

Data Privacy Requirement

Dated Sept. 10, 2019 Rev NC

In the course of providing goods and/or services to Solar pursuant to a purchase order, contract or other agreement (hereinafter, "Order") that incorporates by reference this Data Privacy Requirement (hereinafter, "Requirement"), Supplier acknowledges that it may process personal data (as defined below) on behalf of Solar and its Affiliates, and Supplier agrees to comply with the following provisions with respect to any such personal data.

1. Definitions. Capitalized terms used but not defined in this Requirement will have the same meanings as set forth in the Order. In this Requirement, the following terms shall have the meaning set out below:

- a. **"Affiliate"** means, with respect to any entity, any other entity that controls, is controlled by or under the control of such first entity.
- b. **"control"** (or variants of it) means the ability, whether directly or indirectly, to direct the management and action of an entity by means of ownership, contract or otherwise.
- c. **"EEA"** means the European Economic Area.
- d. **"EU Data Protection Laws"** means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including (with effect from May 25, 2018) by the GDPR and laws implementing or supplementing the GDPR.
- e. **"EU Laws"** means European Union or Member State law, including EU Data Protection Laws.
- f. **"GDPR"** means EU General Data Protection Regulation 2016/679.
- g. **"Goods and/or Services"** means the goods and/or services provided to Solar by Supplier pursuant to the Order.
- h. **"Standard Contractual Clauses"** means the standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council (as annexed to European Commission Decision 2010/87/EU) and any data protection clauses subsequently adopted or authorized under GDPR Article 46(2) or (3).
- i. **"Subprocessor"** means any person (including Supplier's Affiliates and any other third parties) appointed by or on behalf of Supplier to process personal data in connection with the provision of Goods and/or Services.
- j. The terms **"controller"**, **"data subject"**, **"personal data"**, **"personal data breach"**, **"processor"**, **"processing"**, and **"supervisory authority"** shall have the meanings ascribed to them in the GDPR, and their cognate terms shall be construed accordingly.

2. Compliance with EU Data Protection Laws. In addition to Supplier's other obligations under the Order, Supplier shall (i) comply with all applicable EU Data Protection Laws with respect to the use, storage and/or processing of personal data, and (ii) provide Solar with all assistance as Solar may reasonably require to comply with applicable EU Data Protection Laws.
3. Controller and Processor. For purposes of this Requirement and as between the parties, Solar is the controller of the personal data and Supplier is the processor of such data. Solar and its Affiliates, as the respective controllers, shall determine the purposes of collecting and processing personal data.
4. Scope of Processing.
 - a. In order for Supplier to provide the Goods and/or Services under the Order, Supplier will have access to certain personal data. Annex 1 to this Requirement sets out certain information regarding the processing of personal data as required by Article 28(3) of the GDPR. Solar may make amendments to Annex 1 by written notice to Supplier from time to time as Solar reasonably considers necessary to meet those requirements. Nothing in Annex 1 (including as amended pursuant to this Section 4(a)) confers any right or imposes any obligation on any party to this Requirement.
 - b. Supplier shall only process personal data (i) in accordance with the documented instructions received from Solar from time to time in connection with the Goods and/or Services, including with regard to transfers of personal data to a third country or an international organization, and (ii) for the sole purpose of fulfilling its explicit obligations under the Order. If (1) an instruction infringes any EU Data Protection Law, or (2) EU Law to which Supplier is subject requires Supplier to process personal data in a manner contrary to Solar's instructions or beyond the purpose of fulfilling its obligations under the Order, Supplier shall immediately inform Solar of the discrepancy in advance of any relevant processing of the affected personal data, unless the relevant EU Law prohibits this on important grounds of public interest.
5. Supplier Personnel; Confidentiality. Supplier shall take all reasonable steps to ensure the reliability of any Supplier personnel (including that of its Subprocessors) who may have access to the personal data. Supplier shall ensure that each of its, and Subprocessors', personnel that is authorized to process personal data is subject to confidentiality undertakings or professional or statutory obligations of confidentiality.
6. Security. Without limiting Supplier's security-related obligations under the Order, Supplier shall at all times maintain appropriate technical and organizational measures that (a) meet the requirements of Article 32 of the GDPR, and (b) ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected, having regard to the state of the art, the costs of implementation and the nature, scope, context and purposes of processing, as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Supplier shall assist Solar in ensuring compliance with Solar's obligations pursuant to Article 32 of the GDPR, taking into account the nature of the processing and the information available to Supplier.
7. Subprocessors. Subject to this Requirement and any subcontracting requirements contained in the Order, Supplier is granted a general authorization to subcontract the processing of personal data to Subprocessors; provided that Supplier shall (i) provide Solar with a written list of its current Subprocessors, and (ii) inform Solar in writing in advance of any intended additions or replacements to the list of Subprocessors, and Solar does not object to such list and/or any additions or

replacements thereto. For any Subprocessors that Supplier uses: (i) Supplier shall ensure that, prior to allowing a Subprocessor to process personal data, Supplier has exercised appropriate due diligence in selecting such Subprocessor to ensure that the Subprocessor is capable of providing the level of protection for personal data required by the Order; (ii) Supplier shall remain fully responsible and liable for all acts, omissions, and work performed by any of its Subprocessors, including its Subprocessors' compliance with the terms and conditions of the Order (including this Requirement) and applicable EU Data Protection Laws; and (iii) Supplier shall ensure that the arrangements with Subprocessors are governed by a written contract including terms that offer at least the same level of protection for personal data as those set out in the Order (including this Requirement) and meet the requirements of Article 28(3) of the GDPR.

8. Data Subject Requests. To the extent legally permitted, in order to enable Solar to fulfill its duties under the applicable EU Data Protection Law, Supplier will promptly notify Solar if Supplier or any Subprocessor receives any complaint, inquiry or request (including requests made by data subjects to exercise their rights pursuant to EU Data Protection Laws) related to Solar's or Supplier's obligations under applicable EU Data Protection Laws or Supplier's and/or Subprocessors' processing of personal data on behalf of Solar. Supplier will not, and will ensure that Subprocessors will not, respond to such complaints, inquiries and/or requests except on the documented instructions of Solar, unless otherwise required by EU Laws. Taking into account the nature of the processing, Supplier will assist Solar by appropriate technical and organizational measures, insofar as this is reasonably possible, to enable Solar to respond to, or otherwise fulfill Solar's obligations under EU Data Protection Law in relation to, such complaints, inquiries and/or requests.

9. Data Breach. In addition to data or security breach notification obligations under the Order, if any, Supplier shall notify Solar without undue delay after Supplier or any Subprocessor becomes aware of a personal data breach affecting personal data, providing Solar with sufficient information to allow Solar (and/or Solar's Affiliates as appropriate) to meet any obligations to report or inform regulatory authorities, data subjects and other entities of such personal data breach under EU Data Protection Laws. Such notification shall at a minimum contain the information identified in Article 33(3) of the GDPR. Supplier shall reasonably assist Solar in any subsequent provision of notices and in complying with Solar's obligations under Articles 33 and 34 of the GDPR, taking into account the nature of the processing and the information available to Supplier. Unless required by EU Data Protection Law, Supplier shall not inform any third party of any personal data breach involving personal data without first obtaining Solar's prior written consent.

10. Data Protection Impact Assessments. Supplier shall, taking into account the nature of the processing and the information available to Supplier, provide reasonable assistance to Solar (and/or Solar's Affiliates as appropriate) with any data protection impact assessments and prior consultations with supervisory authorities or other competent regulatory authorities as required for Solar to fulfill its obligations under EU Data Protection Laws.

11. Return or Destruction of Data. Solar may upon written notice require Supplier, within fourteen (14) days of the date of cessation of the supply of any Goods and/or Services involving the processing of personal data or sooner upon request by Solar, to (i) return all copies of personal data in the control or possession of Supplier and Subprocessors; or (ii) delete and procure the deletion of all copies of personal data processed by Supplier and Subprocessors. Supplier may retain personal data to the extent required by EU Laws and provided that Supplier continues protecting such personal data in accordance with the Order (including this Requirement) and only processes such personal data as necessary for the purposes specified in the applicable EU Law requiring its storage and for no other purpose.

12. Audits. In addition to audit rights that Solar may have under the Order, if any, upon Solar's request, Supplier shall, within the timeframe stipulated by Solar, provide Solar all information necessary to demonstrate compliance with the Order, including this Requirement. Supplier shall, and shall ensure Subprocessors shall, allow for and contribute to audits, including inspections, conducted by Solar or an auditor mandated by Solar, and all such audits and inspections shall be conducted in a manner which does not impede the performance by the Supplier of its obligations under the Order or its obligations to other clients.

13. Data Transfer. Supplier shall take the necessary measures to ensure that personal data is transferred in accordance with EU Data Protection Laws, including, where requested by Solar, entering into, and procuring that Subprocessors enter into, the Standard Contractual Clauses with Solar and/or Solar's Affiliate(s). Supplier shall not, and shall ensure that Subprocessors shall not, transfer personal data from a location in the EEA to a recipient that is located outside of the EEA or an international organization unless in accordance with (i) the documented instructions received from Solar or Solar's Affiliate(s) and (ii) applicable EU Data Protection Law.

14. Records. Supplier shall maintain a record in writing of all categories of processing activities that Supplier carries out on Solar's behalf and shall make such records available to Solar or a supervisory authority upon request. Such record shall, at a minimum, contain the information required by Article 30(2) of the GDPR.

15. Miscellaneous.

- a. Except as otherwise set forth herein, all terms and conditions of the Order will continue in full force and effect as set forth therein and amended thereby. Nothing in this Requirement reduces Supplier's obligations under the Order in relation to the protection of personal data or permits Supplier to process (or permit the processing of) personal data in a manner that is prohibited by the Order.
- b. Notwithstanding anything contrary contained in the Order, in the event and to the extent of any conflict between the terms and conditions of (i) this Requirement and EU Laws, the provision(s) of the applicable EU Laws shall govern, (ii) this Requirement and the Standard Contractual Clauses, the provision(s) of the Standard Contractual Clauses shall govern, and (iii) this Requirement and the Order, the provision(s) that are more protective of personal data shall govern. Supplier shall comply with the terms of this Requirement during the term of the Order and during any period during which Supplier may have access to personal data.
- c. Without prejudice to Clauses 7 (Mediation and Jurisdiction) and 9 (Governing Law) of the Standard Contractual Clauses, this Requirement will be governed by the laws of the country or territory stipulated in the Order.
- d. Should any provision of this Requirement be invalid or unenforceable, then the remainder of this Requirement shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

16. OBLIGATIONS WHERE SUPPLIER AND SOLAR ACT AS DATA CONTROLLERS

- a. To the extent that the Supplier is acting as a Data Controller when supplying the Goods and/or Services, Solar and the Supplier both acknowledge and agree to comply with their respective obligations as Data Controllers as set out in the EU Data Protection Laws, GDPR and the Order and the provisions set out in Clauses 1 to 15 of this Requirement shall be replaced by the provisions outlined in this section.

16.1 Definitions

Capitalised terms used and not otherwise defined herein have the meanings given to them in the Order.

16.2 Interpretation

These supplemental terms form part of the Order and are governed and interpreted by the terms of the Order.

16.3 SUPPLEMENTS AND CONFIRMATION

16.3.1 Personal Data Protection

- 16.3.1.1 SUPPLIER and SOLAR may in the course of performance of the Order provide each other with PERSONAL DATA. PERSONAL DATA, for the purpose of these supplemental terms and notwithstanding any definition contained in the Order, is any information relating to an identified or identifiable individual, unless otherwise defined under APPLICABLE LAWS related to the protection of individuals, the processing of such information, and security requirements for and the free movement of such information. Any processing by one Party, or any persons under the authority of such party, of PERSONAL DATA provided by the other Party will be done only as instructed or agreed to by the Party providing the PERSONAL DATA and in accordance with the terms of this Order and APPLICABLE LAW.
- 16.3.1.2 Each Party will implement all appropriate security measures to protect PERSONAL DATA received from the other Party or the other Party's employees against accidental, unlawful, or unauthorized (i) destruction (ii) loss, (iii) alteration, (iv) disclosure, or (v) access (including remote access). Each Party will protect such PERSONAL DATA against all other forms of unlawful processing, including unnecessary collection, transfer, or processing, beyond what is strictly necessary for the performance of the Order.
- 16.3.1.3 Each Party receiving PERSONAL DATA from the other Party will impose all obligations on the receiving Party, its affiliates and employees as required by the Order and APPLICABLE LAWS.
- 16.3.1.4 SUPPLIER will ensure that any third party to whom it provides, or requires SOLAR or its employees to provide, PERSONAL DATA for purposes of background checks, health screening, safety training, access, or any other purposes, complies with all Applicable Law relating to PERSONAL DATA in the country in which the subjects of the PERSONAL DATA reside or work, including but not limited to Regulation (EU) 2016/679.

16.4 European Economic Area

Where either Party transfers the other Party's PERSONAL DATA from the European Economic Area to a country that has not been deemed to provide an adequate level of protection for personal data within the meaning of Regulation (EU) 2016/679, the Party transferring the PERSONAL DATA will either:

- (i) enter into any standard data protection clauses adopted or approved by the European Commission in line with Regulation (EU) 2016/679; OR
- (ii) confirm that it has fully implemented binding corporate rules which provide adequate safeguards as required by Regulation (EU) 2016/679, or has any other similar program or certification that is recognised as providing an adequate level of protection in accordance with Regulation (EU) 2016/679.

16.5 Confirmation

This Requirement remains in full effect, subject to the terms set out in these supplemental terms. In the case of any conflict between these supplemental terms and the terms of the Order, these supplemental terms prevail.

16.5.1 United Kingdom

This Requirement remains in full effect with respect to personal data processed in or transferred from the United Kingdom of Great Britain and Northern Ireland (UK) so long as the UK is a Member of the EU or subject to GDPR. If and when GDPR no longer applies in the UK, the parties agree to comply with applicable law including the UK Data Protection Act 2018, and SUPPLIER agrees to comply with any appropriate or reasonable instructions provided by SOLAR to SUPPLIER regarding available means for lawfully transferring personal data from the UK to SOLAR under such law.

16.5.2 Other Jurisdictions with Similar Data Protection Laws and Transfer Procedures

The parties may, by attaching this Requirement to an Order, incorporate the terms of this Data Privacy Requirement, *mutatis mutandis*, with respect to personal data processed in or transferred from jurisdictions that are not members of the EU or EEA but that are subject to substantially similar data protection legislation, including without limitation Switzerland, Andorra, Monaco, Israel, and certain dependencies of EU members.