing and billing terms (“**Amendments**”) by sending written notification of such Amendments to You. Each Amendment is effective when sent. We may, but are not required to, also notify You by e-mail or other electronic notice of the posting of an Amendment. If You do not agree to an Amendment, then You must terminate this Agreement in accordance with Section 6.3 below and stop using the Service within 30 days after the effective date of such Amendment. Your continued use of the Service after this 30-day period constitutes Your acceptance of such Amendment. You acknowledge and agree that termination of the Service by You shall be Your sole and exclusive remedy for any Amendment You choose not to accept.

6.2 **Modification of the Service.** Because of the nature of the ongoing provision of the Service, unless otherwise agreed upon by the Parties, we may discontinue, add to, or revise any or all aspects of the Service in our sole discretion and without notice, including, without limitation, access to support services, publications, and any other products or services ancillary to the Service. In particular, we reserve the right in our sole discretion to modify, supplement, delete, discontinue or remove any software, file, publications, information, communication, or other content that we or one of our vendors provide to You in connection with the Service. We reserve the sole right to manage and configure the Service signals, frequencies, and channels broadcast by the the Starlink Kit and the Equipment. If we undertake any of these changes, we may, but are not required to, notify You by e-mail, posting a notice within the EnerStar Website, or other electronic notice. If You do not agree to the identified changes, then You must cancel Your subscription and stop using the Service within 30 days of the effective date of the changes. Your use of the Service after 30 days from the effective date of the changes constitutes Your acceptance of the changes.

6.3 **Termination by Customer for Convenience.** Unless otherwise provided by Your Communications Customer Agreement or any other agreement between You and EnerStar, You may cancel Your account and terminate this Agreement at any time upon thirty (30) days written notice to EnerStar given pursuant to the terms of this Section, provided, however, that You pay all amounts due and payable to EnerStar hereunder, including, without limitation, all amounts due under the Section in this Agreement entitled “Minimum Service Term,” contemporaneously with the cancellation of Your account and termination of this Agreement. If you cancel your account pursuant to the terms of this Section, You will not be entitled to a refund of any prepaid fees or deposits, You will be obligated to remit to EnerStar the Transfer Fee, if any, amounts due under the Section in this Agreement entitled “Minimum Service Term” and You will be obligated to remit to EnerStar all other amounts due under this Agreement at the time of the cancellation of Your account. Except for Your forfeiture of prepaid fees and deposits and for Your obligation to remit the Transfer Fee, if any, and other amounts due hereunder, the monthly fee for the Services (and any other monthly recurring fee for the Service, if any) shall cease to apply for any months commencing on the first day of the calendar month following the expiration of the thirty (30) day written notice of the cancellation in accordance with the terms of this Agreement. Notwithstanding the foregoing, however, the monthly fee for the Leased Equipment shall continue until the Leased Equipment has been returned to EnerStar.

6.4 **Termination by Customer “For Cause”.** If EnerStar materially breaches any material term of this Agreement, Customer shall give EnerStar written notice of the breach specifying the breach in reasonable detail. If EnerStar fails to cure such breach within the 30-day period following its receipt of written notice detailing the breach, this Agreement shall terminate effective as of the date EnerStar receives the written notice of the breach and the monthly fee for the Services (and any other monthly recurring fee for the Service, if any) shall cease to apply for any calendar month following EnerStar’s receipt of the written notice of the breach and You shall have no obligation to remit the Transfer Fee to EnerStar. However, You will be responsible for all amounts due to EnerStar prior to EnerStar’s receipt of written notice of the breach. Moreover, notwithstanding anything to the contrary set forth above, the monthly fee for the Leased Equipment shall continue until the Leased Equipment has been returned to EnerStar. If EnerStar cures such breach within the 30-day period following its receipt of written notice detailing the breach, this Agreement shall continue pursuant to the terms of this Agreement and EnerStar shall issue You a credit for the Service Fee paid by You for period in which You were unable to access the Services.

6.5 **Suspension of the Service.** You may by written notice to EnerStar request that EnerStar temporarily suspend your Service. EnerStar may grant Your request as it shall determine in the exercise of its discretion. EnerStar shall have a reasonable time to process Your request for such suspension.

6.6 **Written Notices of Termination, Material Breach and Suspension.** No notice of termination, material breach or request for suspension shall be effective unless (i) given by e-mail addressed to your designated representative (receipt electronically confirmed), (ii) by written notice given to Your designated EnerStar representative by reputable express courier service (charges prepaid) and delivery confirmed, or (iii) three business days after the date when mailed to Your designated representative by certified or registered mail, return receipt requested and postage prepaid and such receipt is confirmed.

6.7 **Termination of Access to the Services.** Upon cancellation of Your EnerStar account and termination of this Agreement, You will no longer have access to the Service and You agree to promptly return, at Your expense, all Leased Equipment pursuant to the terms and conditions of this Agreement.

6.8 **Termination or Suspension by EnerStar.** We reserve the right in our sole discretion, either for convenience or with cause, to terminate Your Service and this Agreement or suspend Your Service at any time (with or without notice), in whole or in part unless such services are specifically contracted for beyond the end of the current billing period. Unless otherwise stated in Your Customer Agreement, if we terminate this Agreement for convenience, we will provide You with 30 days' advance notice. Such termination shall be effective as of the last day of the billing period in which the 30 day advance notice period expires. Notwithstanding the termination of this Agreement or suspension of Your Service, You will remain responsible for all payment and other obligations under this Agreement, including, without limitation, the obligation to pay all charges that may be due as a result of or in connection with such termination or suspension through the effective date of the termination or suspension. In these instances, You are responsible for the full monthly fees for any month (or portion of a month) in which You receive the Service and EnerStar will not provide a pro-rata refund for any pre-paid fees regardless of when Your Service is terminated or suspended.

6.9 **Restrictions on Use.** You agree to comply with Starlink's Acceptable Use Policy and Data Allowance Policy. You also acknowledge and agree that the Services provided by EnerStar are for Your sole use and benefit and for the use and benefit of Your employees, agents and representatives.

6.10 **Security.** You agree to take reasonable measures to protect the security of any devices You connect to the data Service, including, without limitation, maintaining at Your cost an up-to-date version of anti-virus and/or firewall software to protect Your devices from malicious code, programs, or other internal components (such as a computer virus, computer worm, computer time bomb or similar component). You expressly agree that if Your computer or another connected device becomes infected and causes any of the prohibited activities listed in the Acceptable Use Policy, EnerStar may immediately suspend the Service until such time as Your computer or device is sufficiently protected to prevent further prohibited activities. You will be fully liable for all monthly fees, and other charges under this Agreement during any period of suspension. Although EnerStar has no obligation to monitor the Service or its network, EnerStar and its authorized suppliers reserve the right to monitor bandwidth, usage, and transmissions, from time to time in order to operate the Service, identify violations of this Agreement, or protect the LEO Network System, the Service, and other users of the Service. In all cases, You are solely responsible for the security of any device You choose to connect to the Service, including, without limitation, the security of any data stored or shared on such device(s).

7 Warranties and Limitation of Liability.

7.1 **DISCLAIMER OF WARRANTIES. ENERSTAR AND ITS SUBSIDIARIES AND AFFILIATES AND EACH OF THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, WHOLESALERS, DEALERS, DISTRIBUTORS, SUPPLIERS, LICENSORS, AND THIRD-PARTY CONTENT PROVIDERS (COLLECTIVELY, "ENERSTAR PARTNERS") PROVIDE THE SERVICES, STARLINK KIT, EQUIPMENT AND INSTALLATION AND OTHER SERVICES "AS IS" AND WITHOUT ANY WARRANTIES, CONDITION, OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-**

INFRINGEMENT. YOU ACKNOWLEDGE AND AGREE THAT ENERSTAR DOES NOT PROVIDE ANY CONTENT.

7.2 ASSUMPTION OF RISK. YOU AGREE THAT USE OF THE SERVICES, STARLINK KIT AND EQUIPMENT IS AT YOUR SOLE RISK AND THE SOLE RISK OF YOUR GUESTS, PATRONS, VENDORS, EMPLOYEES AND OTHER USERS.

7.3 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, NEITHER ENERSTAR NOR THE ENERSTAR PARTNERS SHALL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE, INDIRECT DAMAGES, LOSS OF GOODWILL OR BUSINESS PROFITS, LOST REVENUE, WORK STOPPAGE, LOSS OR CORRUPTION OF DATA, COMPUTER FAILURE, DATA SECURITY BREACH, MALFUNCTION OR ANY LOSSES OR DAMAGES RESULTING FROM USE OF THE SERVICE, STARLINK KIT AND/OR EQUIPMENT OR FROM INSTALLATION, REPAIR, MAINTENANCE, SERVICE CALLS, REPLACEMENT SERVICES OR REMOVAL OF THE STARLINK KIT OR THE EQUIPMENT OR FOR OTHER RELATED SERVICES. ENERSTAR'S AND ENERSTAR PARTNERS' LIABILITY UNDER THESE TERMS FOR ANY INDIVIDUAL CLAIM OR ALL CLAIMS IN THE AGGREGATE WILL NOT EXCEED THE TOTAL AMOUNT PAID BY YOU TO ENERSTAR OR THE APPLICABLE ENERSTAR PARTNERS UNDER THIS AGREEMENT FOR THE THREE MONTHS PRECEDING THE CLAIM GIVING RISE TO THE LIABILITY. THE PARTIES ACKNOWLEDGE THAT THIS SECTION HAS BEEN INCLUDED AS A MATERIAL INDUCEMENT FOR ENERSTAR TO ENTER INTO THIS AGREEMENT AND THAT ENERSTAR WOULD NOT HAVE ENTERED INTO THIS AGREEMENT BUT FOR THE LIMITATIONS OF LIABILITY SET FORTH HEREIN

7.4 Applicability and Exceptions. The foregoing exclusions or limitations of liability apply regardless of the form of action or theory of liability (including, without limitation, negligence) and whether or not EnerStar or any EnerStar Partner was informed or was aware of the possibility of such loss or damage.

7.5 Service Interruptions. Service may be interrupted from time-to-time for a variety of reasons. The Service is not fail safe and is not designed or intended for use in situations requiring fail-safe performance or in which an error or interruption in the Service could lead to a severe injury to persons, property, or the environment. You expressly assume, and shall indemnify, defend, and hold us harmless from, all risks and liabilities associated with Your use of the Service in situations requiring fail-safe performance.

7.6 Indemnity. You agree to indemnify, defend, and hold us and the EnerStar Partners harmless against all claims, liability, damages, costs and expenses, including, without limitation, reasonable attorneys' fees, arising out of, related to or incurred in connection with (i) any and all uses of Your account (collectively, "**Losses**"), (ii) any claim brought by any third party arising from EnerStar's or the EnerStar Partners' performance of, failure to perform or inability to perform its obligations under this Agreement, (iii) the suspension, expiration or termination of this Agreement or (iv) Your breach of Your representations, warranties, covenants, agreements and other obligations under this Agreement, (v) any act or omission committed or alleged to have been committed by You or any employee, agent, subcontractor, or other representative of Yours, or (vi) Your failure to perform any obligation made by You to any third party.

7.7 Third-Party Beneficiaries. The provisions of this Section are for the benefit of EnerStar and the EnerStar Partners, and each shall have the right to assert and enforce such provisions directly on its own behalf against You. Other than as expressly stated in this Agreement, this Agreement shall not be deemed to create any rights in third parties and no other party shall be deemed a third-party beneficiary under this Agreement.

8 General.

8.1 Confidential Information. You may receive confidential information about EnerStar and its business, including the terms and conditions of this Agreement, the Service, sales methods, strategies and plans, End-User information, costs and other non-public information ("**Confidential Information**"). You agree not to directly or indirectly disclose, divulge, reveal, report, publish, transfer or use any Confidential Information except to the extent necessary to carry out its obligations under this Agreement. You shall maintain all Confidential

Information in accordance with all applicable laws and shall be responsible for the security of such information in its possession. You agree that all Confidential Information will be and remain the property of EnerStar.

8.2 **Law, Jurisdiction and Venue.** This Agreement and all matters and issues collateral thereto shall be construed according to the laws of the State of Colorado. The parties agree that the District Court of the County of Jefferson, Colorado, shall have exclusive jurisdiction, including in personam jurisdiction, and shall be the exclusive venue for any and all controversies and claims arising out of or relating to this Agreement or a breach thereof, except as otherwise unanimously agreed upon by the parties. If any party shall commence any action or proceeding against another party in order to enforce the provisions hereof, or to recover damages as the result of the alleged breach of any of the provisions hereof, the prevailing party therein shall be entitled to recover all reasonable costs incurred in connection therewith, including, but not limited to, reasonable attorneys' fees. Any cause of action brought by You, or by users of Your account, with respect to the Service or this Agreement must be instituted within one year after the claim or cause of action has arisen or it will be barred.

8.3 **Delinquent Payment Fee.** Any fee, reimbursement or other payment due and owing from Customer which is not paid within 30 calendar days from the date when it is due shall accrue interest at the rate of two (2) percent per month or the highest rate permitted by applicable law, until all delinquent payments and accrued interest are paid in full. Payments, when made, shall be applied first to accrued interest to date of payment computed upon the outstanding unpaid balances and the remainder applied to the delinquent payment(s).

8.4 **Export Laws.** You agree that You will at all times comply with the terms of Section 8.4 of the Starlink Terms of Service, requiring your compliance with all applicable International Trade Controls, in connection with Your access to and use of the Service, Starlink Kit and the Equipment. You further acknowledge and agree that Your covenants hereunder are for the benefit of EnerStar and may be enforced by EnerStar.

8.5 **Notices, Disclosures and Other Communications.** Unless otherwise provided in this Agreement, where notification by EnerStar is contemplated by or related to this Agreement, notice may be made by any reasonable means, including, without limitation, e-mail or publication over the Service or the EnerStar website. A printed version of this Agreement and of any notice given in electronic form by EnerStar shall be admissible in judicial, arbitration, or administrative proceedings relating to or based upon this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

8.6 **Construction and Delegation.** If any term of this Agreement is found by a court or arbitrator of competent jurisdiction to be invalid, illegal, or unenforceable, it shall be construed in such a way as to eliminate the offending aspects while still giving as much effect as possible to the intentions of such term. If this cannot be done and the entire term is invalid, illegal, or unenforceable and cannot be so repaired, then the term shall be considered to be stricken from this Agreement as if it had not been included from the beginning. In any such case, the balance of this Agreement shall remain in effect in accordance with its remaining terms notwithstanding such invalid, illegal, or unenforceable term. Neither the course of conduct between the parties nor trade practice shall act to modify the provisions of this Agreement. We may authorize or allow our contractors and other third parties to provide the services necessary or related to making the Service available and to perform obligations and exercise our rights under this Agreement, and we may collect payment on their behalf, if applicable.

8.7 **Miscellaneous.** We may enforce or decline to enforce any or all of the terms of this Agreement in our sole discretion. In no event shall we be required to explain, comment on, suffer liability for, or forfeit any right or discretion based on, the enforcement, non-enforcement, or consistency of enforcement of these terms. Captions used in this Agreement are for convenience only and shall not be considered a part of this Agreement or be used to construe its terms or meaning. The provisions of any Sections of this Agreement that by their nature should continue shall survive any termination of this Agreement. The Parties are independent contractors and nothing in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the Parties. Neither Party shall have the authority to act or create any binding obligation on behalf of the other Party.

8.8 **Assignment of Account.** This Agreement is not assignable by You without EnerStar's prior written consent. Unauthorized assignment of this Agreement shall be void *ab initio*, but shall provide EnerStar with the right to terminate this Agreement pursuant to Section 6.4. This Agreement shall be binding upon

and shall inure to the benefits of the Parties' successors and authorized assigns. You may not assign or transfer Your Service without our written consent. We may sell, assign, pledge, or transfer this Agreement, Your account, Your Service, or an interest in Your account to a third party without notice to You. In the absence of a notice of such sale or transfer, You must continue to make all required payments to us in accordance with Your billing statement.

8.9 **Entire Agreement.** This Agreement (including all documents and writings identified in this Agreement as being part of this Agreement) constitutes the entire and only agreement with respect to its subject matter between You and EnerStar, applicable also to all users of Your account. This Agreement supersedes all representations, proposals, inducements, assurances, promises, agreements, and other communications with respect to its subject matter. Either party may, in writing, waive any provision of this Agreement intended for its benefit, provided, however, such waiver shall in no way excuse the other party from performance of any of its other obligations under this Agreement unless expressly provided in such written waiver. Failure of any party to exercise the right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuation of any existing breach.

8.10 **Counterparts and Electronic Signatures.** For the convenience of the Parties, any number of counterparts of this Agreement may be executed by any one or more Parties hereto, and each such executed counterpart shall be, and shall be deemed to be, an original, but all of which shall constitute, and shall be deemed to constitute, in the aggregate but one and the same instrument. This Agreement may be circulated for signature through electronic transmission, including, without limitation, facsimile and email, and all signatures so obtained and transmitted shall be deemed for all purposes under this Agreement to be original signatures until such time, if ever, as original counterparts are exchanged by the Parties.

These Terms and Conditions to the EnerStar Communications Customer Service are incorporated in full into the Customer Agreement and are binding upon and enforceable against the Parties to such Agreement.