



1 Definitions

The following definitions apply, in addition to those in the General Terms and Conditions.

“Agent” means software which is installed on a Virtual Machine, operating system or application to provide specific functionality.

“Application Programming Interface” or **“API”** means the interface which enables the Customer to manage the service through an Application.

“Application” means a software program designed to carry out operations for specific tasks.

“Availability Zone” means the configuration of hardware and software to create a platform where the Virtual Machines are deployed.

“Back End Connection” means a dedicated network service provided by BT or another telecommunications service provider to provide connectivity between the Service and the Customer’s site.

“Catalogue” means the display of available Elements in the Portal.

“Keyword” means a word or phrase chosen by the Customer during the online registration process for the Portal that can be used by the BT Service Desk to verify the authority of the caller to raise incidents on behalf of the Customer.

“Cloud” means the delivery of computing and storage capacity as a service to a heterogeneous community of end-recipients or Customers.

“Cloud Connect” means the physical and logical connection point between the Service and an external IP based network. The external IP service is not part of this Service and needs to be ordered separately and additional Charges will apply.

“Cloud On-Net” consists of connecting a Customer’s Shared Network to a Shared MPLS Network.

“Compute Management System” or **“CMS”** means the portal and the automation / orchestration system that manages and drives the Service.

“Compute Protect” means an optional Service that provides protection for individual VMs against Internet security threats.

“Console” means console server access directly into the Virtual Machine’s system console.

“Central Processing Unit” or **“CPU”** is the physical part of a server in which operations are controlled and executed.

“Customer Data” has the meaning given in the General Terms and Conditions.

“Customer Information” means data, information, video, graphics, sound, music, photographs, software and any other materials published or otherwise made available by or on behalf of the Customer.

“Dashboard” means an area of the Portal that the Customer can access to see the overall status of the Service.

“Domain Name” means a name registered with an Internet registration authority for use as part of the Customer’s URL.

“Domain Name Server” or **“DNS”** means a local cache to ensure that DNS resolution times are kept to a minimum.

“Elements” means those parts of the Service that can be selected and configured via the Portal or API to create an Online Order for the Service.

“Failure of Service” means the Customer experiences a continuous loss of Service that cannot be circumvented.

“Featured Templates” means pre-defined operating systems created by BT to be used with a specific Hypervisor.

“Firewall” means a device or software service that is designed to block unauthorised access, whilst allowing authorised access, to the Service.

“Hypervisor” means the software that provides the capability to deliver Virtual Machines.



“Incident” means an incident which is not part of the standard operation of a Service and which causes, or may cause, an interruption to, or a reduction in the quality of that Service.

“Incident Repair Service” means the fault service set out in this Service Schedule.

“Internet Protocol” or **“IP”** means a protocol that was designed to interconnect networks and is part of a suite of protocols known as TCP/IP, where **“TCP”** means transmission control protocol, a reliable connection-based protocol.

“Isolated Network” means a virtual network that can be attached to a cloud server. It keeps a cloud server separate from other networks or the internet, or both.

“ISO” is the abbreviation for **“International Organization for Standardization”**.

“Load Balancing” means the load balancing of incoming Internet requests between all Virtual Machine in a group, on a least connection, round robin or source IP basis.

“Multi-Protocol Labelling Switching” or **“MPLS”** means a virtual private network service which can be purchased from BT.

“Month” means a calendar month.

“My Templates” means a Template that has been created for a single User account.

“Network Time Protocol” or **“NTP”** means a feature that enables the Customer to synchronise its servers with the central network Internet time.

“Online Order” means a Customer request for the Service. The Online Order is only available online via the Portal or API, in accordance with the process outlined in Clause 3.

“Operating System” means a set of software that manages computer hardware resources and provides common services for computer programs.

“Planned Maintenance” means any work that is planned in advance to be carried out by BT or on its behalf that causes the Service to be suspended.

“Portal” means the Compute Management System and the graphical user interfaces of the individual services made available via the Compute Management System.

“RAM” is the abbreviation for **“random access memory”** and means the virtualised memory available to a Virtual Machine.

“Service” has the meaning given in Clause 2.1 as further described in this Service Schedule.

“Service Desk” means the facility provided by BT to handle enquiries and administration for the Service.

“Service Level” means the level of Service which is applicable to the Service, as set out in Clause 23.

“Service Operational Data” means all personal data provided by the Customer to BT which is operationally required for BT in order to contact the Customer for the provision of the Services and/or Products such as email addresses, contact names, site addresses, telephone and fax numbers.

“Shared MPLS Network” means a service where bandwidth is shared amongst customers so it depends on the traffic at any given time as to how much bandwidth a particular customer will get.

“Snap Shot (Backup)” means a copy of Customer Data in the Storage environments at a point in time.

“Storage” means storage for recording and storing information and data.

“System Administrator” means a person named by the Customer to be the Customer’s point of contact with BT for matters relating to the management of the Service.

“Template” means a reusable configuration for Virtual Machines.

“Utility Rate Card” means information available via the Portal that shows the Charges for the Elements of the service on an hourly basis.



“Uniform Resource Locator” or “URL” means a locator, which is the full address for the Customer’s website.

“User ID” means the identification number provided to the Customer by BT for the purposes of security in the provision of the Service.

“Virtual Machine” or “VM” means a self-contained operating system that functions as a separate server.

“VM Snapshot” has the meaning given in Clause 4.15.

2 Service Summary

BT Cloud Compute is a Cloud based service providing the Customer with a self-service capability to browse, select, provision, and manage virtual infrastructure including a Virtual Machine, network, Storage and security.

3 Service Components

3.1 The Service comprises access to a Portal (including a catalogue to select the Elements of the virtualised infrastructure) and Availability Zones in which to deploy the Virtual Machine.

3.2 The Availability Zone is the platform where the Customer’s Online Order is deployed. Once the Customer selects the Elements they will be automatically provisioned within the Customer’s chosen Availability Zone.

3.3 Elements within the Catalogue show the options available to the Customer when completing the Online Order. As the Service evolves and the number of Availability Zones increases, the number, type and detailed specifications of the Elements will vary and may be updated by BT.

3.4 The Customer may subsequently add to and/or remove any Elements it has ordered via the Portal, using the Online Order.

3.5 The Portal will show the up-to-date list of available Elements and Availability Zones. The Portal will show the prevailing Charges for Elements.

4 Service Elements

The following Elements may be available within an Availability Zone. In some cases multiple Elements may be available within the same Availability Zone:

4.1 Firewall per Isolated Network

The Customer may add, delete and/or change:

- (a) access control lists,
- (b) port forwarding rules and
- (c) virtual private networks access (VPN)

4.2 Network

4.2.1 The standard network service used by BT to deliver data to and from the Service is the Internet.

4.2.2 The Customer may order additional BT (or other licensed operators) networks but these need to be ordered separately from the Service and are subject to separate conditions and Charges. Additionally, a Cloud Connect or Cloud On-Net service as set out in Clause 5 will be required and should be ordered through the Portal.

4.3 Internet

4.3.1 All Internet service usage (data in and out) is charged at the Utility Rate Card which is displayed in the Portal. Internet service usage Charges are charged for data usage in and out of the Service. Data transfer speeds may vary.

- 4.3.2 The Customer acknowledges that:
- (a) the Internet is independent of the Service and BT has no responsibility for provision of the Internet; and
 - (b) use of the Internet is solely at the Customer's risk and subject to all applicable laws. BT has no responsibility for any information, software, services or other materials obtained, downloaded, shared and transmitted by the Customer using the Internet.

4.4 Load Balancing

- 4.4.1 The Service supports creation of a load balanced groups of Virtual Machines with the choice of the following load balance options:
- (a) Round Robin
 - (b) Least Connection
 - (c) Source IP

- 4.4.2 Load balancing is performed at the public IP Address level and therefore all Virtual Machines will share the same IP address. Additional Virtual Machines outside of the load balancing group are subject to additional public IP Addresses (which must be ordered separately) and any additional applicable Charges.

4.5 IP Addresses

- 4.5.1 A single public IP address is deployed per Online Order for those Elements that require public IP addressing. Following deployment the Customer may request additional IP Addresses which will be subject to a separate Online Order and additional Charges.
- 4.5.2 IP addresses allocated to the Customer are only for use in connection with the Service. All title and rights in those IP addresses, including the right to recover or change such IP addresses, belong to BT or its applicable suppliers and BT cannot transfer any title or rights in any IP address to the Customer. The Customer cannot sell or agree to transfer them to anyone else. On the termination of the Agreement or the Service, for any reason, the Customer must immediately cease using the IP addresses.

4.6 Virtual Machine

- 4.6.1 The Service enables the Customer to self-provision their virtual infrastructure through the use of the Portal or an API. Using the Portal, the Customer selects the Elements it requires in order to provision the Virtual Machine. The Catalogue specifies the Elements that are available to create the Virtual Machine. The following standard Elements are available in order to create a Virtual Machine:
- (a) Operating System via a Template or ISO;
 - (b) Compute components vCPUs, vRAM, C drive / root storage etc. ;
 - (c) Additional storage;
 - (d) Affinity rules;
 - (e) Network.

- 4.6.2 Other Elements are available after the Virtual Machine has been created.

4.7 Hypervisor

The Service can support a number of different Hypervisors. The Hypervisor which is used will depend on the Availability Zone selected by the Customer. The Hypervisor provides the capability to deliver a Virtual Machine.

4.8 Operating System

In order to build the Service the Customer must first select the Operating System for the Virtual Machine being created. The Operating Systems are presented to the Customer as templates. The choices available are dependent upon the Catalogue and are defined as "Featured Templates", "My Templates", and "ISOs" (ISO Images). With the exception of Microsoft Operating Systems, the Customer is required (where appropriate) to provide a valid license key, obtained from the software vendor or software

vendors representative. Featured Templates represent pre-defined Operating Systems created by BT and vary dependent upon Hypervisor compatibility. The choice of Operating Systems will be displayed for the Customer to select.

4.9 My Templates

“My Templates” are templates that have previously been created or uploaded by the Customer and saved. They may have been originally created as “Feature Templates” and then saved by the Customer or previously created by the Customer by uploading their own template or directly from an ISO image.

4.10 ISO Images

Where a particular Operating System is not shown within Featured Templates but required by the Customer, the Customer can create one from an ISO image.

4.11 Virtual Machine Type

The Customer will select a Virtual Machine from the Virtual Machine attributes displayed within the Catalogue. A build consists of a number of processors, amount of RAM, C: drive / root storage. To increase or decrease the size of the Virtual Machine (in terms of CPU and RAM), the Customer must either build a new Virtual Machine or modify the current Virtual Machine via a separate Online Order. This process is simplified as the existing server can be copied and either saved as a Template or reinstalled on to a larger (or smaller) Virtual Machine as required.

4.12 Storage (C: / root)

4.12.1 The Virtual Machine will include storage allocation, a C:/ root drive where the Operating System will reside.

4.12.2 Additional Storage may be added in the form of additional drives. A number of different size drives are made available with an option for a Customer defined disk. Additional disks can be added and are subject to a separate Online Order and additional Charges

4.13 Common Services

If required, BT can supply Domain Name Server (DNS) for DNS lookup only and Network Time Protocol (NTP). These items are included in the Charges for the Service.

4.14 Snap Shot (Backup)

4.14.1 Snap Shots provide back up for the Service. The Customer may take a point in time “copy” of the VM disk volumes.

4.14.2 Snap Shots are defined per Virtual Machine disk volume and can be manually initiated or scheduled as required by the Customer. The Customer may define how often and when a Snap Shot is taken or instantly take a Snap Shot when required.

4.14.3 Each Snap Shot is a copy of the disk volume stored within the same data centre environment as the original Customer Data.

4.14.4 Snap Shots will be listed within the same area as the requests and can be restored by selecting the desired snap and selecting restore.

4.14.5 The number of Snap Shots held within the system is set based on the schedule chosen for those Snap Shots. When the maximum number is reached as defined by the schedule then the Snap Shots are deleted based on a first in first out basis. If a manual Snap Shot is taken not using the schedule then this Snap Shot will be held until the Customer deletes it or the Service is terminated.

4.15 VM Snap Shot

4.15.1 A VM Snap Shot will record the state and data of a VM at a particular point in time, so the same state can be returned to repeatedly if required. The VM Snap Shot is not a copy of the VM's disk volume but a change log file from the moment in time when the VM Snap Shot was taken.

4.15.2 The Customer

- (a) may take a Snap Shot of a VM at any time and revert to that Snap Shot at any time.
- (b) may take a maximum of three (3) VM Snap Shots per VM;
- (c) will delete a VM Snap Shot before a new one may be taken, once the maximum number is reached;
- (d) will not use a VM Snap Shot as a backup service; and
- (e) will remove a VM Snap Shot when it is no longer required in order to minimise its effect on the performance of the VM.

4.16 Compute Protect

As protection for individual VMs against Internet security threats the Customer may order Compute Protect as optional Service. Compute Protect is subject to separate terms to be accepted on the Portal when ordering this Service.

5 Back End Connection

5.1 A Back End Connection is the connection of a WAN service to the Service. The WAN connection can be a physical network connection provided by BT (or another licensed operator) or a connection from another BT platform delivered within the same data centre. The connectivity between the Back End Connection and this Service is achieved through Cloud Connect or Cloud On-Net. Cloud Connect provides the ability to connect the Service to external IP services through the provision of an external connection / port. Cloud OnNet represents a shared Global MPLS service delivered by BT directly to the Service for which different bandwidth options are made available through the Portal for the Customer to purchase.

5.2 A Back End Connection and the connectivity to the external IP service via Cloud Connect or Cloud On-Net is not part of the Service and must be ordered separately by the Customer and is subject to separate conditions and Charges.

6 Commencement and Term

6.1 The Agreement is effective once the Customer submits an Online Order on the Portal.

6.2 The Service will commence on the Operational Service Date.

7 Technical Requirements

The Customer is required to have Internet access, all computer hardware, software and telecommunications equipment and services necessary to access and use the Service.

8 BT Service Management Boundary (SMB)

BT's responsibility for the Service is for the management of the Elements in the combination ordered by the Customer but the Operating System is outside the SMB unless specifically described within the Catalogue. BT will have no responsibility for the Service (including any responsibility to meet any Service Levels) outside the Service Management Boundary.

9 Ordering Process

9.1 The Customer is responsible for opening an account with BT to gain access to the Portal to enable online ordering.

9.2 On receipt of an Online Order BT will configure the Service as defined by the Customer. Once the Online Order is configured the OSD occurs and the Customer can start using the Service.

10 In Life Management

The Portal operates a Dashboard that allows the Customer to see how many Virtual Machines are running, and Storage and networks provisioned.

11 Virtual Server Management

The Customer may select an individual Virtual Machine and stop, start or restart the Virtual Machine using the Dashboard. The status of the Virtual Machines will be shown on the Dashboard as “running” and “stopped” Virtual Machines. In addition the Customer can gain Console access to each of the individual Virtual Machines and/or create a remote management connection to the Virtual Machine in order to carry out administration functions.

12 Firewall Management

In order for the Virtual Machines to be accessible by the Customer over the Internet, the Customer is responsible for ensuring they set up Firewall access list and port forwarding rules.

13 Reporting

Virtual Machine utilisation reports are provided within the Portal showing the CPU and RAM utilisation of each Virtual Machine.

14 Service Management

14.1 Service Desk Support

14.1.1 BT will provide a Service Desk operating 24 hours per day, seven days per week, including national, public or bank holidays, which will receive and record Service incident reports from the Customer.

14.2 Incident Repair Service

14.2.1 If BT detects, or if the Customer reports an Incident to the Service Desk, BT will respond to the Incident without undue delay. BT will perform tests to determine the cause of the Incident, and will notify the System Administrator by telephone or e-mail.

14.2.2 The Service Desk will keep the Customer updated at regular intervals until the Incident is resolved.

14.2.3 BT will raise additional Charges for work performed and money spent to address incidents resulting from Service failures caused by the Customer on a time and material basis at the prevailing Charges.

14.2.4 If the Customer asks BT to perform any additional work this will be subject to prior written agreement between the Parties and additional Charges will apply.

15 Planned Maintenance

The Customer acknowledges and accepts that occasionally BT may have to carry out routine or emergency maintenance, updates and other procedures for reasons of health, safety, security or otherwise to protect the Service, and which may cause a disruption to the Service, (“Planned Maintenance”). BT will provide the Customer with as much prior notice as practicable with respect to Planned Maintenance.

16 Service Updates

BT may make updates to the Service from time to time provided that such updates do not materially decrease or impair performance of the Service.

17 Security

17.1 The Customer is responsible for the security and proper use of all User IDs, Checkwords and passwords. BT reserves the right to suspend access to the Service at any time if BT has reason to believe that there is, or is likely to be, a breach of security or misuse of the Service. BT will notify the Customer as soon as possible after it has done so.

17.2 The Customer must immediately inform BT if there is any reason to believe that a User ID, password, or Checkword allocated by BT has, or is likely to, become known to someone not authorised to use it or is being, or is likely to be, used in an unauthorised way.

17.3 BT reserves the right to require the Customer to change any or all of the Checkwords or passwords associated with the Service and used by the Customer in connection with the Service.

17.4 The Service is delivered within a secure BT data centre with a security policy for the protection of Site, infrastructure and network. Although BT will use reasonable care and skill in carrying out its obligations under this Agreement in accordance with BT's security policy, it is not possible to guarantee that all instances of fraud, misuse, unwanted or unauthorised activity or access to the Customer's Information will be prevented or detected. Whenever BT becomes aware that security has been compromised, BT will take actions in order to limit any further occurrences of fraud, misuse, unwanted or unauthorised activity or access to the Customer's Information. Nevertheless, BT accepts no liability for any such incidents, or for any loss or damage suffered by the Customer. The Customer shall therefore take responsibility for the security of the Customer Information, Content and application of security policies designed to prevent unwanted or unauthorised activity or access to the Customer's Information.

18 Processing of Personal Data

18.1 BT or its sub-processor will Process the Customer Personal Data for the BT Cloud Compute Service as set out in this Schedule for as long as BT provides the BT Cloud Compute Service and for as long as BT may be required to Process the Customer Personal Data in accordance with applicable law. Any personal Data that may be collected and processed by BT (including payment data) is subject to the data protection provisions as set in the General Terms and Conditions.

18.2 The nature and purpose of the Processing of Customer Personal Data by BT includes for:

- billing and invoicing; and
- incident response and escalation.

18.3 The types of Customer Personal Data Processed by BT or its sub-processors or the Customer may be:

- website or IP address;
- name;
- address;
- telephone number;
- email address;
- job title;
- company name; and
- contact records.

This list is not exhaustive as the Customer will specify what Customer Personal Data is Processed.

18.4 The Customer Personal Data may concern the following categories of Data Subjects:

- Customer employees;
- Customer's customers or third parties; and
- any Data Subject (as controlled by the Customer).

This list is not exhaustive as the Customer will specify what Customer Personal Data is Processed.

18.5 BT may also send the Customer additional information concerning the Service, or related services. This information will typically be sent to the Customer Contact, involved in the procurement or management of the Service.

18.6 BT will have no access to the Customer Information stored by the Customer.

18.7 The location and access points of the Customer Information are defined by the Customer and as such the Customer needs to ensure compliance with relevant laws and regulations.

18.8 BT will not change the country where the Customer Information resides without providing notice to the Customer, unless required to do so in order to comply with applicable laws and regulations.

19 The Customer's Responsibilities

- 19.1 The Service does not provide the Customer with any backup software other than that which is provided within the Operating System. If the Customer has ordered the BT Snap Shot Backup Element from the Catalogue BT will provide this Service Element to allow the Customer to backup data. However, the data backed up using this Service Element is entirely the Customer's responsibility and BT does not assume responsibility and/or liability for the quality of such data.
- 19.2 The Customer acknowledges and agrees that use of Snap Shots does not provide complete data protection. If complete data protection is required, the Customer acknowledges and agrees that it is the Customer's responsibility to ensure that it has data replicated or protected through additional means implemented by the Customer separately from the Service.
- 19.3 The Service is provided solely for the Customer's own use including use by Users and the Customer will not assign, resell, reproduce, copy, duplicate, transfer, lease, distribute, display, disclose, trade or otherwise commercially exploit the Service (or any part thereof) for any purpose, or otherwise make the Service available to any third party except Users.
- 19.4 The Customer is solely responsible for any obligation or liability arising out of transactions of any kind entered into between the Customer and any third party accessing or relying on the Service, Customer Information, or third party Information. BT will not be a party to, or in any way responsible for, any transaction between the Customer and any third party.
- 19.5 The Customer is responsible for the creation, design and maintenance of all Customer Information.
- 19.6 The Customer will ensure that the Customer Information and any third party Information does not include any information or material, which could be illegal or could lead to a legal dispute.
- 19.7 The Customer irrevocably and unconditionally agrees to indemnify and keep indemnified and to hold BT, BT Group Companies and their officers, directors and employees harmless against claims, losses, damages, costs, expenses and liability arising from or in connection with:
- (a) any Customer Information, third party Information or other content or communication sent, provided or stored in connection with the Service;
 - (b) the installation, maintenance or use of any software or other material installed by or on behalf of the Customer;
 - (c) any injury to persons, or damage to the Site or the BT Equipment used for the provision of this Service or other equipment belonging to BT or a third party which is located on the Site, as a result of action taken by or on behalf of the Customer;
 - (d) any actions taken by or on behalf of the Customer with respect to the Firewall; or
 - (e) any breach of confidence or infringement of intellectual property rights.
- 19.8 The Customer is solely responsible for all aspects of Customer Information which are not specifically set out in this Service Schedule as being BT's responsibility.
- 19.9 The Customer is responsible for providing all computer hardware, software and telecommunications equipment and services necessary to access and use the Service, other than as specified as a BT responsibility in this Service Schedule.
- 19.10 The Customer warrants that it is the owner of any domain name they use within the Service, or that it is duly authorised by the owner of, any trade mark or name that it wishes to use as its Domain Name and use as part of its URL.
- 19.11 The Customer must not use a Domain Name or URL that infringes the rights of any person in a corresponding trade mark or trade name or otherwise.

- 19.12 BT reserves the right to require the Customer to select a replacement Domain Name or URL and may either refuse to provide or may suspend the Service if, in BT's opinion the Domain Name or URL is, or is likely to be, offensive, abusive, defamatory, obscene, illegal or otherwise actionable at law.
- 19.13 The Customer is responsible for ensuring that the System Administrator will report all service repair incidents using the reporting procedures notified to the Customer by BT, and will be available for all subsequent Incident management communications.
- 19.14 The Customer will comply with the provisions of any Software licences provided with or as part of the Service administrator.
- 19.15 The Customer is responsible for ensuring that the System Administrator will report all service repair incidents using the reporting procedures notified to the Customer by BT, and will be available for all subsequent Incident management communications.

20 Charges

- 20.1 Charges for the Service are set out in the Portal.
- 20.2 BT will invoice Charges on or after the dates set out below:
(a) One-off Charges on the OSD of the relevant Online Order;
(b) Usage or other recurring Charges on the OSD and thereafter monthly in arrears.
- 20.3 Charges for some of the Service are calculated on an hourly basis against the prevailing Utility Rate Card on the Portal. Usage Charges will apply as shown on the Utility Rate Card on the Portal.
- 20.4 The Customer may also purchase monthly allowances for example, CPU hours and /or RAM hours, paid for in advance, which are subtracted from the utility Charges. Any unused allowances will be carried forward to the next invoice. Terminating the monthly allowance will result in the loss of any accrued / residual allowances.
- 20.5 BT may invoice the Customer for Charges for investigating Customer reported Incidents where BT finds no Incident or that the Incident is outside the Service Management Boundary.
- 20.6 BT may at any time review the Charges for the Service and will provide the Customer with 30 days' prior written notice of any such change in Charges. If the Customer objects to the change in Charges it may exercise its termination rights under this Service Schedule.
- 20.7 Notwithstanding any other provision in the Agreement, BT may delay or bring forward the sending of invoices to coincide with billing cycles from time to time. The Customer acknowledges that the first and last invoice in relation to a particular Service may include Charges due for more or less than one complete billing cycle according to when such Service is connected and/or terminated.

21 Termination of Service

- 21.1 The following Clause will replace and supersede any termination for convenience conditions as set out in the General Terms and Conditions.
- 21.2 The Customer may terminate Elements from the Service or the entire Service via the Portal at any time and without prior notice, provided that the Customer agrees:
(a) to pay any outstanding Charges or interest properly due and payable for each Element up to the date of termination; and
(b) that there will be no refund of Charges which have been paid in advance.
- 21.3 BT may terminate this Agreement or the Service at any time by giving at least 90 days' notice to the Customer and BT shall during this termination period maintain the level and quality of Services provided

by BT until the effective termination date and shall not undertake any actions limiting Customer's ability to migrate the Customer Information.

21.4 At the effective termination date the Customer will lose all access to the Service and any portions thereof, including, but not limited to its account on the Portal and the Customer Information stored on the Service. In addition, upon termination for any reason whatsoever, BT will have the right to immediately delete, without notice the Customer Information. Therefore the Customer hereby acknowledges and accepts to have retained copies of its Customer Information or to migrate all its Customer Information before the effective termination date. BT shall not be liable for any loss or damage which may be incurred by the Customer or any third parties as a result of such deletion from the effective termination date.

22 Suspension of Service

22.1 BT may suspend Service(s) or terminate this Agreement immediately on notice to the Customer where the Customer is in material breach of this Agreement and if the breach is capable of remedy, fails to remedy the breach within a reasonable time of being requested by BT to do so.

22.2 Where a Service is suspended because the Customer is in material breach of this Agreement, the Customer must pay the Charges for that Service until this Agreement is terminated.

23 Service Level

23.1 BT aims to provide the Service within an availability target of 99.95%. For the avoidance of doubt the Portal is not included within this availability target.

23.2 If BT fails to meet the availability target of 99.95% then the Charges for the affected Service will be credited as follows:

Availability Target	Credit
For every reported instance Incident that BT is below target	1 day's recurring Charge

23.3 The credit will be applied to the monthly Charge for the Service. The credit per reported instance that BT is below target will be capped at a maximum of one Month's Charges.

23.4 Service Credits are the Customer's sole right and remedy if BT does not meet the Service Level. Any failure by BT to meet the Service Level specified in this Clause 23 shall not be considered a material breach of the Agreement.

23.5 The parties acknowledge that each Service Credit is a genuine pre-estimate of the loss likely to be suffered by the Customer and not a penalty.

23.6 The Service Level is measured as the combined availability of the ordered Elements to deliver Service to the network (Internet or WAN) interface connected to the Service in the BT data centre. Individual or combined Element failures will not constitute an Incident for Service Level calculations unless the Element(s) failure causes a total loss of Service.

23.7 Availability of the Service will be measured as a proportion of time in a Month starting from the first day of the relevant Month. Where a failure occurs at the end of a Month then it will be carried forward to the next Month.

23.8 The Customer will report any Incident to BT. The measurement of Service unavailability starts when BT acknowledges the Customer's Incident report. On confirmation of an Incident BT will start the Incident Repair Service. The period of unavailability will end when BT informs the Customer that the Service is available, unless the Customer advises BT that the Service remains unavailable.

23.9 Service Credit Claims

- 23.9.1 The Customer must make claims for Service Credits via their Service Desk under this Clause 23 in writing, within one (1) Month of the end of the Month in respect of which the claim is being made, either:
- 23.9.2 BT will acknowledge the claim and send a response letter to the Customer. The Customer must notify BT in writing within one month from the date of BT's response if there is a dispute or query relating to the claim.
- 23.9.3 BT will calculate a credit payment in accordance with the provisions of this Clause 23 which will be paid on the Customers next applicable invoice. Such credit will be in full and final settlement of BT's liability for failure to provide or repair Service or for failure to meet the availability or performance targets.

23.10 Exclusions

- 23.10.1 Service Levels will not apply in respect of all the following:
- (a) Any Failure of Service caused by the Customer's failure to observe any of its obligations under the Agreement;
 - (b) Any Failure of Service due to scheduled downtime for Planned Maintenance (including emergency maintenance) or any other purpose agreed between BT and the Customer;
 - (c) Any Failure of Service due to a delay relating to problems with or failure of the Internet or a delay caused (directly or indirectly) by the Customer;
 - (d) Any Failure of Service not related to BT including any matters beyond BT's reasonable control;
 - (e) Any Failure of Service due to incidents not reported and confirmed by a BT fault reference number;
 - (f) Any reported Incident where BT can find no fault.
- 23.10.2 An Incident that is found to have the same root cause as a previous Incident shall be classed as the same Incident.
- 23.10.3 For this purpose of this Clause 23; the Customer also includes any third party appointed by the Customer to act on the behalf of the Customer.