

BT Products and Services Agreement

BT Reference No. []

This Products and Services Agreement is entered into on the [PLEASE INSERT DATE] _____
INSERT MONTH AND YEAR], by and between BT and the Customer.

CUSTOMER:	BT:
Registered Address:	Registered Address:
Registered Company Number:	Registered Company Number
Country of Registration:	Country of Registration:
Customer Contact	BT Contact
Name:	Name:
Title:	Title:
Telephone:	Telephone:
Fax:	Fax:
Email:	Email:

(Authorised Signature)

(Authorised Signature)

(Typed or Printed Name)

(Typed or Printed Name)

(Title)

(Title)

(Date)

(Date)

General Terms and Conditions

1A Definitions and Interpretation

In this Agreement, the following definitions apply:

"Affiliate" means any legal entity controlling, controlled by, or under common control with a Party.

"Agreement" means this Products and Services Agreement which consists of these General Terms and Conditions, any Schedules and any Orders.

"Applicable Law" means the laws of England and Wales and any other laws and regulations that apply to providing or receiving a Service, including:

(a) the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America; and

(b) any relevant export laws and regulations, including ones in the United States of America.

"BT" means the BT entity that signs the cover sheet.

"BT Equipment" means equipment (including any software) owned or licensed by BT and placed on the Customer's premises by BT for the provision of a Service.

"BT Group" means BT Group plc and its Affiliates;

"BT Parties" means employees, agents and subcontractors of BT or its Affiliates.

"BT Privacy Policy" means the policy that BT has implemented and may update from time to time on how it Processes Personal Data and that is set out at: <http://www.btplc.com/privacycentre/index.htm>;

"Business Day" means any day which is customarily regarded in the country or locality in which the Products or Services are being provided as a day when business is undertaken, excluding national, public, or bank holidays. If an obligation is to be performed on a day that is not a Business Day, the obligation must be performed by the following Business Day.

"Charges" mean the fees payable for Products or Services as set out in the Order or the applicable Schedule.

"Claim" means any legal claims, actions or proceedings against one of us, whether threatened or actual, whether by a third party or the other Party to this Agreement.

"Confidential Information" means all documentation, technical information, software, know how, business information or other materials (whether written, oral or in electronic form) concerning the business of a Party that are disclosed in confidence by that Party to the other during the term of this Agreement.

"Content" means information made available, displayed or transmitted in connection with a Service (including information made available by means of an HTML "hyperlink", third party posting or similar means) including all IPR contained in it, as well as the contents of any bulletin boards or chat forums, and all upgrades, updates, modifications and other versions.

"Credit Agency" means Experia, Equifax and Callcredit.

"Customer" means the customer entity that signs the cover sheet.

"Customer Equipment" means equipment (including software), other than BT Equipment, used by the Customer in connection with a Service.

"Customer Personal Data" means only the proportion of Personal Data of which only the Customer is the Data Controller and which BT needs to Process on the Customer's behalf, as a Data Processor in providing the Services to the Customer under the Agreement.

"Data Protection Legislation" means collectively (i) any applicable laws of the European Union, (ii) any applicable local

laws relating to the Processing of Personal Data and the protection of an individual's privacy, (iii) the GDPR, and (iv) any binding guidance or code of practice issued by a Supervisory Authority;

"EU-US Privacy Shield" means a legal framework adopted by the European Commission in its adequacy decision of 12 July 2016 that ensures an adequate level of protection for Personal Data transferred from the European Union to organisations in the United States that have self-certified to the EU-US Privacy Shield;

"GDPR" means the General Data Protection Regulation (EU) 2016/679, and any amendment or replacement to it, (including any corresponding or equivalent national law or regulation that implements the GDPR);

"General Terms and Conditions" means these Clauses 1 to 20.

"IPR" means any patent, copyright, database right, design right, community design right, semiconductor topography right, registered design, rights in confidential information and know-how, or any similar right in any part of the world and shall include any applications for the registration of any such rights capable of registration in any part of the world.

"International Human Rights Standards" means the legal instruments and rights as further described in Principle 12 of the UN Guiding Principles on Business and Human Rights. The Customer can find the UN Guiding Principles on Business and Human Rights at:

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

"Minimum Period of Service" means a period of time beginning on the OSD during which a Service will be provided by BT as specified in a Schedule or Order.

"Operational Service Date" or **"OSD"** means the date on which any Service or part of a Service is first made available to the Customer by BT.

"Order" means an order under this Agreement for Products or Services signed by both Parties.

"Party" means either BT or the Customer and **"Parties"** means both BT and the Customer.

"Products" means equipment and/or Software purchased by the Customer under this Agreement as set out in an Order.

"Regulated Service" means, in the UK, any Services that are subject to: (i) conditions that are imposed by Ofcom on BT either specifically or generally under Section 45 of the Communications Act 2003 and any notifications, determinations, directions, decisions and the like related thereto; (ii) a specific ruling against BT under the Competition Act 1998 by Ofcom or other relevant governmental body in the UK; and/or (iii) any formal or informal undertakings or assurances (however described) governing the conduct of BT's electronic communications business, including without limitation the undertakings given by BT to Ofcom under the Enterprise Act 2002, which took effect on 22 September 2005 and in other locations outside of the UK shall mean any Service that is subject to tariff or other analogous regulation issued by a regulatory authority within the territory in which the Service is provided having jurisdiction over telecommunications services or any statute applicable to the provision of such Services.

"Schedule" means a schedule (including any Service Annexes) under this Agreement describing the Products or Services.

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“Service” means each service provided by BT under this Agreement as described in a Schedule, Service Annex and/or Order.

“Service Annex” means any annexure to any Schedule describing the Products or Services.

“Site” means the location specified in an Order or Schedule at which BT provides a Product or Service.

“Software” means the software to be licensed to the Customer as specified in an Order or Schedule together with any embedded software and necessary for the use of the BT Equipment.

“Sub-Processor” means a BT Affiliate or BT’s supplier or subcontractor that BT engages to Process Customer Personal Data for the purposes of the Agreement.

“User” means any person who is permitted by the Customer to use or access a Service or Product.

In this Agreement, headings and bold type are for convenience only and do not affect the interpretation of this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice-versa, and the term “includes” is not a word of limitation.

1 Order of Precedence

In the event of a conflict among the documents constituting this Agreement, the order of precedence shall be as follows, in decreasing order:

- (a) any provisions (including any tariffs) that apply to Regulated Services set out in a Schedule;
- (b) Service Annexes;
- (c) Schedules (excluding the Service Annexes);
- (d) these General Terms and Conditions; and
- (e) Orders.

2 Effective Date

This Agreement is effective when executed by authorised representatives of both Parties and shall continue until terminated in accordance with its terms.

3 BT’s Obligations

3.1 BT shall provide the Products and Services to the Customer in accordance with this Agreement.

3.2 BT shall provide each Service from the OSD for the duration as set out in the applicable Schedule or Order.

3.3 BT shall use reasonable endeavours to meet any performance dates or service levels specified in this Agreement but, unless otherwise expressly agreed within a Schedule, all timescales shall be estimates only.

3.4 BT shall comply with all reasonable health and safety rules and regulations and security requirements that apply at a Site that have been notified to BT in writing. BT shall not be liable if, as a result of any such compliance, it is in breach of any of its obligations under this Agreement.

3.5 Provided that BT gives the Customer as much notice as reasonably practicable, BT may occasionally:

- (a) suspend a Service in an event of emergency and/or to safeguard the integrity and security of its network and/or repair or enhance the performance of its network;
- (b) for operational reasons, change the technical specification of the Service, provided that any such change does not materially decrease or impair performance of the Service; or
- (c) provide an alternative, equivalent service, where it becomes necessary to do so.

3.6 BT shall implement reasonable precautions to prevent any unauthorized access by third parties to any part of the

telecommunications network used to provide the Services to the Customer, but BT shall not be liable for any loss or damage sustained by the Customer in the event of any unauthorised access in spite of BT’s reasonable precautions.

4 The Customer’s Obligations

4.1 The Customer shall ensure that all preparatory work, information, items or consents required in order to supply the Products and/or Services are completed, made available or obtained at the Customer’s own cost in sufficient time to allow BT to complete its work and deliver the relevant Products and/or Services.

4.2 If BT must change a Product or Service due to incomplete or inaccurate information provided by the Customer, BT may, in its reasonable discretion, apply additional one-time and/or recurring Charges.

4.3 The Customer will comply with BT’s reasonable requests that are necessary for reasons of health and safety, environment, sustainability, security or quality or performance of any Products and/or Services.

4.4 The Customer will, upon reasonable notice from BT, allow BT and BT Parties access to the Sites as may be reasonably necessary for the performance by BT of its obligations under this Agreement, including the installation or maintenance of BT Equipment or Products and the recovery or removal of any BT Equipment.

4.5 If BT is required to install any BT Equipment or Products at a Site, the Customer will, prior to installation and at its own expense:

- (a) obtain all necessary consents, including consents for any necessary alterations to buildings and any consents required for the installation and use of any BT Equipment or the relevant Products over the Customer’s network or at the Customer’s Site;
 - (b) permit access to BT and any BT Parties to the relevant Site as may be required by BT or BT Parties to install the BT Equipment or Products;
 - (c) provide a suitable and safe working environment, including all necessary trunking, conduits and cable trays, in accordance with the relevant installation standards;
 - (d) provide any electricity and telecommunication connection points required by BT;
 - (e) provide any openings in buildings required to connect such BT Equipment or Products to appropriate telecommunications facilities;
 - (f) provide internal cabling between the BT Equipment and any Customer Equipment, as appropriate;
 - (g) take up or remove any fitted or fixed floor coverings, ceiling tiles and partition covers in time to allow BT to undertake any necessary installation or maintenance Services and carry out afterwards any work that may be required to make good any cosmetic damage caused during the installation or maintenance Services; and
 - (h) ensure that any floor loading limits will not be exceeded.
- The above actions must be completed in advance of any installation work by BT; otherwise the provisions in Clause 4.2 shall apply.

4.6 If the Customer delays or fails to perform its obligations under this Clause 4, then at BT’s option, BT may: (i) change the delivery date or cancel the relevant Order(s) and charge the Customer for any applicable termination Charges; or (ii) invoice the Customer for any reasonable Charges incurred for any work that is performed by BT on behalf of the Customer and that is directly attributable to the Customer’s failure to perform or delay where such work is necessary to provide the

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Products and/or the Services. Except in the case of an emergency, BT shall seek to notify the Customer in advance of its intention to invoke this Clause.

5 Orders

5.1 Unless otherwise stated in a Schedule or Order, the Customer may cancel the delivery of Products or provision of Services before the relevant OSD on payment of any cancellation charges by way of compensation set out in the applicable Schedule or Order or, if none are specified, as reasonably imposed by BT. The Customer cannot cancel the delivery of any Products that have been ordered or shipped from a third party manufacturer unless otherwise agreed with that third party manufacturer.

5.2 BT may accept instructions from a person who BT reasonably believes is acting with the Customer's authority.

6 Charges

6.1 The Customer shall pay all Charges for the Products and Services within thirty (30) days of the date of BT's invoice, without any set-off, counterclaim or deduction. Where applicable, BT may set-off any amounts it owes to the Customer against any amounts owed by the Customer to BT under this Agreement. BT may, in its discretion, add interest charges, from the due date, to any past due amounts at a per annum rate of seven (7) percentage points above the base lending rate of the European Central Bank, compounded daily, or the maximum rate permitted by law, whichever is less.

6.2 BT will invoice and the Customer will pay all Charges in Pounds Sterling, unless provided otherwise in a Schedule or Order. Charges are exclusive of all applicable taxes (including but not limited to value-added, sales, use and excise taxes), customs duties, and regulatory and other fees or surcharges (together "Taxes"), relating to the provision of Products and Services. The Customer will pay all such Taxes including those paid or payable by BT that under applicable law are permitted to be passed on by BT to the Customer, and are customarily passed on to customers by telecommunication service providers (but for the avoidance of doubt exclusive of taxes on the net income or net worth of BT), and any related interest and penalties for the Products or Services, except to the extent a valid exemption certificate is provided by the Customer to BT prior to the delivery of any Products or Services.

6.3 In the event that payment of any amount of the Charges becomes subject to withholding tax, deduction, levy or similar payment obligation on sums due to BT, the Customer will indemnify BT for such additional amounts as are necessary in order that the net amounts received by BT after all deductions and withholdings shall be not less than what would have been received in the absence of any such requirement to make such deduction or withholding. Should the Customer withhold any amounts without first grossing up its payments, or indicate that it will do so, BT may gross up its Charges to reflect such withholding amount, or otherwise include such amounts on BT's invoices (resulting in BT being subject to tax by reference to the grossed up amount, whilst only receiving the net amount). In all cases, the Customer will provide BT free of charge with appropriate certificates from the relevant authorities confirming the amount of the taxes, deduction, levies or similar payments withheld by the Customer.

6.4 BT may reduce the number of days within which the Customer will pay each invoice from 30 days to five days, where:

(a) the Customer issues a profit warning; or

(b) any Credit Agency reduces the Customer's credit rating; and

BT reasonably considers that this will affect the Customer's ability to pay invoices.

6.5 The Customer will promptly, but in no event later than fourteen (14) days from the date of invoice, notify BT in writing of any disputed invoice, together with all information relevant to the dispute, including the account numbers, circuit identification, and trouble ticket numbers, and an explanation of the amount disputed and the reasons. The Customer must pay all undisputed amounts in accordance with Clause 6.2 unless the disputed amount is less than 5% of the total invoice amount in which case the total invoice amount shall be due and payable by the due date. Disputes shall be resolved promptly and any resolved amount payable within fourteen (14) Business Days after resolution. Interest will accrue from the due date on subsequent payments of amounts withheld or credits on overpayments refunded.

6.6 Should the Customer initiate any change to the agreed billing arrangements (whether by assignment or otherwise) for the Products and/or Services, and such change results in additional Tax and/or withholding tax costs to BT and/or its Affiliates that BT and/or its Affiliates are unable to fully recover (including as a result of any impact with respect to how BT is able to bill for the Products and Services due to regulatory requirements), the Customer agrees to pay those additional costs and BT may modify the Charges accordingly.

6.7 Failure to pay an invoice (other than those amounts subject to a bona fide dispute in accordance with Clause 6.5) by the Customer within 30 days of the due date of the invoice may, at BT's option, be treated as a material breach under Clause 13. Additionally, BT reserves the right to:

(a) restrict, suspend or terminate provision of the relevant Service and BT shall be released from its obligations under this Agreement with respect to such Service until any balance due is paid; and

(b) recover any BT Equipment; where such recovery takes place, the Customer shall pay to BT such recovery Charges as may be specified in the applicable Schedule or as otherwise notified by BT to the Customer.

6.8 The Customer will not withhold payment due under an invoice for failure by BT to include the Customer references on the invoice.

6.9 Where the Customer makes an aggregated payment in respect of more than one invoice, the Customer shall submit a remittance slip to show amounts paid in relation to each individual invoice.

7 Use of the Service

7.1 The obligations of BT under this Agreement are solely to the Customer and not to any third party. The Customer may use the Service for the Customer's own business purposes, provided that the Customer: (a) complies with, and ensures that any User complies with the terms of any applicable legislation and any licence applicable to the Customer in any country where the Service is provided; (b) shall remain responsible for: (i) access and use of the Service by Users; (ii) all Charges incurred in connection with the Services; and (iii) compliance with this Agreement by the Customer and Users; (c) ensures that the Customer's list of Users is kept current, and that the Customer terminates access immediately for anyone who is no longer a User; and (d) complies with the provisions of any Software licences provided with or as part of the Service.

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7.2 The Customer shall indemnify BT, BT Affiliates and BT Parties against any Claims, losses, costs and liabilities arising from any Claims by any third party, including Users, in connection with the use of the Product or Services in breach of Clause 7.1.

8 Connection of Customer Equipment to the Products and/or Services

8.1 The Customer is responsible for the provision, installation, configuration, monitoring and maintenance of any Customer Equipment connected to the Service or used in connection with a Product. The Customer shall ensure that any Customer Equipment connected to or used with the Product and/or Service is connected and used in accordance with any instructions and safety and security procedures applicable to the use of that Customer Equipment.

8.2 The Customer shall ensure that any Customer Equipment attached (directly or indirectly) to the Product and/or Service by the Customer is technically compatible with the Service and approved for that purpose under any applicable law or regulation. BT does not make any commitment with respect to the interoperability between the Product and/or Service and Customer Equipment. In the case of Products sold for the purpose of the Customer's use with the Service, the Customer may rely upon BT's representations as to such compatibility and compliance, as of the date of provision.

9 BT Equipment and Products

9.1 Risk of loss of the BT Equipment and Products will pass to the Customer upon delivery, whether or not the BT Equipment or Products have been installed. Title to Products shall pass to the Customer upon payment of the applicable Charges. In relation to a cross-country border supply of Products, title will pass to the Customer upon delivery to a common carrier in accordance with the Free Carrier Alongside 'FCA' named place of delivery shipping point (as that term is defined by Incoterms 2010). In no event will the carrier be deemed to be an agent of BT.

9.2 The Customer will not move, add to, modify or in any way interfere with the BT Equipment, nor permit any other person (other than a person authorised by BT) to do so. The Customer will be liable to BT for any loss of or damage to the BT Equipment, except where the loss or damage is due to fair wear and tear or is caused by BT or any BT Party. If the Customer moves or changes the location of any BT Equipment without BT's prior written consent, BT may recover any failed visits as a consequence or additional cost or expense incurred by BT as a result of any lost or wasted time locating the BT Equipment.

9.3 Upon termination of this Agreement, if the Customer wishes to dispose of any Products, then it shall notify BT accordingly and allow BT to collect such Products if BT elects to do so.

9.4 In the event that the Customer fails to notify BT in accordance with Clause 9.4 and disposes of the Products itself, the Customer shall indemnify BT against all Claims, losses, costs, expenses and liabilities (including any fines levied upon BT) incurred by BT as a result of the Customer's breach of that Clause.

9.5 The Parties agree that the UN Convention on the Sales of Goods shall not apply to this Agreement.

10 Confidentiality

10.1 Each Party ("**Recipient**") shall keep in confidence all Confidential Information of the other Party ("**Discloser**")

obtained under or in connection with this Agreement and will not disclose it other than in confidence to (a) the Recipient's employees or employees of the Recipient's Affiliates; or (b) the Recipient's professional advisors; or (c) where the Recipient is BT, employees of BT's subcontractors, in each case only to those who have a need to know such Confidential Information and to the extent necessary for performance of this Agreement or the use of the Services and/or Products.

10.2 This Clause 10 shall not apply to information that is: (a) in the public domain other than in breach of this Agreement; (b) in the possession of the Recipient before such divulgence has taken place; (c) obtained from a third party who is free to divulge the same; or (d) developed by the receiving party independently of and without access to Confidential Information obtained under this Agreement.

10.3 If either BT or the Customer receives a demand from a lawful authority, regulatory authority or court to disclose any Confidential Information provided to it by the other, it may comply with such demand if it has (a) satisfied itself that the demand is lawful; (b) where possible, given the other party the maximum written notice permissible under the demand in which to make representations; and (c) marked the required information as the Confidential Information of the other party.

10.4 The receiving Party must comply with this Clause 10 for a period of three (3) years following the termination of this Agreement.

10.5 The Parties acknowledge that a violation of this Clause 10 may cause irreparable harm to the disclosing Party, for which monetary damages would be inadequate, and injunctive relief may be sought for a breach of this Clause 10.

11 Data Protection

11.1 In this Agreement, the following terms each have the meaning given to it in the GDPR: "Binding Corporate Rules", "Controller", "Data Subject", "Personal Data", "Personal Data Breach", "Processing", "Processor" and "Supervisory Authority".

11.2 Notwithstanding any other provision in the Agreement, for BT to provide a Service, Personal Data may be:

11.2.1 used, managed, accessed, transferred or held on a variety of systems, networks and facilities (including databases) worldwide; or

11.2.2 transferred by BT worldwide to the extent necessary to allow BT to fulfil its obligations under this Agreement and the Customer appoints BT to perform each transfer in order to provide the Services provided that BT will rely on appropriate transfer mechanisms permitted by Data Protection Legislation, including:

(a) BT Group's Binding Corporate Rules (for transfers among BT's Affiliates);

(b) agreements incorporating the relevant standard data protection clauses adopted by the European Commission; and

(c) where applicable, the EU-US Privacy Shield.

11.3 BT will be either Controller, Processor or both under the Agreement depending on the type of Personal Data Processed and the purpose of the Processing.

11.4 If BT acts as a Controller:

11.4.1 BT may collect, Process, use or share Personal Data with BT Affiliates and Sub-Processors, within or outside the country of origin in order to do any or all of the following:

(a) administer, track and fulfil Orders for the Service;

(b) implement the Service;

(c) manage and protect the security and resilience of any BT Equipment, the BT network and the Services;

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(d) manage, track and resolve Incidents (as defined in the Schedule) with the Service as set out in the Schedule(s);
(e) administer access to online portals relating to the Service;
(f) compile, dispatch and manage the payment of invoices;
(g) manage the Agreement and resolve any disputes relating to it;

(h) respond to general queries relating to the Service or Agreement; or

(i) comply with Applicable Law;

11.4.2 BT will Process the Personal Data in accordance with applicable Data Protection Legislation, and as set out in the BT Privacy Policy and, where applicable, BT Group's Binding Corporate Rules; and

11.4.3 BT may, from time to time, contact the Customer Contact, or other network, IT or procurement manager involved in the procurement or management of the Service, to provide additional information concerning the Service, or other similar services.

11.5 If BT acts as a Processor:

11.5.1 the subject-matter, duration, nature and purpose of the Processing, the type of Customer Personal Data and categories of Data Subjects will be set out in the applicable Annex that can be found online at www.bt.com/terms;

11.5.2 in order to perform its obligations under the Agreement, BT will:

(a) Process the Customer Personal Data on behalf of the Customer in accordance with the Customer's documented instructions as set out in Clause 11.5.11, except where:

(i) Applicable Law requires BT to Process the Customer Personal Data otherwise, in which case, BT will notify the Customer of that requirement before Processing, unless to do so would be contrary to that Applicable Law on important grounds of public interest;

(ii) in BT's reasonable opinion an additional instruction or a change to the instructions provided by the Customer in accordance with Clause 11.5.11 infringes the Data Protection Legislation and BT will inform the Customer of its opinion without undue delay and will not be required to comply with that instruction;

(b) to protect the Customer Personal Data against a Personal Data Breach, implement technical and organisational security measures, including those that may be set out in the Schedule, that are appropriate to the risk represented by BT's Processing and the nature of the Customer Personal Data being Processed;

(c) provide notice to the Customer without undue delay after becoming aware of a Personal Data Breach affecting the Customer Personal Data;

(d) only use the Sub-Processors approved by the Customer by entering into the Agreement or in accordance with Clause 11.5.9; and

(e) assist the Customer in its compliance with the Data Protection Legislation, taking into account the nature of the Processing of the Customer Personal Data and the information available to BT, relating to:

(i) its obligation to respond to lawful requests from a Data Subject, to the extent practicable;

(ii) the security of the Processing of the Customer Personal Data;

(iii) notification of a Personal Data Breach affecting the Customer Personal Data to the Supervisory Authority or the Data Subjects; and

(iv) a data protection impact assessment as may be required by Article 35 of the GDPR and prior consultation with the Supervisory Authority,

and the Customer will reimburse BT's reasonable costs for this assistance except for the assistance set out in Clause 11.5.2(e)(iii) where a Personal Data Breach affecting the Customer Personal Data occurred as a direct result of a breach of BT's obligations set out in Clause 11.5.2(b);
11.5.3 unless Applicable Law requires BT to store a copy of the Customer Personal Data, upon expiry or termination of the Agreement and at the Customer's option, BT will delete or return the Customer Personal Data within a reasonable time period and the Customer will reimburse BT's reasonable costs for this deletion or return of the Customer Personal Data;
11.5.4 BT will make available to the Customer the information demonstrating BT's compliance with its obligations set out in Clause 11.5, and, subject to 30 days' notice from the Customer, allow for and reasonably cooperate with the Customer (or a third party auditor appointed by the Customer) to audit this compliance at reasonable intervals (but not more than once per year), so long as:

(a) the audit will:

(i) not disrupt BT's business;

(ii) be conducted during Business Days;

(iii) not interfere with the interests of BT's other customers;

(iv) not cause BT to breach its confidentiality obligations with its other customers, suppliers or any other organisation; and

(v) not exceed a period of two successive Business Days;

(b) the Customer (or its third party auditor) will comply with BT's relevant security policies and appropriate confidentiality obligations; and

(c) the Customer will reimburse BT's reasonable costs associated with the audit and, where BT conducts an audit of its Sub-Processors to demonstrate BT's compliance with its obligations set out in Clauses 11.5, those of its Sub-Processors.

11.5.5 BT may demonstrate its compliance with its obligations set out in Clause 11.5 by adhering to an approved code of conduct, by obtaining an approved certification or by providing the Customer with an audit report issued by an independent third party auditor (provided that the Customer will comply with appropriate confidentiality obligations and not use this audit report for any other purpose);

11.5.6 BT will not disclose Customer Personal Data to a third party unless required for the performance of the Service, permitted under the Agreement or otherwise required by Applicable Law;

11.5.7 BT will ensure that persons authorised by BT to Process the Customer Personal Data will be bound by a duty of confidentiality;

11.5.8 BT may use Sub-Processors in accordance with Clause 18.3 and will ensure that data protection obligations in respect of Processing Customer Personal Data equivalent to those set out in Clause 11.5 will be imposed on any Sub-Processors

11.5.9 BT will inform the Customer of proposed changes to BT's Sub-Processors from time to time by either:

(a) providing the Customer with online notice of the intended changes at www.bt.com/terms and the Customer will have 30 days starting from the first Business Day of the calendar month following the date of the online notice to object to the change; or

(b) giving the Customer notice in accordance with Clause 17 and the Customer will have 30 days starting from the date of the notice to object to the change, and

if the Customer does not object in accordance with Clauses 11.5.9(a) or 11.5.9(b), the Customer will be deemed to have authorised the use of the new Sub-Processors

11.5.10 the Customer may object to the use of a new Sub-Processor by giving notice in accordance with Clause 17 documenting material concerns that the Sub-Processor will not be able to comply with the Data Protection Legislation, and if such notice is received within the time required by Clause 11.5.9, both Parties will address the Customer's objection in accordance with the process set out in Clause 16 and BT may use the relevant Sub-Processor to provide the Service until the objection is resolved in accordance with Clause 16

11.5.11 the Agreement contains the Customer's complete instructions to BT for the Processing of Customer Personal Data and any additional instructions or changes to the instructions will be incorporated into this Agreement in accordance with Clause 20.15 to take account of any resulting change in the Charges or the Service;

11.5.12 the Customer will comply with applicable Data Protection Legislation and will fulfil all the requirements necessary for the provision of the Service by BT, including providing any notifications and obtaining any regulatory approvals or consents required when sharing Personal Data with BT; and

11.5.13 the Customer will only disclose to BT the Personal Data that BT requires to perform the Service.

11.6 If permitted by Applicable Law:

11.6.1 a Party in breach of the Data Protection Legislation or this Clause 11 will be liable to the other for any losses, costs and liabilities (including those arising from Claims) incurred or suffered by the other Party where those losses, costs and liabilities are caused by, or in connection with, that breach including where the Parties are jointly and severally liable; and

11.6.2 where the Parties are jointly and severally liable for a Claim caused by Processing neither Party will make any payment or any offer of payment to any Data Subject (including third Parties acting on behalf of any Data Subject) in response to any Claim caused by or relating to the Processing of Personal Data, without the prior written agreement of the other Party.

11.7 Where each Party acts as a Controller in relation to the Processing of Personal Data under the Agreement, the Parties will not act as joint Controllers for the purposes of Article 26 of the GDPR in relation to such Processing.

11.8 If, in accordance with Clause 20.15, BT proposes amendments to the Agreement to reflect changes to BT's security measures, policies and processes to enable BT to comply with the Data Protection Legislation, the Customer will act reasonably and in good faith to negotiate those amendments in a timely manner with BT.

12 Intellectual Property Rights

12.1 All IPR of either Party either pre-existing or created by either Party during or arising from the performance of this Agreement shall remain the absolute property of that Party or its licensors.

12.2 Without prejudice to any open source software licence terms, which terms shall apply independent of this licence grant BT grants the Customer a non-transferable and non-exclusive licence to use in object code form, all Software and associated documentation that may be supplied by BT, subject to the Customer's compliance with the Agreement, any third party terms and conditions that apply to the use of the Software, and associated documentation, solely as necessary for receipt or use of the Products or Services.

12.3 The Customer undertakes not to copy, decompile or modify or reverse engineer any Software or knowingly allow or

permit anyone else to do so, except as expressly permitted by BT in writing or otherwise provided at law.

12.4 The term of any licence granted by BT under Clause 12.2 is coterminous with the term for the Service with which the Software is associated or in relation to which any Product is supplied.

12.5 Excluding any open source Software that may be made available by BT to the Customer in connection with the delivery of the Services, BT will indemnify the Customer against all third party Claims arising from infringement of any third party's IPR by the Customer's receipt of any Services or Products only to the extent that the Customer promptly notifies BT in writing of any such Claim, that BT is given immediate and complete control of any such Claim, that the Customer does not make any public statements related to the Claim or in any way prejudice BT's defence of such Claim, and that the Customer gives BT all reasonable assistance with such Claim. All costs incurred or recovered in such negotiations, litigation, and settlements shall be for BT's account.

12.6 The indemnity set out in Clause 12.5 shall not apply to Claims arising from: (a) use of any BT Equipment, Products, Services or any Software in conjunction or combination with other equipment or software or any other service not supplied by BT; (b) any unauthorised alteration or modification of the Service, Product or any Software; (c) Content, designs or specifications supplied by or on behalf of The Customer; or (d) use of the Service, any Product or any Software other than in accordance with this Agreement.

12.7 The Customer will indemnify and hold BT harmless against all such Claims, losses, costs and liabilities arising from the matters set out in Clause 12.6 (a), (b), (c) and (d) above that are attributable to the Customer or its agents or Users and will, immediately upon notification of any such Claim by BT, cease any activity that gave rise to the Claim.

12.8 If any Product or Service becomes, or BT believes it is likely to become, the subject of a Claim of infringement of any IPR as referred to in Clause 12.5, BT, at its option and expense, may: (a) secure for the Customer a right of continued use; or (b) modify or replace the Product or Service so that it is no longer infringing, provided that such modification or replacement shall not materially affect the performance of the Product or Service.

12.9 The indemnity in Clause 12.5 sets out the Customer's sole and exclusive remedy for Claims of infringement of intellectual property rights.

13 Termination of Service and the Agreement

13.1 Unless otherwise specified in a Schedule or Order, either Party may terminate any Service or Order at any time after the Minimum Period of Service by giving ninety (90) days' written notice to the other; provided that where the Customer exercises its rights under this Clause 13.1, the Customer shall be liable for any outstanding Charges for Products or Services received and any applicable termination compensation as set out in the applicable Schedule or Order.

13.2 Where the Agreement is terminated in accordance with Clause 13.5, the Party terminating may alternatively set off any amounts due under this Agreement or any other contract between the Parties.

13.3 Termination of any individual Service or Order will not affect the Parties' rights and obligations with regard to any other Service or Order.

13.4 Either Party may immediately by notice terminate any affected Orders if one of the following events occurs:

(a) the other Party commits a material breach and has failed to rectify the breach within thirty (30) days after the terminating Party has given its notice of default;

(b) an event set out in Clause 15 prevents the performance of the whole or a substantial part of the other Party's obligations in relation to that Service or Product for a continuous period of thirty (30) days after the date on which it should have been performed; or

(c) any governmental or regulatory authority with competence and/or jurisdiction over the Parties decides that the provision of the relevant Service or Product under this Agreement is contrary to existing laws, rules or regulations or any decision, law or other official governmental order makes the provision of the Products or Service illegal. In such case no damages shall be due.

13.5 A party may immediately by notice terminate this Agreement if the other Party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or if any of its assets are the subject of any form of seizure, or goes into liquidation, either voluntary (otherwise than for reconstruction or amalgamation) or compulsory or if a receiver or administrator is appointed over its assets (or the equivalent of any such event in the jurisdiction of such other Party).

13.6 Upon termination of this Agreement for any reason other than for cause, all Orders that have been executed prior to the date of termination shall remain unaffected and continue in full force and effect until termination or expiry of each Order in accordance with the terms of that Order and the terms of this Agreement shall continue to apply to that Order.

13.7 Upon termination of this Agreement (including any affected Order executed under it): (a) the rights of the Parties accrued up to the date of such termination shall remain unaffected; and (b) the Customer shall co-operate fully with BT to recover any BT Equipment.

13.8 In the event of termination of this Agreement or any Order by BT for cause, BT shall be entitled to termination compensation from the Customer under Clause 13.1 as if the Customer had terminated for convenience at the date of termination for cause.

14 Limitation of Liability

14.1 Neither Party excludes or restricts in any way its liability for death or personal injury resulting from its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation.

14.2 Subject to Clause 14.1, neither Party shall be liable to the other, whether in contract, tort, under statute or otherwise howsoever arising under or in connection with this Agreement (including in each case negligence): (a) any loss of profits, business, goodwill (including pecuniary losses arising from loss of goodwill), or revenue; (b) any loss or corruption or destruction of data; (c) any special, indirect or consequential loss or damage whatsoever; and/or (d) any loss arising from the transmission of viruses, in all cases set out in this Clause 14.2, whether or not that Party was advised in advance of the possibility of such loss or damage.

14.3 Subject to any other limitations of liability that are set out in the relevant Schedule, if a Party is in breach of any obligations under this Agreement, or if any other liability however arising, whether deliberate or unintentional (including liability for negligence or breach of statutory duty) arises in connection with this Agreement, then, subject to Clauses 14.1 and 14.2, such Party's liability to the other Party shall be

limited to £1,000,000 for any one event or series of connected events and to £2,000,000 for all events (connected or unconnected) in any period of twelve (12) consecutive months; provided, however, that any remedies contained in any Service Level Agreement shall be the sole and exclusive remedies for any failure to meet the performance obligations under that Service Level Agreement.

15 Force Majeure: Matters Beyond the Reasonable Control of Either Party

15.1 Neither Party shall be liable for failure or delay in the performance of its obligations caused by or resulting from force majeure including events that are unpredictable, unforeseeable or irresistible, such as any extremely severe weather, flood, landslide, earthquake, storm, lightning, fire, subsidence, epidemic, acts of terrorism, biological warfare, outbreak of military hostilities (whether or not war is declared), riot, explosions, strikes or other labour unrest, civil disturbance, sabotage, expropriation by governmental authorities and any other act or any event that is outside the reasonable control of the concerned Party.

16 Dispute Resolution

The Parties will use all reasonable efforts to amicably resolve any dispute. The Parties will, at a minimum, use the following procedure in the event a dispute arises with respect to any aspect of this Agreement. Upon written notification by one Party to the other that a dispute exists, working level managers of the respective Parties will attempt in good faith to work out a resolution within thirty (30) days following the day of written notification of a dispute. If an agreement cannot be reached by the end of this period, the Parties shall prepare a document containing information that is designed to assist resolution of the dispute containing what has been agreed and what remains in dispute between them. No later than two weeks thereafter, or at some other time as mutually agreed by the Parties, representatives of the Parties at Vice President level or above shall meet to further attempt to resolve the matter or to agree on a course of action to resolve the matter. Such course of action may include use of formal dispute resolution processes, including but not limited to non-binding mediation or binding or non-binding arbitration. In the event that the Parties are unable to resolve the matter or agree on a course of action at this executive level within thirty (30) days, either Party shall have the right to pursue legal or equitable remedies as it sees fit. Nothing contained herein shall preclude either Party from seeking equitable relief at any time in a court having jurisdiction under the terms of this Agreement in the event that a risk of imminent harm to that Party exists and no appropriate remedy for such harm exists under the Agreement.

17 Notices

17.1 Except for notices given in accordance with Clause 3.5, all notices given under this Agreement shall be in writing and in English, unless the Parties agree otherwise or local law and regulations provide otherwise, and shall be sent by prepaid post, facsimile or by electronic mail to the other Party at the address, fax number or email address set out in these General Terms and Conditions, or any other address notified from time to time including as updated on an Order.

17.2 Notices given under this Agreement are deemed to be given by the sender and received by the addressee: (a) if sent by prepaid post, three (3) Business Days from and including the date of postage; or (b) if sent by facsimile, when transmitted to the addressee; but if transmission is on a day

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that is not a Business Day or after 4 p.m. in the addressee's time zone, it is deemed to be duly given and received on the next Business Day; or (c) if sent by electronic mail, when sent to the addressee.

18 Assignment/Subcontracting

18.1 Either Party reserves the right to assign all or part of this Agreement at any time to any Affiliate, subject to providing the other Party prior written notice of such assignment. Any assignment to a party other than an Affiliate requires the prior written agreement of the other Party.

18.2 This Agreement will be binding on, and inure to the benefit of, the Parties and their successors and permitted assigns.

18.3 BT may subcontract the performance of any of its obligations under this Agreement, but without relieving BT from any of its obligations to the Customer. The Customer agrees and understands that it may need to interact directly with such Party for ordering, provisioning or maintaining the Products or Service as directed by BT.

18.4 The Parties acknowledge and agree that the BT Affiliates and Customer Affiliates may agree to (or where required by law, will) enter into Schedules or Orders under this Agreement for the provision of Products and/or Services in any country or region outside of Great Britain, and that in all such cases, upon execution of that Schedule or Order: (a) the provision of that Product and/or Service shall be deemed subcontracted by BT to that BT Affiliate, (b) the Parties shall have been deemed to have assigned the benefit received under this Agreement to their respective Affiliates in accordance with Clause 18.1, and (c) the Parties are the only persons who may enforce any and all rights arising out of or in connection with this Agreement and shall have sole conduct of all Claims involving any of their respective Affiliates.

19 Governing Law and Jurisdiction

This Agreement and any Claims or disputes arising out of, relating to or in connection with it, shall be governed by the laws of England and Wales. The Courts of England shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this Agreement to which the Parties irrevocably submit.

20 Miscellaneous Provisions

20.1 **Publicity:** Neither Party may publish or use any advertising, sales promotions, press releases, announcements, or other publicity that relates to this Agreement or that uses the trademark, service mark, trade name, logo or other indicia of origin of the other Party or its Affiliates in connection with this Agreement or any Products or Services provided under this Agreement, without the prior written approval of the other Party which shall not unreasonably be withheld.

20.2 **Customer Satisfaction Surveys:** Each Party agrees to co-operate with the reasonable requirements of the other Party in relation to customer satisfaction surveys organised by or on behalf of that Party.

20.3 Legal and Regulatory Compliance:

20.3.1 Each Party will comply with all laws and regulations that apply to its activities under this Agreement, including any that apply to the Products and Services provided under this Agreement.

20.4 Anti-Corruption and Bribery Act Compliance:

In connection with any actions or activities associated with this Agreement or in connection with the relationship between the Parties, neither Party shall engage in any unlawful trade

practices or any other practices that are in violation of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act of 2010, or any other law that prohibits bribery or similar activity. Each Party shall ensure that neither it nor its Affiliates, subcontractors and agents: either directly or indirectly, seek, receive, accept, give, offer, agree or promise to give any money, facilitation payment, or other thing of value from or to anyone (including but not limited to government or corporate officials or agents) as an improper inducement or reward for or otherwise on account of favourable action or forbearance from action or the exercise of influence; or fail to establish appropriate safeguards to protect against such prohibited actions. Each Party shall, upon request from the other Party, provide evidence of the steps being taken to avoid prohibited actions, including the establishment of policies, practices, and/or business controls with respect to these laws.

20.5 **Export Control:** The Parties acknowledge that Products, Software, and technical information (including, but not limited to, service, technical assistance and training) provided under this Agreement may be subject to export laws and regulations of other countries, and any use or transfer of the such Products, Software, and technical information must be in compliance with all applicable regulations and international trade sanctions. The Parties will not use, distribute, transfer, or transmit the Products, Software, or technical information (even if incorporated into other products) except in compliance with all applicable export regulations and trade sanctions. If requested by either Party, the other Party also agrees to sign written assurances and other export-related documents as may be required to comply with all applicable export regulations.

20.6 **UK Regulatory Compliance:** Where Regulated Service(s) are to be provided within the UK under this Agreement, the terms and conditions and prices for Regulated Service are published on BT's website at www.bt.com and may be amended by BT from time to time. For the avoidance of doubt, the terms and conditions and prices published on BT's website for Regulated Service, and any amendments thereto, shall govern the provision of Regulated Service to the exclusion of all other terms and conditions and prices in this Agreement. If BT is required in order to comply with law or regulation to modify the Service or amend the terms and conditions or prices, BT reserves the right to do so and notify the Customer as soon as possible of any such modification and any terms and conditions (including Charges) associated with such modification, except in the case of Regulated Service where any such changes will be published as set out in this Clause. If a legal or regulatory intervention or ruling of any sort prevents the accomplishment of the purpose of this Agreement, the Customer and BT shall immediately commence good faith negotiations to explore whether a similar economic effect can be obtained consistent with the applicable legal or regulatory requirements. The delay or failure by BT to perform any of its obligations under this Agreement that is caused by or materially contributed to by a restriction of a legal or regulatory nature that affects, wholly or partly, the provision of the Service, shall not constitute a breach of this Agreement.

20.7 **Non-UK Regulatory Compliance:** Where Regulated Service(s) are to be provided outside of the UK under this Agreement, the Parties shall comply with the terms and conditions and prices, if applicable, of any applicable tariffs, regulations, or statutes. In the event of changes to such tariffs, regulations, or statutes during the term of any Order for such Regulated Services, such changes shall be effective pursuant to their terms. If a legal or regulatory intervention or ruling of any sort prevents the continued provision of any

Regulated Service or materially changes the Regulated Service so that it is no longer consistent with the purpose of this Agreement, BT shall promptly commence good faith discussions with the Customer on any alternative Service or on any appropriate migration away from that Regulated Service so as to minimize any disruption to the Customer.

20.8 Human Rights Compliance: Each Party will comply with the International Human Rights Standards, when providing or using the Services. The Customer will use the Services and BT Equipment for normal business use, and not for any other purpose, and ensure that Users do as well.

20.9 Capacity: Each Party warrants that it has the necessary rights, licences and permissions to enter into and perform its obligations under this Agreement.

20.10 Rights of Third Parties: This Agreement does not create any right enforceable by any party who is not the Customer or BT ("Third Party") under the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a Third Party which exists or is available apart from that Act.

20.11 No Waiver: Except as otherwise specifically provided in this Agreement, no failure to exercise, or delay in exercising, any right, power or privilege set out in this Agreement will operate as a waiver of any right, power or privilege.

20.12 Severance: If any provision of this Agreement is held to be invalid or unenforceable, it will be severed from this Agreement, the remaining provisions will remain in full force and effect, and the Parties will use reasonable endeavours to promptly negotiate a replacement in good faith.

20.13 Survival of Obligations: The Parties' rights and obligations, whose nature is such that they should continue beyond the termination of this Agreement, shall survive termination of this Agreement.

20.14 Entire Agreement: This Agreement supersedes all prior oral or written understandings and/or representations between the Parties (unless specifically incorporated into this Agreement) and constitutes the entire agreement with respect to its subject matter. Each Party acknowledges that in entering into this Agreement that it has not relied on any representation, warranty, collateral contract or other assurance other than those set out in this Agreement, and waives all rights and remedies which, but for this Clause might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance. Each Party acknowledges that its legal advisers have explained to it the effect of this Clause.

20.15 Amendment: This Agreement may not be amended, modified or supplemented except by a document in writing signed by authorised representatives of both Parties. The Parties to an Order may amend, modify or supplement the terms of that Order by a document in writing executed by authorised representatives of both Parties to that Order.