

BT Master Services Agreement

Sale of Equipment - Service Annex to the Equipment and Ancillary Services Schedule

BT MSA Reference No. **_****_****

BT will sell BT Provided Equipment to the Customer. The sale does not include staging, installation and/or maintenance of the BT Provided Equipment. These services can be ordered, and the terms and conditions of the relevant Annex will apply.

1. Delivery of BT Provided Equipment

- 1.1 BT will use its reasonable endeavours to deliver the BT Provided Equipment by the date(s) agreed with the Customer but all dates are estimates and BT has no liability if it does not meet the date(s).
- 1.2 BT Provided Equipment will be delivered in the Equipment Manufacturer's original wrapping to the Customer at:
 - 1.2.1 the address on the Order if supplied in the Territory or if the Territory and delivery address(es) are within EU/EFTA.
 - 1.2.2 the applicable port of entry in the delivery country, in which case the BT Provided Equipment will be supplied DDU (INCO terms 2000), as modified by the express provisions of this Annex. The Customer will act as the importer of record and BT will be the exporter of record. The Customer must clear the BT Provided Equipment through the applicable customs authority in the destination country and shall be liable for any import tax, duty and/or excise duty incurred.
- 1.3 It may be possible for BT to arrange shipping services to deliver the BT Provided Equipment to the final destination address(es) specified in the Order if the Territory and/or the delivery address(es) are outside the EU/EFTA. BT will provide end-to-end delivery services to the delivery destination address(es) except that the Customer will
 - (a) perform any import clearance tasks that the law of the applicable country requires it to
 - (b) pay import duty and other charges in accordance with DDU (INCO Terms 2000) to BT (or the relevant person if BT cannot lawfully pay on behalf of the Customer)
 - (c) if requested by BT, provide authorisation as soon as practicable authorising BT or its agent, to carry out its obligations as shipping agent. Any such authorisation shall be as narrow as is required for the fulfilment of the task. If the Customer cannot give such authorisation, it will undertake those tasks itself at its own cost.
- 1.4 BT may, at its sole discretion, assign the supply of BT Provided Equipment outside the Territory to another BT entity to provide and invoice for. Notwithstanding any other provisions of this Annex or the MSA, the Customer hereby agrees to any such assignment.

2 Acceptance of BT Provided Equipment

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2.1 Acceptance of the BT Provided Equipment will take place on signature for the delivery as follows:

2.1.1 At the delivery address(es) if the Territory and/or delivery address(es) are within the EU / EFTA); or

2.1.2 In all other cases, at the port of entry, or at the final delivery address(es) that BT has agreed with the Customer if BT is shipping the BT Provided Equipment as described in section 1.4.

3 Risk and Ownership

3.1 If BT Provided Equipment is supplied in the Territory then title in the BT Provided Equipment, excluding the licensed Software, will pass to the Customer on payment in full of all monies due.

Until BT receives payment in full, the BT Provided Equipment must appear in the Customer's books in the name of BT.

If there is a threatened seizure of the BT Provided Equipment, or anything listed in Clause 17.3 (Termination) of the General Terms and Conditions applies to the Customer, the Customer must immediately:

(a) notify BT so that BT may take action to repossess the BT Provided Equipment; and

(b) notify interested third parties of BT's ownership of the BT Provided Equipment.

3.2 For BT Provided Equipment to be supplied outside the Territory risk and title in the BT Provided Equipment, excluding the licensed Software, will pass to the Customer on despatch from the final shipping point in the Territory but the Customer will not be liable for any loss or damage to the extent that it is caused by BT's negligence.

3.3 After payment in full, and where relevant, the Customer will be granted a non-exclusive, non-transferable license from the Equipment Manufacturer to use the Software.

4 BT PROVIDED EQUIPMENT WARRANTY

4.1 If during the period of any relevant Warranty (as specified in the Order or as notified to the Customer by BT) BT is notified of a fault in BT Provided Equipment which is due to faulty design, manufacture or materials, or the negligence of BT, BT will, replace or (at its option) repair the faulty part or in the case of new wiring restore it to effective use free of charge provided that:

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- (a) the BT Provided Equipment has been properly kept, used and maintained in accordance with the Equipment Manufacturer's or BT's instructions, if any, and has not been modified except with BT's consent;
 - (b) the fault is not due to accidental or wilful damage (including lightning and electrical damage); interference with or maintenance by anyone except BT, BT's agents or subcontractors;
 - (c) the fault is not due to faulty design by the Customer if the BT Provided Equipment has been manufactured to the Customer's design,
- 4.2 This warranty does not cover fair wear and tear.
- 4.3 If the BT Provided Equipment can be installed by the Customer, the Customer must return the faulty BT Provided Equipment to BT, unless BT specifies otherwise.
- 4.4 BT does not warrant that the embedded software supplied with the Service will be free of all faults or that its use will be uninterrupted. BT will remedy any defects which significantly impair performance within a reasonable time.
- 4.5 BT may make minor alterations to the specification of BT Provided Equipment which does not affect Equipment's performance.
- 4.6 Notwithstanding the provisions of this section 4, if the Customer orders a fault repair service from BT for the BT Provided Equipment, then this warranty shall be superseded by the applicable fault repair service.
- 4.7 For Cisco Equipment, any warranty, statement or promise other than the Cisco Equipment Manufacturer's warranty regarding the Cisco Equipment is only valid if given in writing by BT.
- 4.8 The Cisco Equipment manufacturer's warranty, which can be found at <http://www.cisco.com/warp/public/cc/serv/mkt/sup/tsssv/wnty/> (or such other site as the Cisco Equipment Manufacturer may determine from time to time) begins on the date that the Cisco Equipment is shipped by BT's supplier.
- 4.9 If the Customer detects a fault in the Cisco Equipment during the Cisco Equipment manufacturer's warranty period then the Customer will return the Cisco Equipment, in its original wrapping to BT's supplier using the return address label provided. If the fault is due to a cause covered by the Cisco Equipment manufacturer's warranty, a replacement will be provided. If no fault is found, or the fault is from a cause not covered under the Cisco Equipment manufacturer's warranty, BT will return the Cisco Equipment to the Customer at the Customer's expense.

5 THE CUSTOMER'S RESPONSIBILITIES

- 5.1 The Customer is responsible for the maintenance of the BT Provided Equipment except as provided for in the Equipment Manufacturer's warranty or if the Customer has ordered Fault Repair Service.

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- 5.2 The Customer agrees:
- 5.2.1 to care for and use the BT Provided Equipment in accordance with BT and/or the manufacturer's instructions and to use it only for a purpose for which it is designed;
 - 5.2.2 not to repair, adjust, or modify the BT Provided Equipment without BT's written consent except for configuration changes made in accordance with the equipment manufacturer's documentation. The Customer must notify BT of any such configuration changes; and
 - 5.2.3 to co-operate in diagnosing faults by performing any diagnostic and test routines requested by BT or included in the manufacturer's instructions, and allowing BT to carry out remote diagnostic tests, where appropriate.
- 5.3 Notwithstanding the provisions of section 4 above, it is a requirement under this Annex that the Customer order a fault repair service for all BT Provided Equipment supplied under this Annex, either from BT or an alternative approved maintainer within 30 days of Delivery. If the Customer has not ordered a fault repair service and/or does not give BT details of the approved maintainer, then the Customer may be liable for additional fees chargeable to BT by the Equipment Manufacturer.
- 5.4 Where the Customer is importer of record for the BT Provided Equipment, the Customer is responsible for and must comply with destination country laws and regulations, including any trade and legal restrictions applicable to the BT Provided Equipment.

6 CHARGES AND PAYMENT TERMS

- 6.1 Delivery is completed within the Business Day, and the Customer will be liable for any additional charges for delivery outside of a Business Day.
- 6.2 Cancellation Charges
- 6.2.1 If the Customer cancels an Order before delivery, then (depending on the time of cancellation) BT reserves the right to charge cancellation fees which may include (without limitation) charges for:
 - (a) order processing and management;
 - (b) equipment returns; and/or
 - (c) the total charge for the BT Provided Equipment and associated licence fees.

BT will use reasonable endeavours to keep such charges to a minimum. Cancellation charges are set out in the Order Form.

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6.2.2 Notwithstanding the provisions of this section 7.2, BT will not accept

cancellation from the Customer for BT Provided Equipment that has been delivered or is in the process of being shipped by the Equipment Manufacturer. In such event the Customer shall be liable for the full charge(s) specified on the Order for the BT Provided Equipment.

6.2.3 If the Customer cancels an Order BT shall be entitled to recover any relevant BT Provided Equipment after giving written notice in accordance with the General Terms and Conditions.

6.3 If the Customer delays or prevents the delivery of the BT Provided Equipment, BT may apply reasonable additional charges for any costs that it incurs.

7 Intellectual Property in BT Provided Equipment

7.1 In addition to the provisions of the General Terms and Conditions the Customer will keep the embedded software, any operating manuals and any other documentation provided confidential, and will not disclose them other than to its employees, agents or contractors who need to use them to operate the BT Provided Equipment. The Customer will ensure that such employees, agents and contractors abide by the provisions of this section 8.

7.2 The licence granted to the Customer shall be for the use of the Software in object code form only, and solely as provided for in the Equipment Manufacturer's Warranty and Software Licence, which for Cisco Equipment, can be found at <http://www.cisco.com/warp/public/cc/serv/mkt/sup/tsssv/wnty/> (or such other site as the Cisco Equipment Manufacturer may specify from time to time).

7.3 The Customer shall contact the Equipment Manufacturer directly and promptly (and shall notify BT, copying any correspondence to BT), in the event of any breach or potential breach of the Software Licence.

8 Waste Electrical or Electronic Equipment (WEEE)

8.1 A crossed out wheelee bin symbol shown on the BT Provided Equipment means that the BT Provided Equipment is classed as Electrical or Electronic Equipment (EEE) under the European Parliament and Council Directive 2002/96/EC on Waste Electrical and Electronic Equipment, and the measures implementing this Directive in European Union Member States (the WEEE Directive). For the purposes of the WEEE Directive any EEE sold to the Customer under this Annex is classed as Business to Business (B2B) EEE.

8.2 The Customer and BT acknowledge that for the purposes of Article 9 of the WEEE Directive this paragraph shall be an agreement stipulating other financial arrangements for the environmentally sound management of WEEE. When the Customer has no further use for the BT Provided Equipment the Customer shall ensure that the BT Provided Equipment is not mixed with other commercial or household waste on disposal. The Customer is entitled to return to BT on a one for

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one basis any equivalent electronic and electrical equipment which is being replaced with new BT Provided Equipment as part of the Service. If returned to BT, the Customer shall arrange for and pay for the collection of same and BT shall be entitled to charge a return fee to arrange for the disposal of the WEEE in accordance with its

obligations of either a producer or distributor (whichever the case maybe) in the WEEE Regulations.

- 8.3 If the Customer elects to dispose of the WEEE itself, the Customer acknowledges: (a) that it will do so at its sole cost and relieve BT of all responsibilities due to improper disposal of the waste product; (b) if BT is the "Producer" for the purposes of the WEEE Directive, BT shall upon written request from the Customer and without cost or charge to the Customer provide all information and data on any dangerous substance or preparation or hazardous substance contained in the product; (c) the Customer shall take on the obligations in the WEEE Directive for the sound environmental management of WEEE and hence the Customer shall be responsible for such information recording or reporting obligations imposed by the WEEE Directive and the measures implementing it in EU Member States; (d) the Customer shall ensure that the WEEE is treated in accordance with the requirements of Article 6 of the WEEE Directive; and (e) the Customer will become responsible for achieving the recovery and recycling targets stipulated in Article 7 of WEEE Directive.