



General Terms and Conditions

Definitions

In this Agreement, the following definitions apply:

“**Affiliate**” of a Party means any legal entity controlling, controlled by, or under common control with such Party.

“**BT**” means, with respect to this Agreement, the BT entity that signs the cover sheet.

“**BT Equipment**” means equipment (including any software) owned or licensed by BT used by BT for the provision of the Service.

“**BT Parties**” mean the employees, agents and subcontractors of BT or its Affiliates.

“**Business Day**” means any day which is customarily regarded in the country or locality in which the Service is being provided as a day when business is undertaken, excluding national, public, or bank holidays. If the day on or by which anything is to be performed is not a Business Day, it must be done on or by the following Business Day.

“**Business Hours**” means the local working hours in a Business Day where the relevant obligation is to be performed, or as specified elsewhere in this Agreement.

“**Charges**” means the fees payable for the Service under this Agreement as set out in the Order.

“**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 the Party to the other during the term of this Agreement.

“**Customer**” means the Customer entity that signs the cover sheet save that where an Affiliate of the relevant Customer entity enters into an Order with BT, the Customer shall mean the Affiliate of the relevant Customer entity signing that Order, but the Customer entity on the Cover Page remains liable that such Affiliate observes any Customer obligations under the Agreement.

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

“**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 by using the Service.

“**General Terms and Conditions**” means these terms and conditions.

“**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.

“**Service Period**” means a period of time beginning on the OSD during which a Service will be provided by BT. The Service Period will be specified in each 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 or the date when the Customer first starts to use such Service (or part of the Service), whichever date is earlier.

“**Order**” means a) an order signed by both Parties under this Agreement or b) an electronic order placed under the Portal for

Cloud Compute Services as described in the Schedule and/or its additional Service Annex(es).

“**Portal**” means the online system that allows the Customer to place online Orders, change online Orders, see the status of the Service and access certain systems (depending on the Service option chosen by the Customer). The Customer hereby acknowledges and accepts that any Orders placed via the Portal will have the same legal force as a normal written Order.

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

“**Schedule**” means the BT Cloud Compute Schedule as attached to this Agreement.

“**Service**” means the BT Cloud Compute Service as described in the Schedule, any additional Service Annex and/or applicable Order(s).

“**Service Annex**” means – in the event of value added services – the respective Service Annex for such value added services as attached to this Agreement.

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

“**Third Party Information**” means data, information, video, photographs, software and any other materials (in whatever form) not owned or generated by or on behalf of the Customer, including information belonging to an User which is not Customer Information, published or otherwise made available by the Customer using the Service.

“**User**” means any end-user who is allowed by the Customer to use or access the Service.

In this Agreement, headings and bold type are for convenience only and do not affect the interpretation of this Agreement, and, unless the context otherwise requires, words importing the singular include the plural and vice-versa.

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) The BT Cloud Compute Schedule;
- (b) These General Terms and Conditions;
- (c) Orders.

2 Effective Date

This Agreement is effective when signed 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 Services as described in the Schedule to the Customer in accordance with the Agreement.

3.2 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



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(c) provide an alternative, equivalent service, where it becomes necessary to do so.

4 The Customer's Obligations

4.1 Without prejudice to Clause 9.1, where the Customer is responsible for any preparatory activities required by BT in order to supply the Services, the Customer shall ensure that all such preparatory work, information, items or consents are completed, made available or obtained (as relevant) at its own cost in sufficient time to allow BT to complete its work and deliver the Services..

4.2 Subject to Clause 14, if the Customer delays or fails to perform its obligations under Clauses 4.1, 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 cancellation Charges as set forth in clause 5.1 below; or (ii) invoice the Customer for any additional 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 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 The Customer may cancel the delivery of Services before the relevant OSD, but will be responsible for any cancellation charges as set out in the Order or, if none are specified, any costs BT has incurred until the moment of cancellation. Cancellation is only valid after Parties have signed a (cease) Order specifying exactly the (parts of a) Service to be cancelled and the details of the cancellation charges. Such (cease) Order shall be provided by BT to the Customer without undue delay upon receipt of the cancellation notice.

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 Charges for Services are set out in the Orders.

6.2 The Customer shall pay all Charges for 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. In the event of a failure of the Customer to pay BT's charges (other than any amount subject to a good faith dispute as set forth in Clause 6.5 below) by the due Date; in accordance with EU Directive 2011/7/EU on late payment, BT may at its discretion (without prejudice to its other rights and remedies under this Agreement, at law or otherwise) (i) add interest charges, from the due date, to any past due amounts at a per annum rate of seven eight (8) percentage points above the base lending rate of the European Central Bank, compounded daily, or the maximum rate permitted by law, whichever is less; (ii) charge a lump sum of forty (40) Euros for recovery costs; and (iii) claim an additional compensation in the event the recovery charges incurred by BT, as evidenced by supporting documents, exceed the lump sum referred to in subsection (ii) of this Clause.

6.3 BT will invoice and the Customer will pay all Charges in euro. Charges are exclusive of all applicable taxes (including but not limited to value-added taxes).

6.4 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, 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 the resolved amount, if any, 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.

6.5 Without prejudice to any other provision of this Agreement, BT reserves the right to treat failure to pay by the Customer as a material breach of this Agreement. If the Customer commits such material breach, BT's rights are set out in Clause 12. Additionally, BT reserves - subject to fourteen (14) days prior written notice to the Customer - the right to restrict, suspend or terminate provision of the relevant Service or Order and BT shall be released from its obligations under this Agreement with respect to such Service or Order until any balance due is paid or until such other material breach is remedied.

6.6 Unless otherwise agreed in writing, a failure by BT to include the Customer references on the invoice shall not constitute a valid reason by the Customer to withhold payment due under the invoice.

6.7 BT shall have the right to forward or make available all invoices electronically in accordance with the applicable e-invoicing terms and conditions. As an alternative to the standard electronic invoicing, Customer may choose to notify BT that the Customer prefers to receive a paper invoice against the applicable paper invoicing Charges. Without prejudice to the application of any mandatory legal provisions, the Customer accepts that BT has the right to draw up its invoices in English.

7 Use of the Service-BT's Acceptable Use Policy (AUP)

7.1 Except as set out in Clause 17, the obligations of BT under this Agreement are solely to the Customer and not to any third party. The Customer is responsible for its Customer Information and that of any of its Users (including any Customer Information hosted by the Customer or any User on behalf of third parties). The Customer may use any Service for its own business purposes, provided that the Customer: (a) complies with, and ensures that any User complies with the terms of any applicable legislation, BT's AUP set forth below 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 all terms and conditions of this Agreement by it and Users; (c) ensures that its 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. In accordance with BT's AUP the Service must not be used: (a) fraudulently or in connection with a criminal offense under the laws of any country where the Service is provided; (b) to send, receive, upload, download, use or re-use any information or material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights; (c) in contravention of any instructions that BT has given under the Agreement; (d) to cause annoyance, inconvenience or needless anxiety; or (e) to send or provide or receive unsolicited advertising or promotional material.

7.2 Breach by the Customer or any User (with or without the Customer's knowledge or approval) of Clause 7.1, which, is, or



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is likely to be, detrimental to the provision of the Service to the Customer or any other customer and fails to take corrective action within a reasonable period of receiving notice from BT, shall constitute a material breach for the purposes of Clause 12.2 and as such BT may either suspend the Service or terminate the Service pursuant to the General Terms and Conditions of the Agreement. If Service is suspended it will not be restored until the Customer provides an acceptable assurance that there will be no further contravention.

7.3 The Customer shall keep harmless, defend and indemnify BT, its Affiliates and the BT Parties against any claims, losses, costs and liabilities arising from any claims by any third party, including Users, in connection with the use or misuse of the Service in breach of Clause 7.1.

8 Connection of Customer Equipment to the Service

8.1 The Customer is responsible for the provision, installation, configuration, monitoring and maintenance of any Customer Equipment used in connection with the Service. The Customer shall ensure that any the Customer Equipment connected to or used with 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 connected (directly or indirectly) to the Service 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 Service and Customer Equipment.

9 BT Equipment

9.1 BT is exclusively responsible for the provision, installation, configuration, monitoring and maintenance of any BT Equipment used in connection with the Service. BT shall ensure that any the BT Equipment connected to or used with Service is connected and used in accordance with any instructions and safety and security procedures applicable to the use of that BT Equipment.

9.2 BT shall ensure that any BT Equipment connected (directly or indirectly) to the Service is technically compatible with the Service and approved for that purpose under any applicable law or regulation.

10 Confidentiality

10.1 BT and the Customer shall keep in confidence all Confidential Information obtained under or in connection with this Agreement and will not disclose it to any party other than in confidence to (a) their employees or employees of their Affiliates; or (b) their professional advisors; or (c) in the case of BT, employees of their 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 Service.

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 receiving Party 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, for a period of three (3) years following the termination of this Agreement, comply with this Clause 10 with respect to Confidential Information it receives under this Agreement.

10.5 The receiving Party shall return or destroy any Confidential Information upon the request of the disclosing Party.

10.6 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 Intellectual Property Rights

11.1 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.

11.2 Without prejudice to any open source software licence terms, which terms shall apply independent of this licence grant:

(a) 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 usage of the Service; and

(b) 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.

11.3 The term of any licence granted by BT under Clause 11.2 is coterminous with the term for the Service with which the Software is associated or in relation to which any Service is supplied.

11.4 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 and proceedings arising from infringement of any third party's IPR by the Customer's receipt of any Services 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.

11.5 The indemnity set out in Clause 11.4 shall not apply to claims or proceedings arising from: (a) use of any BT Equipment, 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 or any Software; (c) Customer Information, designs or specifications supplied by or on behalf of the Customer; or (d) use of the Service or any Software other than in accordance with this Agreement.

11.6 The Customer will indemnify and hold BT harmless against all such claims, losses, costs and liabilities arising from the matters set out in Clause 11.5 (a), (b), (c) and (d) above that are attributable to the Customer or its agents or Users and



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will, immediately upon notification of any such claim by BT, cease any activity that gave rise to the claim.

11.7 If any 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 11.4, BT, at its option and expense, may: (a) secure for the Customer a right of continued use; or (b) modify or replace the Service so that it is no longer infringing, provided that such modification or replacement shall not materially affect the performance of the Service.

11.8 The indemnity in Clause 11.4 sets out the Customer's sole and exclusive remedy for claims of infringement of intellectual property rights.

12 Termination of Service and the Agreement

12.1 Subject to any Service Period that may apply and unless otherwise specified in the Schedule or Order, either Party may terminate this Agreement at any time by giving ninety (90) days' written notice to the other; provided, however, that where the Customer exercises its rights under this Clause 12.1, the Customer shall be liable for payment to BT of any outstanding Charges as set out in the Schedule and/or Order.

12.2 Either Party may immediately by notice terminate this Agreement 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 as set out in Clause 14 prevents the performance of the whole or a substantial part of the other Party's obligations in relation to the Service for a continuous period of thirty (30) days after the date on which it should have been performed; (c) any governmental or regulatory authority with competence and/or jurisdiction over the Parties decides that the provision of the Service 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 Service illegal. In such case no damages shall be due or (d) any of the authorisations or regulatory formalities required was or is not obtained, is withdrawn or is no longer valid for whatever reason.

12.3 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).

12.4 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.

12.5 Upon termination of this Agreement (including any affected Order executed under it) the rights of the Parties accrued up to the date of such termination shall remain unaffected.

12.6 In the event of termination of this Agreement or any Order by BT for material breach by the Customer, BT shall be entitled to all termination Charges from the Customer as if the Customer had terminated for convenience at that point in time, as set out in the Schedule and/or Orders.

13 Limitation of Liability

13.1 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.

13.2 Subject to Clause 13.1, 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, contracts, anticipated savings, reputation, opportunity, goodwill (including pecuniary losses arising from loss of goodwill), or revenue; (b) any loss or corruption or destruction of data; except if this was explicitly part of the BT Service; (c) any special, indirect or consequential loss or damage whatsoever; and/or (d) any loss arising from the transmission of viruses except if this was explicitly part of the BT Service, in all cases set out in this Clause 13.2, whether or not that Party was advised in advance of the possibility of such loss or damage.

13.3 Subject to any other limitations of liability that are set out in the relevant Schedule, if a Party is in breach of any obligations hereunder, or if any other liability however arising, whether deliberate or unintentional (including liability for negligence or breach of statutory duty) arises in connection with an Order or with these General Terms and Conditions, then, subject to Clauses 13.1 and 13.2 of this Agreement, 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.

13.4 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 unauthorized access in spite of BT's reasonable precautions.

13.5. Particularly for the Service under this Agreement, BT excludes all liability of any kind in respect of Customer Information, Third Party Information, and any other material on the Internet which can be accessed using the Service. BT is not responsible in any way for any goods (including software) or services provided by third parties and advertised, sold or otherwise made available by means of the Service or on the Internet. Therefore, the Customer accepts that BT is under no obligation to edit, review or modify the Customer Information or Third Party Information and that BT does not examine the use to which the Service is put. However, BT reserves the right to suspend access to any Customer Information or Third Party Information following notice to the Customer if BT reasonably believes that such access may constitute a breach of the Agreement, any applicable law or any third party right. Furthermore, BT will not be liable to the Customer either in contract, tort (including negligence) or otherwise for the acts or omissions of other providers of telecommunications or Internet services (including domain name registration authorities) or for faults or failures of their equipment.

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

14.1 Neither Party shall be liable for failure or delay in the performance of its obligations caused by or resulting from force majeure, which shall include, but not be limited to, events that are unpredictable, unforeseeable or irresistible, such as any



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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 (not attributable to the Party claiming force majeure), civil disturbance, sabotage, expropriation by governmental authorities and any other act or any event that is outside the reasonable control of the concerned Party.

14.2 BT will have no liability to the Customer for failure to supply the Service if (a) a third person is unable or refuses to supply or delays supplying a service or product to BT and there is no alternative available to BT at reasonable cost; or (b) BT is prevented by legal or regulatory restrictions from supplying the Service.

15 Dispute Resolution

The Parties will use all reasonable efforts to amicably resolve any dispute. The Parties will, at a minimum, use the following the 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 the aforementioned 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.

16 Notices

16.1 Except for notices given in accordance with Clause 3.5, all notices given under this Agreement shall be in writing, in the English language, 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: (a) the other Party to the address; fax number or email address set out on the Order; (b) the other Party to these General Terms and Conditions at the address; fax number or email address set out on the cover page; or (c) either the Party or any other addressee at any other address that a Party has given to the other for that purpose.

16.2 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 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.

17 Assignment/Subcontracting

17.1 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.

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

17.3 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 BT Party for ordering, provisioning or maintaining the Service as directed by BT.

18 Governing Law and Jurisdiction

Unless otherwise agreed in writing, this Agreement and any claims or disputes arising out of, relating to or in connection with it, shall be governed exclusively by the laws of the Netherlands. The applicable Courts of Amsterdam shall have exclusive jurisdiction to determine any dispute arising out of or in connection with this Agreement to which the Parties irrevocably submit. The Parties agree that the UN Convention on the Sales of Goods shall not apply to this Agreement.

19 Miscellaneous Provisions

19.1 **Publicity:** While the Parties are entitled to announce publicly and within their organisation the fact that they have entered into this Agreement, neither Party may publish or use any other 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 Services provided under this Agreement, without the prior written approval of the other Party which shall not unreasonably be withheld.

19.2 **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.

19.3 Data Protection:

19.3.1 In this Agreement, the following terms each have the meaning given to it in the General Data Protection Regulation (Regulation (EU) 2016/679) (hereinafter "GDPR"): "Binding Corporate Rules", "Controller", "Data Subject", "Personal Data", "Personal Data Breach", "Processing", "Processor" and "Supervisory Authority".

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



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

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

19.3.2.2 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.

19.3.3 BT may be both Controller and Processor under the Agreement.

19.3.4 Where BT acts as a Controller:

19.3.4.1 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:

- (a) administer, track and fulfil Orders for a Service;
- (b) implement the Service;
- (c) manage and protect the security and resilience of any BT Equipment, the BT Network and the Services;
- (d) manage, track and resolve incidents 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 the Agreement; and
- (i) comply with applicable law.

19.3.4.2 BT will Process the Personal Data in accordance with applicable data protection legislation, as set out in the BT Privacy Policy and, where applicable, BT Group's Binding Corporate Rules; and

19.3.4.3 BT may, from time to time, contact the Customer Contact (as defined in the General Service Schedule), 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.

19.3.5 Where BT acts as a Processor:

19.3.5.1 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 Schedule;

19.3.5.2 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 19.3.5.10, 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) if an additional instruction or a change to the instructions provided by the Customer in accordance with Clause 19.3.5.10 infringes the data protection legislation, inform the Customer without undue delay and BT 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, 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 19.3.5.8; 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 19.3.5.2 (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 19.3.5.2(b);

19.3.5.3 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;

19.3.5.4 BT will make available to the Customer the information demonstrating BT's compliance with its obligations set out in Clause 19.3.5, and, subject to thirty (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 hours;

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



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- (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 19.3.5, those of its Sub-Processors.

19.3.5.5 BT may demonstrate its compliance with its obligations set out in Clause 19.3.5 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);

19.3.5.6 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; and

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

19.3.5.8 BT will inform the Customer of proposed changes to its Sub-Processors from time to time, either by providing the Customer with online access to intended changes, or by such other means as BT may determine and:

- (a) if the Customer does not object to the proposed change within thirty (30) days of the date of this notice, the Customer will be deemed to have authorised the use of the new Sub-Processors;
- (b) the Customer may object to the use of a new Sub-Processor by giving notice in accordance with Clause 16 documenting material and substantiated concerns that the Sub-Processor will not be able to comply with the data protection legislation; and
- (c) if such notice is received within the time required by this Clause, the Parties will address the Customer's objection in accordance with the dispute resolution set out in Clause 15 and BT may use the relevant Sub-Processor to provide the Service until the objection is resolved in accordance with Clause 15;

19.3.5.9 BT may use Sub-Processors in accordance with Clause 17 and will ensure that data protection obligations in respect of Processing Customer Personal Data equivalent to those set out in Clause 19.3.5 of the Agreement will be imposed on any Sub-Processors;

19.3.5.10 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 19.14 to take account of any resulting change in the Charges or the Service;

19.3.5.11 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

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

19.3.6 Where permitted by applicable law:

19.3.6.1 a Party in breach of the data protection legislation or this Clause 19.3 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

19.3.6.2 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 complaint or claim for compensation caused by or relating to the Processing of Personal Data, without the prior written agreement of the other Party.

19.3.7 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.

19.3.8 If, in accordance with Clause 19.14, 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.

19.4 Legal and Regulatory Compliance:

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

19.5 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 any applicable law (including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act of 2010) 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. To the extent permitted by the relevant authority, each Party shall promptly inform the other Party of any official investigation with regard to alleged breaches of the above laws that are related in any way to this Agreement.

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

19.7 **Inducement:** The Parties acknowledge and agree that they have not been induced to enter into this Agreement by any representation, warranty or other assurance not expressly



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incorporated into the agreement, except that nothing in this clause shall limit or exclude any liability for fraud.

19.8 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.

19.9 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.

19.10 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.

19.13 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. This Agreement may not be amended, modified or supplemented except by a document in writing signed by authorised representatives of both Parties executing these General Terms and Conditions. The Parties may amend, modify or supplement the terms of an Order by a document in writing executed by authorised representatives of both Parties to that Order.

19.12 Service issue: The BT customer service centre is the single point of contact for the Customer for all Service related issues (e.g. Service interruption or degradation), and can be reached - 24 hours a day, 365 days a year - on the number as communicated by BT.