



Panama - General Terms to the Master Services Agreement

These General Terms ("**General Terms**") to the Master Services Agreement are entered into by and between BT and the Customer (each a "**Party**" and together the "**Parties**").

1 Order of Precedence

The Master Services Agreement ("**Agreement**") between BT and the Customer is comprised of these General Terms, together with each document that references or is referenced by these General Terms. In the event of a conflict between the documents that form part of this Agreement, the order of precedence shall be, in descending order:

- 1.1 Master Order Form(s);
- 1.2 these General Terms;
- 1.3 Service Schedules;
- 1.4 Order forms other than a Master Order Form (each an "**Order**"); and
- 1.5 Any other documents expressly incorporated by one of the documents listed above.

2 Commencement and Duration

- 2.1 This Agreement starts on the Effective Date and will continue until all Services are cancelled, terminated or expire in accordance with this Agreement.
- 2.2 On termination or expiry of a Service or any Order for any reason other than when this Agreement is terminated or expired in its entirety, all Orders executed prior to the date of termination or expiry will remain unaffected and continue in force until termination or expiry of each Order in accordance with the terms of this Agreement.

3 BT Obligations

- 3.1 BT will:
 - 3.1.1 provide Services in accordance with the terms of this Agreement;
 - 3.1.2 provide each Service to the Customer with the care and skill that would reasonably be expected in the circumstances; and
 - 3.1.3 comply with all Applicable Law that apply to the provision of a Service.

4 Customer Obligations

- 4.1 In addition to any other obligations set out in this Agreement, the Customer will:
 - 4.1.1 comply with, and ensure that its Users comply with, all Applicable Law in the receipt and use of the Services;
 - 4.1.2 comply with the Acceptable Use Policy and the Compliance Obligations and ensure their Users do; and
 - 4.1.3 not re-sell the Services to a third-party without BT's prior written approval or unless explicitly set out in a Schedule. If BT grants such approval, it will be conditional upon the Customer imposing on the relevant third-party in writing obligations no less onerous than those to which the Customer is subject under this Agreement (including the Compliance Obligations and the Acceptable Use Policy).

5 Misuse of a Service

- 5.1 The Customer will be liable for any claims, losses, costs and liabilities arising out of or in connection with any misuse of a Service by the Customer that is contrary to the Acceptable Use Policy or Compliance Obligations or Applicable Laws.
- 5.2 BT may, where there is a material breach of the Acceptable Use Policy or Compliance Obligations and

where permitted to by the governing law of this Agreement:

- 5.2.1 report the Customer to the relevant law enforcement agency; and
- 5.2.2 restrict or suspend the Service in accordance with Clause 13.

6 Excused Performance

- 6.1 Notwithstanding the occurrence of a Force Majeure Event, in which case Clause 17 will govern, BT will not be liable for any failure or delay to perform any of its obligations under this Agreement (including any of its obligations to meet any Service Levels) to the extent that BT's failure or delay in performing arises as a result of:
 - 6.1.1 any failure or delay by the Customer to perform any of the Customer's obligations under this Agreement;
 - 6.1.2 any act or omission other than on the part of a BT Affiliate or a subcontractor or supplier appointed by it unless that BT Affiliate, subcontractor or supplier has invoked their force majeure rights under their contract with BT; or
 - 6.1.3 Applicable Law, a court order, an application for interlocutory relief or injunction restricting or preventing BT from supplying a Service.

7 Charges and Taxes

- 7.1 Save to the extent provided to the contrary herein, all recurring and non-recurring charges ("**Charges**") relating to the Services will be specified either in the Master Order Form or Order.
- 7.2 Charges are exclusive of all applicable Transaction Taxes and the Customer will pay all Transaction Taxes on receipt of a valid tax invoice, including those Transaction Taxes paid or payable by BT that under Applicable Law BT is entitled to pass on to the Customer and that are customarily passed on to customers by service providers, except to the extent a valid exemption certificate is provided by the Customer to BT prior to the delivery of any Services.
- 7.3 If payment of any amount of the Charges is subject to Withholding Taxes required by Applicable Law, the Customer will deduct the Withholding Tax and pay it to the relevant taxing authority within the period for payment permitted by Applicable Law.
- 7.4 Where the Customer deducts Withholding Tax in accordance with Clause 7.3, the Customer will:
 - 7.4.1 gross up its payments to BT such that the net amounts received by BT after all deductions and withholdings will be not less than what would have been received in the absence of those Withholding Taxes; or
 - 7.4.2 indemnify BT for the amounts deducted from the payment to BT.
- 7.5 Where BT receives a claim from a taxing authority alleging that Withholding Tax has not been received on payments by the Customer to BT, the Customer will indemnify BT for the amount of the Withholding Tax due together with any interest, fines and penalties resulting from the late payment or non-payment of the Withholding Tax and any costs of defending the claim against the taxing authority.



- 7.6 Any change to the agreed billing arrangements shall be subject to written agreement by the Parties.
- 7.7 Charges established in each Master Order Form or Order that are expressed in local currency, will be adjusted annually (calendar year) as agreed by the Parties or applicable local legislation. In any case, upon expiration of the first twelve months of this Agreement, and if the parties have not agreed on a specific price adjustment, then, the prices will be readjusted by at least the percentage increase in the consumer price index (CPI) or accumulated inflation in the immediately preceding twelve-month period.
- 7.8 It is agreed that the change to the Charges as a result of the annual price increase will not cause the Customer material detriment, nor provide the Customer with the right to terminate this Agreement, without paying Termination Charges (if they would normally be applicable).
- 7.9 If the Customer does not perform the obligations set out in this Agreement BT will charge the Customer for any additional costs BT incurs (including supplier costs) that are the result of the failure.
- 7.10 If the Customer causes a delay during the commissioning of the Service, BT will commence charging the Customer the Charges for the Service as if BT fully installed the Service from the agreed planned delivery date. Alternatively, the Parties may also agree:
- 7.10.1 a new delivery date for the Services together with compensation for any additional costs BT incurs (including supplier costs) resulting from the change in delivery date; or
- 7.10.2 to cancel the Order subject to the Customer paying any costs BT incurs as result of such cancellation.
- 7.11 BT may adjust the Charges to reflect changes in charges BT incurs which are beyond BT's control, for example where there is a change in Applicable Law. Price adjustments will be effective from the billing period following written notice to the Customer. Where the Customer does not agree to such change, the Customer can terminate the Service by giving at least 45 days' written notice to BT. No termination Charges will be due.
- 7.12 Where BT has provided rate card Charges for access, Equipment and Software (including Licenses and maintenance) based on prices from suppliers and the supplier changes the prices, then BT may adjust the rate card Charges to reflect changes in charges BT incurs from the Supplier. This will not affect the Charge for any access, Equipment or Software that has already been ordered prior to BT notifying the Customer of the change.
- 7.13 At the end of the Service BT has the right to invoice the Customer a one-off de-installation Charge for the recovery and disposal of the Equipment and disconnecting the Service. The de-installation Charge will be either a) agreed on the Order or b) if none was agreed on the Order - equal to the rates for installation. If Customers refuses or does not accept the payment of a one-off de-installation Charge, then the Customer will be liable for non-compliance of the disposal of electronic equipment regulations and BT will be released of its disposal obligations under the electronic disposal rules and regulations.
- 7.14 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.
- 7.15 BT will invoice and the Customer will pay all the Charges in Local currency or in US Dollars. In the event that the Charges are expressed in US Dollars or foreign currency and payment must be made in local currency, then, BT will invoice the Charges in local currency using for their conversion the most convenient market exchange rate authorised by the law.
- ## 8 Payment
- 8.1 The Customer shall pay all Charges for the Services within thirty (30) days of the date of BT's invoice, without any set-off, counterclaim or deduction.
- 8.2 If the Customer fails to pay any invoice in accordance with Clause 8.1 and is not disputing the invoice pursuant to Clause 9, BT may:
- 8.2.1 charge the Customer interest on the unpaid amount at the annual rate of 1.5 per cent per month, or at the maximum rate permitted by Applicable Law, whichever is less, with such interest compounded daily from the due-date of the invoice until payment is made in full by the Customer; and
- 8.2.2 restrict or suspend any part of a Service as set out in Clause 13.1.
- 8.3 The Customer will pay any reasonable costs BT has incurred in recovering any debt owed by the Customer to BT, including debt collection agency and legal costs.
- ## 9 Invoice Disputes
- 9.1 If the Customer disputes an invoice that BT issues before the Customer makes payment, it will provide notice to BT of the dispute within 28 days of the date of the invoice, together with all information relevant to the dispute including an explanation of the amount disputed and the reasons.
- 9.2 If the Customer disputes an invoice that BT issues after the Customer makes payment, the Customer must provide notice to BT of the dispute within six months of the date of the invoice, together with all information relevant to the dispute including an explanation of the amount disputed and the reasons.
- 9.3 If the Customer disputes an invoice that BT issues before the Customer makes payment, it will provide notice to BT of the dispute within 28 days of the date of the invoice, together with all information relevant to the dispute including an explanation of the amount disputes and the reasons.
- 9.4 If the Customer disputes an invoice that BT issues after the Customer makes payment, the Customer must provide notice to BT of the dispute within six months of the date of the invoice, together with all information relevant to the dispute including an explanation of the amount disputed and the reasons.
- 9.5 The Customer will, in accordance with Clause 8.1, pay all undisputed amounts of an invoice.
- 9.6 The Parties will follow the dispute resolution procedure in Clause 18 and the Customer will pay any resolved amount within seven days after resolution of the dispute.
- 9.7 BT may charge the Customer a late payment charge or interest in accordance with Clause 8.2 for any resolved amount agreed from the due-date in accordance with Clause 9.4.
- ## 10 Intellectual Property Rights
- 10.1 Nothing in this Agreement shall result in the transfer of Intellectual Property Rights. All Intellectual Property Rights ("IPR") of a Party that are either pre-existing or created



- by a Party during its performance under this Agreement shall remain the absolute property of that Party or its licensors.
- 10.2 BT grants the Customer a non-transferable and non-exclusive licence to use, for the Permitted Purpose only and in object code form only, all Software and associated documentation supplied by BT, provided that the Customer complies with the terms of this Agreement. The Customer will not copy, decompile, modify, or reverse engineer any Software, or knowingly permit anyone else to do so, except as expressly permitted by BT in writing or otherwise provided by law. The term of any license granted by BT shall be coterminous with the term of the associated Service.
- 10.3 This Agreement does not apply to any third-party software or firmware (including without limitation, any open-source software) that is licensed to the Customer under a separate license agreement.
- 10.4 Subject to Clause 10.3 and 16.6, BT will indemnify the Customer against third-party claims arising from the infringement of any third-party IPR by the Customer's permitted use or receipt of any Services.
- 10.5 BT's indemnification obligations do not apply to third-party claims arising from:
- 10.5.1 use of any Services in combination with other equipment, software, or any other service not supplied by BT;
 - 10.5.2 any unauthorised modification or use of a Service by the Customer, its agents, or a User;
 - 10.5.3 content, designs or specifications supplied by or on behalf of the Customer; and
 - 10.5.4 failure to immediately cease any activity that gave rise to the claim following notice by BT.
- 10.6 If any Service becomes, or BT believes is likely to become, the subject of an IPR infringement claim, BT may, at its option and expense, either:
- 10.6.1 secure for the Customer a right of continued use;
 - 10.6.2 modify or replace the Service so that it is no longer infringing, provided that such modification or replacement does not materially affect the performance of the Service; or
 - 10.6.3 cease provision of the Service and refund any unapplied, pre-paid Charges.
- 10.7 The Customer will indemnify BT for any claims, losses, costs or liabilities brought against BT that results from or is connected with any of the matters described in Clauses 10.5.1 to 10.5.4 (inclusive).
- ### 11 Confidentiality
- 11.1 Each Party will keep in strict confidence all Confidential Information disclosed to it and will only disclose any Confidential Information:
- 11.1.1 to those of its employees, agents, Affiliates, officers, directors, advisers and, in the case of BT, its subcontractors and suppliers, who need to know it for the purpose of that Party discharging its obligations or receiving a benefit under this Agreement; or
 - 11.1.2 as is required by Applicable Law, any governmental or regulatory authority or by a court of competent jurisdiction and the Party disclosing the Confidential Information will give the other Party as much notice as reasonably possible.
- 11.2 The Party disclosing the Confidential Information in accordance with Clause 11.1.1 will ensure that those employees, agents, Affiliates, officers, directors, advisers
- and, in the case of BT, BT's subcontractors and suppliers, comply with the obligations set out in this Clause 11 as though they were a party to this Agreement.
- 11.3 Upon notice from a Party, the other Party will return or destroy any Confidential Information received from the requesting Party within a reasonable time period.
- 11.4 This Clause 11 will survive termination of this Agreement for a period of three years.
- ### 12 Data Protection
- 12.1 In this Agreement, the following terms each have the meaning given to it in the GDPR: "**Binding Corporate Rules**," "**Controller**", "**Data Subject**", "**Personal Data**", "**Personal Data Breach**", "**Processing**", "**Processor**" and "**Supervisory Authority**"
- 12.2 Notwithstanding any other provision in this Agreement, for BT to provide a Service, Personal Data may be:
- 12.2.1 used, managed, accessed, transferred or held on a variety of systems, networks and facilities (including databases) worldwide; or
 - 12.2.2 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 where necessary implement appropriate transfer mechanisms permitted by Data Protection Legislation, including:
 - (a) BT Group's Binding Corporate Rules (for transfers among BT's Affiliates and transfers from the Customer to BT Affiliates based in third countries); and
 - (b) agreements incorporating the relevant standard data protection clauses adopted by the European Commission or the relevant local authority.
- 12.3 BT will be either Controller, Processor or both under this Agreement depending on the type of Personal Data Processed and the purpose of the Processing.
- 12.4 If BT acts as a Controller:
- 12.4.1 BT may collect, Process, use or share Personal Data with BT Affiliates and Sub-Processors, within or outside the country of origin in order to do any or all of the following:
 - (a) administer, track and fulfil Orders for the Service;
 - (b) implement the Service;
 - (c) manage and protect the security and resilience of any BT Equipment, the BT Network and the Services;
 - (d) manage, track and resolve Incidents with the Service as set out in this Agreement;
 - (e) administer access to online portals relating to the Service;
 - (f) compile, dispatch and manage the payment of invoices;
 - (g) manage this Agreement and resolve any disputes relating to it;
 - (h) respond to general queries relating to the Service or Agreement; or
 - (i) comply with Applicable Law.
- 12.5 Where BT acts as a Processor, as required by article 28 of the GDPR, Annex 1 will apply.
- 12.6 Where each Party acts as a Controller in relation to the Processing of Personal Data under this Agreement, the Parties will not act as joint Controllers (as defined by Data Protection Legislation) in relation to such Processing.



13 Suspension of Service

- 13.1 BT may restrict or suspend any affected Service;
 - 13.1.1 as set out in a Schedule;
 - 13.1.2 in the event of late payment by the Customer, subject to 14 days prior written notice to the Customer;
 - 13.1.3 in the event of a material breach by the Customer of Applicable Law, the Acceptable Use Policy or Compliance Obligations. BT shall inform the Customer without undue delay in advance; or
 - 13.1.4 as required by Applicable Laws.

14 Order Cancellation prior to the Service Start Date

- 14.1 The Customer may immediately cancel an Order by notice to BT before the Service Start Date.
- 14.2 If the Customer exercises its right under Clause 14.1, the Customer will pay to BT in accordance with Clause 8.1 all specified cancellation Charges set out in the applicable Order, or if none are specified, it shall pay the third-party cancellation costs (if any) charged to BT. The Customer may not cancel Services that have already been ordered or shipped from a third-party unless agreed by BT in writing.

15 Termination

- 15.1 The Customer may terminate a Service at any time by giving ninety (90) days' prior notice provided that the Customer pays BT all outstanding Charges, and all applicable Termination Charges as set out in the applicable Master Order Form or Order.
- 15.2 BT may terminate a Service at any time after the expiry of its Subscription Term by giving ninety (90) days' prior notice.
- 15.3 Either Party may terminate an affected Service upon notice if:
 - 15.3.1 the other Party commits a material breach related to a Service and fails to cure it within thirty (30) days after the non-breaching Party has provided notice of the breach;
 - 15.3.2 a Force Majeure Event prevents the other Party from performing its obligations (other than payment obligations) for at least thirty (30) consecutive days;
 - 15.3.3 a governmental or regulatory body with competent jurisdiction determines that the provision or use of a Service is unlawful; or
 - 15.3.4 any of the regulatory authorisations required for the Service are withdrawn or are no longer valid.
- 15.4 A Party may immediately terminate this Agreement if:
 - 15.4.1 the other Party commits a material breach of this Agreement that has a material and adverse effect on this Agreement as a whole and fails to cure it within thirty (30) days after the non-breaching Party has provided notice of the breach; or
 - 15.4.2 to the extent permitted under Applicable Law, the other Party is the subject of a bankruptcy order, or becomes unable to pay its debts as they fall due, or becomes insolvent, or enters into any arrangement or composition with or assignment for the benefit of its creditors, or has material assets that become the subject of any form of seizure, or goes into liquidation, either voluntary (other than for solvent reconstruction or amalgamation) or compulsory, or has a receiver or administrator appointed over its material assets (or the equivalent of any such events).

16 Limitation of Liability

- 16.1 This Agreement excludes, to the fullest extent allowed by law, any warranties, conditions or other terms that may be implied by statute or common law
- 16.2 Nothing in this Agreement excludes or limits either Party's liability for:
 - 16.2.1 death or personal injury caused by negligence;
 - 16.2.2 fraud or fraudulent misrepresentation; or
 - 16.2.3 any other liability that cannot be excluded or limited under Applicable Law.
- 16.3 Other than for those matters set out in Clause 16.2, neither Party will be held liable, regardless of how that liability arose, and regardless of the number of claims, under or in connection with this Agreement, and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way, for any of the following losses, whether or not those losses are direct or indirect:
 - (a) loss of profit, revenue or anticipated savings;
 - (b) loss of business or contracts;
 - (c) loss of goodwill;
 - (d) loss from wasted expenditure, wasted time or business interruption;
 - (e) loss, destruction or corruption of data;
 - (f) liability to any third parties, unless stated otherwise in this Agreement; and
 - (g) any special, indirect or consequential loss or damage.
- 16.4 Subject to Clauses 16.2, 16.3 and Clause 16.5, the total liability of either Party, regardless of how that liability arose, under or in connection with this Agreement, and whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution, or in any other way, will be limited to such Party's liability to the other Party shall be limited to 100% of the annual Charges for all events (connected or unconnected) in any period of twelve (12) consecutive months.
- 16.5 The Customer's obligations to:
 - 16.5.1 pay any Charges due under this Agreement, including any interest payable in accordance with Clause 8.2, and any taxes due in connection with the Charges, together with any interest, fines and penalties payable due to the Customer's failure to correctly withhold and pay taxes; or
 - 16.5.2 pay any Termination Charges,
 - 16.5.3 are in addition to and will not be counted towards the limitations set out in Clause 16.4.
- 16.6 If either Party has agreed to indemnify the other under the terms of this Agreement, that indemnity is only given as long as the indemnified Party:
 - 16.6.1 informs the indemnifying Party promptly about the claim;
 - 16.6.2 provides the indemnifying Party with complete control of the claim straightaway;
 - 16.6.3 does not say anything publicly about the claim, or do anything that harms the defence of it; and
 - 16.6.4 uses reasonable endeavours to assist the indemnifying Party with the claim.
- 16.7 Nothing in this Agreement will restrict or limit either Party's general obligation at law to mitigate a loss, even where that loss occurs as a result of anything that may give rise to a claim under an indemnity.
- 16.8 In the event that BT fails to meet a Service Level and this means that the Customer is entitled to Service Credits, such Service Credits will be:



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- 16.8.1 the Customer's sole and exclusive remedy for such failure by BT, unless and to the extent that such failure amounts to material breach by BT; and
- 16.8.2 deducted from the amount of any amount agreed as payable by BT in accordance with Clause 18 or awarded by a court of competent jurisdiction.
- 16.9 Subject to BT taking reasonable precautions to prevent any unauthorised access by third parties to any part of the BT Network, BT will not be liable for any loss or damage sustained by the Customer due to any unauthorised access by third parties.
- 16.10 BT recommends that the Customer obtain business continuity (or other) insurance that is appropriate for the nature of the Customer's business.
- 17 Force Majeure Events**
- 17.1 Where a Force Majeure Event occurs the Party whose performance is affected by the Force Majeure Event will:
- 17.1.1 take all reasonable steps to find a solution by which this Agreement may be performed despite the continuance of the Force Majeure Event;
- 17.1.2 inform the other party as soon as it reasonably can on the nature and extent of the Force Majeure Event affecting the Service and the reasonable steps which are being taken to find a solution by which this Agreement may be performed despite the continuance of the Force Majeure Event;
- 17.1.3 not be liable, for any failure or delay to perform its obligations under this Agreement to the extent that the failure or delay is caused by the Force Majeure Event;
- 17.1.4 be entitled to a reasonable extension to perform the obligation affected by the Force Majeure Event; and
- 17.1.5 still be liable for any breaches of Agreement prior to the Force Majeure Event where the other party has used their rights set out in Clause 18.
- 17.2 Nothing in this Clause 17 affects the Customer's obligation to pay BT any amounts payable under this Agreement on time and in the way described in Clause 8.1 for Services provided by BT that are not affected by the Force Majeure Event.
- 18 Dispute Resolution Procedure**
- 18.1 The Parties will work in good faith to resolve any dispute amicably. The Parties will first attempt to resolve a dispute at an operational level within thirty (30) days of the date one Party notifies the other of such dispute. If the dispute is unresolved at that level within that period, the Parties' representatives at director level or above shall then meet within a further period of two (2) weeks, or as otherwise agreed between the Parties, to seek to resolve the dispute. If the Parties are then unable to resolve the dispute at this Director level within thirty (30) days, either Party shall have the right in accordance with Clause 26 to pursue all available legal or equitable remedies available to it. Nothing shall preclude either Party from seeking equitable relief at any time in a court of competent jurisdiction in the event that a risk of irreparable harm to that Party exists and no appropriate remedy for such harm exists at law.
- 19 Notices**
- 19.1 All notices given under this Agreement shall be in writing and shall either be sent by prepaid post or courier delivery to the other Party at the address provided in these General Terms, or such other address as may be communicated from time to time in writing. Notices given under this Agreement are deemed to have been received:
- 19.1.1 if sent by prepaid post, three (3) Business Days after and including the date of postage, or
- 19.1.2 if sent by courier, upon the day the courier delivery package is signed for, and if that day is not a Business Day, upon the next Business Day.
- 20 Assignment and Subcontracting**
- 20.1 Either Party may assign the benefit of this Agreement to any of its Affiliates upon notice to the other Party or to a party other than an Affiliate with the prior written agreement of the other Party.
- 20.2 Without prejudice to BT's obligations under the Data Protection Annex, BT may subcontract the performance of any of its obligations under this Agreement, including subcontracting the provision of any Service(s) to a BT Affiliate without Customer's consent, although BT will remain responsible for the performance of its obligations under this Agreement to the Customer.
- 20.3 The Customer agrees that BT may, by giving written notice to the Customer, novate this Agreement, or all or part of a Service or Order, to a BT Affiliate in which case the Affiliate will assume all rights, obligations and liabilities under this Agreement, and BT's rights, obligations and liabilities will be extinguished.
- 20.4 The Parties agree that either Party, or an Affiliate of either Party, may enter into a separate contract with an Affiliate of the other Party, which will incorporate these General Terms and the relevant Schedules ("**Affiliate Contract**").
- 20.5 In the event that BT subcontracts the performance of any of its rights or obligations to a BT Affiliate in accordance with Clause 20.2, the Customer will, upon receipt of written notice from BT, interact directly with that BT Affiliate for ordering, provisioning and or maintaining the relevant Services.
- 20.6 Either Party can assign or transfer its right to collect payments, receivables or other assets arising as a result of this Agreement.
- 20.7 For purposes of this Clause 20, subcontracting means the associations or aggregation of third parties to provide a solution to the Customer and in no case means the provision of personnel which actually is prohibited in some countries
- 21 No Partnership or Agency**
- Nothing in this Agreement:
- 21.1 establishes any partnership, exclusive arrangement or joint venture between the Parties;
- 21.2 constitutes any Party the agent of the other Party; or
- 21.3 authorises any Party to make or enter into any commitments for or on behalf of any other Party.
- 22 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.
- 23 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 provision in good faith.
- 24 Survival**
- Clauses or other provisions expressed or implied to survive expiry or termination shall survive expiry or termination including the following: Clauses 10 (Intellectual Property Rights), 11 (Confidentiality), 12 (Data Protection), 16 (Limitations of Liability), 18 (Dispute Resolution Procedure),



19 (Notices) 26 (Governing Law and Jurisdiction) and 28 (Compliance Obligations).

25 Entire Agreement

25.1 This Agreement:

- 25.1.1 supersedes all prior oral or written understandings and/or representations between the Parties (unless expressly incorporated into this Agreement) and constitutes the entire agreement with respect to its subject matter;
- 25.1.2 may not be amended, modified, or supplemented except by a document in writing signed by authorised representatives of both Parties; and
- 25.1.3 including any amendment or any other document delivered may be signed by electronic signature, unless prohibited under governing law, and such electronic signature shall be treated as an original including for evidentiary purposes.

26 Governing Law and Jurisdiction

26.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the Country where BT has provided the services under this Agreement.

26.2 The parties to an Affiliate Contract may agree that a local court of competent authority will have jurisdiction in relation to that Affiliate Contract.

27 Publicity

Notwithstanding Clause 11 of this Agreement, each Party is entitled to announce publicly and within their organisation that they have entered into this Agreement without disclosing the details of this Agreement. In the event a Party wants to 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, the prior written approval of the other Party is required which shall not unreasonably be withheld.

28 Compliance Obligations

28.1 Anti-Corruption and Bribery Act

28.1.1 In connection with any actions or activities associated with this Agreement or in connection with the relationship between the Parties, neither Party will engage in any unlawful trade practices or any other practices that are in breach of any Applicable Law that prohibits bribery or similar activity.

28.1.2 Each Party will not, and will ensure that each of its respective Affiliates, subcontractors and agents will not:

- (a) 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 (each a "**Prohibited Action**"); or

- (b) fail to establish appropriate safeguards to protect against Prohibited Actions.

28.2 Export Control and Sanctions

28.2.1 The Parties agree that any use or transfer of products, services, and technical information (including, but not limited to, technical assistance and training) provided under this Agreement must be in compliance with all applicable export controls, economic sanctions and anti-boycott measures as set out by Applicable Law (hereinafter, "**Trade Controls**") including the Trade Controls implemented by the United Kingdom, the United States, the European Union and its member states.

28.2.2 Neither Party will be obliged to engage in any activity that would violate or trigger sanctions or penalties under Trade Controls and that Party will inform the other Party if it becomes aware of a requirement to engage in such activities.

28.2.3 If requested by a Party, the other Party agrees to sign written assurances and other import/export-related documents, and to comply with reasonable requests for information in relation to Trade Controls.

28.3 Regulatory Compliance

28.3.1 Where a Regulated service is to be provided under this Agreement, each Party will both comply with any applicable tariffs, regulations, or statutes. In the event of changes to any tariffs, regulations or statutes during the term of any Agreement for a Regulated service, those changes will be effective pursuant to the Applicable Law.

28.3.2 BT may, if required in order to comply with any new or amended Applicable Law, modify the Service or amend the terms and conditions, including Charges, and will notify the Customer without undue delay of any amendments, in accordance with the terms and conditions of this Agreement.

28.3.3 If a legal or regulatory intervention or ruling prevents the continued provision of a Regulated service or materially changes the Regulated service so that it is no longer consistent with the purpose of this Agreement, each Party will commence good faith discussions on an alternative Service or on any appropriate migration away from that Regulated service (where applicable).

28.3.4 The delay or failure by BT to perform any of BT's obligations under this Agreement that is caused by or materially contributed to by a restriction of a legal or regulatory nature that affects, wholly or partly, the provision of the Service, will not constitute a breach of this Agreement.

28.4 Human Rights Compliance

28.4.1 When providing or using the Services, each Party will respect internationally recognised human rights, including those set out in the International Human Rights Standards and the principles concerning fundamental rights set out in the International Labour Organisation's Declaration on Fundamental Principles and Rights at Work.

28.5 If requested by one of the Parties, the other Party agrees to provide evidence of the steps being taken to comply with all applicable Compliance Obligations.



29 Defined Terms

"Acceptable Use Policy" means the applicable policy for each Service as described in the Service Schedule that sets out the rules with which the Customer is required to comply in relation to receipt and use of the Services.

"Affiliate" means any legal entity that directly or indirectly controls, is controlled by or is under common control with a Party.

"Affiliate Contract" has the meaning given in Clause 20.

"Agreement" means this Agreement by and between BT and the Customer that comprises these General Terms, each Schedule, any Annex and each Order.

"Annex" means any annex to a Schedule under this Agreement that describes a Service or sets out the specific terms applicable to that Service.

"Applicable Law" means the laws as set out in Clause 26 and any laws and regulations, as may be amended from time to time, that apply to the provision or receipt of a Service, including anti-corruption laws, the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America and all applicable export laws and regulations, including those of the United States of America.

"BT" means the BT Group member identified on the cover page of this Agreement.

"BT Equipment" means any equipment, including any Software, owned by or licensed to BT Group that is located at a Site for the provision of a Service.

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

"BT Network" means the communications network owned or leased by BT and used to provide a Service.

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

"Charges" mean the fees and charges payable by the Customer in relation to a Service as set out in the Master Order Form or Order.

"Compliance Obligations" mean those obligations and rights set out in Clause 28.

"Confidential Information" means all confidential information disclosed by a Party or its employees, agents, Affiliates, officers or advisers to the other Party under or in connection with this Agreement including:

- (a) this Agreement;
- (b) all technical or commercial know-how, pricing, specifications, inventions, processes or initiatives that are of a confidential nature; and
- (c) any information that would be regarded as confidential by the Parties and relating to the business, affairs, customers, clients, suppliers, plans or strategy of the disclosing Party or its Affiliates; and the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing Party or its Affiliates,

but excluding any information that:

- (i) is or becomes available to the public other than as a result of a breach of this Agreement;
- (ii) was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party;
- (iii) the Parties agree in writing is not Confidential Information; or
- (iv) was developed by or for the receiving Party independently of the confidential information.

"Customer Personal Data" means any Personal Data Processed as a Processor by BT in the context of providing the Services under this Agreement.

"Data Protection Legislation" means any laws, regulations, and binding guidance as may be amended from time to time in relation to the protection of Personal Data and individual's privacy that apply as a result of the provision or receipt of a Service including but not limited to the GDPR.

"Effective Date" means the date set out on the cover sheet of this Agreement or, if there is no cover sheet, the Master Order Form.

"Force Majeure Event" means any circumstance beyond a Party's reasonable control that hinders, delays or prevents that Party from performing any of its obligations under this Agreement including: acts of God, flood, storm, lightning, drought, earthquake, seismic activity or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; any law or any action taken by a government or public authority, including a failure by BT to obtain (or revocation of) a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts.

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

"General Terms" means these terms.

"Intellectual Property Rights" means any trademark, service mark, trade and business name, patent, petty patent, copyright, database right, design right, community design right, semiconductor topography right, registered design, rights In Confidential Information, internet domain name, moral right and know-how, or any similar right in any part of the world and will include any applications for the registration of any of those rights capable of registration in any part of the world.

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

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

"International Labour Organisation's Declaration on Fundamental Principles and Rights at Work" means the principles as set out at:

<https://www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm>.

"Master Order Form" means an Order that accompanies a Service Schedule for a new Service and contains the Parties agreement on Charges, rate card (where applicable) and any other relevant commercial information related to the Service referred to in the Master Order Form.

"Minimum Period of Service" or **"Subscription Term"** means the minimum service term (beginning on the Service Start Date) during which a Service will be provided by BT as set out in a Schedule or Order.

"Open-Source Software" means software BT has distributed to the Customer that is licensed under a separate open-source licence.

"Operational Service Date" or **"Service Start Date"** means, for each Service, the date on which that Service is (a) that Service is accepted in accordance with the acceptance procedures set out in the Service Schedule, or (b) if no acceptance procedures are agreed in the Service Schedule, that Service is first made available to the Customer.

"Order" means an order or part of an Order given by the Customer and accepted by BT under this Agreement for one or



more Services. The Order may be a Master Order Form or a Supplemental Order.

"Party" means either or both BT and the Customer as the context allows.

"Permitted Purpose" unless otherwise set out in a Schedule, means the internal business purposes of the Customer only, which shall not include allowing the use of the software by, or for the benefit of, any person other than an employee of the Customer.

"Purchased Equipment" means any equipment, including any Software, sold by BT to the Customer.

"Schedule" means any schedule under this Agreement that describes a Service and sets out the specific terms applicable to that Service and includes any Annexes for that Service.

"Service" means any Service including, where applicable, to a particular Site, or a part or component of a Service provided by BT under this Agreement and may include any BT Equipment and any Purchased Equipment.

"Service Credit" means any remedy for failure by BT to meet a Service Level as set out in the Schedule or Order.

"Service Level" means any agreed minimum level of Service to be achieved by BT with respect to a Service.

"Site" means any location set out in a Schedule or Order where or to which a Service will be provided.

"Software" means any software in object code format only, and related documentation (whether on tangible or intangible media) that BT provides to the Customer as part of a Service. It includes any embedded software but excludes Open-Source Software.

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

"Supplemental Order" means an Order to be agreed for any move, add and change to existing Services under an existing Master Order Form.

"Termination Charges" means any compensatory charges payable by the Customer to BT on termination of this Agreement in whole or in part or a Service as set out in a Schedule or Order.

"Transaction Taxes" mean VAT, GST, sales, consumption, use or other similar taxes, customs duties, excise taxes, and regulatory and other fees or surcharges relating to the provision of a Service.

"UK GDPR" means the GDPR as applicable as part of UK domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended), as amended or replaced.

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

"Withholding Tax" means any tax, deduction, levy or similar payment obligation that is required to be deducted or withheld from a payment under Applicable Law.



Annex 1 – Data Processing

1. If BT acts as a Processor:
 - 1.1. in order to perform its obligations under this Agreement, BT will:
 - 1.1.1. Process the Customer Personal Data on behalf of the Customer in accordance with the Customer's documented instructions as set out in section 10, except where:
 - (a) 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; and
 - (b) an additional instruction or a change to the instructions provided by the Customer in accordance with Section 10 infringes the Data Protection Legislation and BT will inform the Customer of its opinion without undue delay and will not be required to comply with that instruction;
 - 1.1.2. 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;
 - 1.1.3. provide notice to the Customer without undue delay after becoming aware of a Personal Data Breach affecting the Customer Personal Data;
 - 1.1.4. only use the Sub-Processors approved by the Customer by entering into this Agreement or in accordance with section 7, 8 and 9;
 - 1.1.5. 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:
 - (a) its obligation to respond to lawful requests from a Data Subject, to the extent practicable;
 - (b) the security of the Processing of the Customer Personal Data;
 - (c) notification by the Customer of a Personal Data Breach affecting the Customer Personal Data to the Supervisory Authority or the Data Subjects; and
 - (d) a data protection impact assessment as may be required by Data Protection Legislation 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 section 1.2.5 (c) 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 section 1.2.2;
 - 1.1.6. unless Applicable Law requires BT to store a copy of the Customer Personal Data, upon expiry or termination of this Agreement and at the Customer's option, BT will delete or return the Customer Personal Data within a reasonable period of time and the Customer will reimburse BT's reasonable costs for this deletion or return of the Customer Personal Data.
 2. BT will make available to the Customer the information demonstrating BT's compliance with its obligations set out in section 1, and, subject to 30 days' notice from the Customer, allow for and reasonably cooperate with the Customer (or a third-party auditor appointed by the Customer) to audit this compliance at reasonable intervals (but not more than once per year), so long as:
 - 2.1. the audit will:
 - 2.1.1 not disrupt BT's business;
 - 2.1.2 be conducted during Business Days;
 - 2.1.3 not interfere with the interests of BT's other customers;
 - 2.1.4 not cause BT to breach its confidentiality obligations with its other customers, suppliers or any other organisation; and
 - 2.1.5 not exceed a period of two successive Business Days;
 - 2.2. the Customer (or its third-party auditor) will comply with BT's relevant security policies and appropriate confidentiality obligations; and
 - 2.3. 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 this Annex, those of its Sub-Processors.
 3. BT may demonstrate its compliance with its obligations set out in this Annex 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).
 4. BT will not disclose Customer Personal Data to a third-party unless required for the performance of the Service, permitted under this Agreement or otherwise required by Applicable Law.
 5. BT will ensure that persons authorised by BT to Process the Customer Personal Data will be bound by a duty of confidentiality.
 6. BT may use Sub-Processors in accordance with Clause 20 of the General Terms and will ensure that data protection obligations in respect of Processing Customer Personal Data equivalent to those set out in this Annex will be imposed on any Sub-Processors.
 7. The Customer will have 30 days starting from the first Business Day of the calendar month following the date of the notice to object to the change in accordance with Clause 19 of the General Terms documenting material concerns that the Sub-Processor will not be able to comply with the Data Protection Legislation, and if such notice is received within the time required by this section, the Parties will address the Customer's objection in accordance with the process set out in Clause 18 of the General Terms and BT may use the relevant Sub-Processor to provide the Service until the objection is resolved in accordance with Clause 18 of the General Terms.
 8. If the Customer does not object in accordance with section 7, the Customer will be deemed to have authorised the use of the new Sub-Processors.
 9. This 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 25 to take account of any resulting change in the Charges or the Service.



10. 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.
11. The Customer will only disclose to BT the Personal Data that BT requires to perform the Service.
12. If BT proposes amendments to this 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.