



Conditions for BT Business Communications Service (Featurenet Service)

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SERVICE SCHEDULE

1. SERVICE DESCRIPTION

General Description

1.1 Featurenet is a BT virtual private service for the transmission of voice, facsimile and voice band data either between Sites, or from Site(s) to locations not connected to the Service.

1.2 There are two types of Featurenet Service:

(a) Featurenet 1000

Featurenet 1000 is a virtual private service delivered to the Network Termination Point at the Site via digital or analogue telecommunications circuits. Featurenet 1000 provides a common dialling plan including access to BT's national and international services.

(b) Featurenet 5000

Featurenet 5000 is a virtual private centrex based service. Featurenet 5000 provides line and network features, a common dialling plan including access to BT's national and international services, attendant consoles, call centre functionality and ISDN-2 functionality details of which are published in the BT Price List.

1.3 Featurenet Options

(a) Featurenet Call In provides an indirect access service to the Service from a public telephone via an access code.

(b) Other available options are set out in the BT Price List.

2. SERVICE LEVELS

Description

2.1 BT will provide Total Care maintenance for the Service.

Fault Reporting

2.2 If the Customer reports a fault in the Service BT will respond by:

(a) providing advice by telephone,

including advice, where appropriate, as to tests and checks to be carried out by the Customer;

(b) where possible, carrying out diagnostic checks from BT premises; and

(c) where it is considered necessary and as soon as reasonably practicable visiting the affected Site if (a) and (b) above do not diagnose or clear the fault.

3. RESPONSIBILITIES OF THE CUSTOMER AND BT

Customer Responsibilities

3.1 The Customer must report a fault in the Service by telephoning the number specified on the Order or any other number BT may provide to the Customer. The Customer will at the time of the report provide BT with a contact telephone number to enable BT to update the Customer on the progress being made to clear the fault.

3.2 If BT does work to correct a reported fault in the Service and finds that there is none, BT may charge the Customer for that work at BT's applicable hourly rate as detailed in the BT Price List.

3.3 A condition of any Contract for Service to Multi Sites is an agreed installation plan for all the Sites. The Customer will carry out its obligations under this Contract to ensure the installation plan timescale is met.

3.4 Where BT makes available to the Customer additional features or facilities after the Service Start Date rental charges for these features and facilities will become payable on the day they are first provided.

3.5 The Customer is responsible for the provision and maintenance of all wiring on the Customer's side of the Network Termination Point.

BT Responsibilities

3.6 Provision

(a) BT will determine the choice of access medium for the Service up to the Network Termination Point.

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- (b) Changes to requirements prior to the Service Start Date will be subject to paragraph 5.2 of the Conditions and may result in a redesign of the delivery methods and consequently affect delivery dates and charges.
- (c) Changes to facilities or features following the Service Start Date will be subject to the charges as outlined on the Order Form or in the BT Price List.
- 3.7 BT is responsible for the provision or maintenance of any wiring up to the Network Termination Point.
- 3.8 Where Service provided under this Contract connects a point in BT's network and a point outside BT's network, the provisions of this Contract apply only to that part of the Service which is provided by means of a telecommunications system provided by BT. This means that:
- (a) BT is not responsible in any way for any telecommunications service (or any part of such service) provided by other telecommunications service providers or using telecommunications networks other than the BT network and
- (b) the Customer is responsible for making applications to any other telecommunications service providers, for compliance with that service provider's terms and conditions and for payment of any charges.

4. DEFINITIONS

The following additional or amended definitions will apply to the Contract:

Multi Site	A number of different Sites covered by the Contract
Network Termination Point	The point where the Customer's wiring or equipment is connected at the Site to the Service. This point must be at or as near as possible to the entry point of the Site, and will be determined by BT at each Site
Total Care	The Total Care maintenance as shown in the BT Price List

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CONDITIONS

1. COMMENCEMENT

- 1.1 This Contract begins on the date the Customer receives BT's notification of its acceptance of the Customer's request for the Service and continues until terminated by the Customer or BT in accordance with this Contract.
- 1.2 The Service commences on the Service Start Date.
- 1.3 The Minimum Period is 12 months or any longer period (3 or 5 years) as specified on the Order Form, measured from the Service Start Date or Order Form date whichever is later.
- 1.4 A Minimum Term will apply to each new facility, option or Site added to the Service and will commence on the date provided.
- 1.5 Where the Contract is for Multi Sites the Service Start Date is the date Service is first made available to the first of the Sites covered by the Contract.
- 1.6 On expiry of the Minimum Period unless BT and the Customer agree a new Minimum Period, (via a new Order Form), Service to any Site(s) will continue under the terms detailed in the BT Price List.

2. PROVISION OF THE SERVICE

Site Preparation, Access and Installation

- 2.1 The Customer agrees to prepare the Site according to any instructions BT may give and to provide BT with reasonable access to the Site. The Customer agrees to provide, at its expense, a suitable place and conditions for BT Equipment and, where required, a continuous mains electricity supply and connecting points.
- 2.2 The Customer will obtain any permission needed for BT to put BT Equipment on the Site.
- 2.3 The Customer and BT will meet each other's reasonable safety and security requirements when on the Site. The Customer and BT agree to look after each other's equipment on the Site. If the Customer or BT damages the other's equipment it must pay for any repair or replacement needed. This does not apply where the damage results from normal use.

2.4 BT will use reasonable endeavours to provide the Service by the date agreed with the Customer, but all dates are estimates, unless the Order Form says otherwise.

2.5 When BT's work is complete, the Customer will be responsible for putting items back and for any re-decorating which may be needed.

Faults and Repair

2.6 BT will use reasonable endeavours to provide uninterrupted Service, but from time to time faults may occur.

2.7 If the Customer reports a fault in the Service BT will repair the fault in accordance with the maintenance service care level specified in the Service Schedule. If BT agrees to work outside the hours of this maintenance service care level, the Customer will pay BT's additional charges. If the Customer reports a fault and BT finds there is none or that the Customer has caused the fault, BT may apply a charge.

3. REGULATIONS AND USE OF THE SERVICE

3.1 Any Customer Equipment must be:

- (a) technically compatible with the Service and not harm BT's network or another customer's equipment; and
- (b) connected using the applicable BT network termination point, unless the Customer has BT's permission to connect by another means, and used in compliance with any relevant instructions, standards or laws.

3.2 The Service must not be used:

- (a) in any way that is unlawful or in contravention of any licence, third person's rights or BT's Acceptable Use Policy located at www.abuse-guidance.com; or
- (b) to make offensive, indecent, menacing, nuisance or hoax calls or to cause annoyance, inconvenience or anxiety; or
- (c) to send, knowingly receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing; or

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- (d) in any way which BT considers is or is likely to be detrimental to the provision of the Service to the Customer or service to any of BT's other customers; or
- (e) to spam or to send or provide unsolicited advertising or promotional material, or knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party.
- 3.3 The Customer will comply with BT's reasonable instructions regarding health, security, safety or the quality of the Service.
- 3.4 Occasionally, for operational reasons, BT may have to change the codes or numbers given to the Customer, or interrupt or suspend Service. BT will restore the Service as quickly as possible.
- 3.5 The Customer will indemnify BT against any claims or legal proceedings which are brought or threatened against BT by a third party because the Service is used in breach of clause 3. BT will notify the Customer of any such claims or proceedings and keep the Customer informed as to the progress of such claims or proceedings.
- 3.6 BT monitors and records calls relating to customer services and telemarketing. BT does this for training purposes and to improve the quality of its customer services. BT also records all calls to the 999 or 112 services.
- 4. CHARGES AND PAYMENTS**
- 4.1 Charges for the Service are stated within the Order Form and published in the BT Price List and calculated using the details recorded by BT. The Customer agrees to pay all charges within 30 days of the date of BT's bill. The Customer agrees that BT may submit bills for some of the charges in advance.
- 4.2. BT will send bills to the address requested by the Customer.
- 4.3 BT will have the right to charge daily interest on late payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 for the period beginning on the date on which payment is due and ending on the date on which payment is made.
- 4.4 Unless otherwise stated on the Order Form, all charges are exclusive of VAT which is chargeable at the applicable rate.
- 4.5 BT may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills.
- 5. CHANGING THIS CONTRACT**
- 5.1 BT may change this Contract on 14 days prior notice to the Customer published at www.bt.com; where the changes are to the Customer's material detriment BT will give 30 days' prior notice published at www.bt.com.
- 5.2 If the Customer asks BT to make any change to the Service BT may ask the Customer to confirm the request in writing. If BT agrees to a change, this Contract will be amended from the date when BT confirms the change in writing to the Customer.
- 6. ENDING THIS CONTRACT**
- 6.1 The Customer may cancel this Contract or any part of the Service at any time before BT provides the Service. The Customer will pay cancellation charges as detailed on the Order Form or in the BT Price List.
- 6.2 This Contract may be ended by:
- (a) the Customer on 28 days written notice to BT (or 7 days if the Customer terminates under clause 6.3 (b)); or
- (b) BT on 28 days written notice to the Customer.
- 6.3 If the Customer or BT ends this Contract during the Minimum Period the Customer will pay BT the early termination charges set out on the Order Form and in the BT Price List. This clause will not apply if:
- (a) the Customer ends this Contract during the Minimum Period because BT is in material breach of this Contract; or
- (b) the Customer ends this Contract because BT increases its charges, or changes the Conditions in either case to the Customer's material detriment; or
- (c) BT ends this Contract during the Minimum Period for convenience; or

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- (d) this Contract ends because either clause 8.5 or 9.1(c) applies.
- 6.4 The Customer may end this Contract if:
- (a) BT materially breaches this Contract and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by the Customer to do so; or
- (b) insolvency proceedings are brought against BT or BT makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of BT's assets or BT goes into liquidation or a corresponding event under Scottish Law.
- 6.5 BT may suspend the Service or end this Contract, or both, at any time without notice if:
- (a) the Customer breaches this Contract or any other Contract that the Customer has with BT and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by BT to do so; or
- (b) BT reasonably believes that the Service is being used in a way forbidden by clause 3. This applies even if the Customer is unaware that the Service is being used in such a way; or
- (c) bankruptcy or insolvency proceedings are brought against the Customer or the Customer does not make any payment under a judgement of a Court on time or the Customer makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of the Customer's assets or the Customer goes into liquidation or a corresponding event under Scottish Law.
- The Customer will continue to pay the charges during any period of suspension.
- 6.6 If this Contract ends BT will refund any money owed to the Customer after first deducting any money due to BT under this Contract or any other contract that BT has with the Customer.
- 7. LIMITATION OF LIABILITY**
- 7.1 BT accepts liability as set out in clause 7. BT does not guarantee that the Service will be fault-free.
- 7.2 Neither the Customer nor BT excludes or restricts its liability for death or personal injury caused by its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation or to any extent not permitted by law.
- 7.3 Unless otherwise expressly stated in this Contract neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any direct loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, business interruption or for any other similar direct loss which may arise in relation to this Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.
- 7.4 Unless otherwise expressly stated in this Contract neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, loss of or damage to physical property, business interruption or for any other indirect or consequential loss or punitive damages which may arise in relation to this Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.
- 7.5 Subject to clauses 7.3 and 7.4, the Customer and BT accept liability to the other in contract, tort (including negligence) breach of statutory duty or otherwise for direct loss limited to:
- (a) £1,000,000 for loss of or damage to physical property in any period of 12 consecutive months; and
- (b) £1,000,000 for all other loss or damage arising from any one incident or series of connected incidents and £2,000,000 for all incidents in any period of 12 consecutive months.

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- 7.6 Clause 7 will not apply to any obligation to pay charges or to clauses 3.5 and 8.4.
- 7.7 Each part of this clause operates separately. If any part of a clause is held by a Court to be unreasonable or inapplicable the rest of the clause shall continue to apply.
- 8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**
- Intellectual Property**
- 8.1 Except as expressly set out in this Contract, the Customer and BT do not acquire any rights or licences to the other's Intellectual Property Rights.
- 8.2 If software, documentation or manuals are provided to enable the Customer to receive and use the Service, BT grants the Customer, for the duration of this Contract, a non-exclusive, non-transferable licence to use such software, documentation or manuals for the Customer's own use. Unless otherwise agreed in writing, any licence granted by BT under this clause 8.2 will terminate when this Contract is terminated.
- 8.3 Except as permitted by applicable law or as expressly permitted under this Contract the Customer must not, without BT's prior written consent, copy, de-compile or modify any software, copy manuals or documentation or permit anyone else to do so.
- 8.4 BT will indemnify the Customer against all claims and proceedings arising from infringement of any third person's Intellectual Property Rights by the provision of the Service to the Customer. This indemnity does not apply to claims or proceedings arising from:
- (a) the use of the Service in conjunction with any equipment, software or any other service not supplied by BT; or
 - (b) any modification which was not made by BT or with BT's prior written consent; or
 - (c) designs or specifications supplied by the Customer; or
 - (d) the use of the Service other than in accordance with the terms of this Contract.
- 8.5 If the Service becomes, or BT believes it is likely to become, the subject of a claim of infringement of any Intellectual Property Rights BT, at its option and expense, may secure for the Customer a right of continued use or modify or replace the Service so that it is no longer infringing, provided that the modification or replacement does not materially affect the performance of the Service. If the indemnity in clause 8.4 applies and none of the remedies in this clause is available to BT on reasonable terms, BT may notify the Customer and terminate the Service without liability to the Customer.
- Confidentiality**
- 8.6 Except to the extent any disclosure is required by law BT and the Customer will keep in confidence any information, whether written or oral, of a confidential nature obtained under or in connection with this Contract. The Customer and BT will not, without the consent of the other, disclose such information to any person other than:
- (a) their Group Company employees or professional advisers who need the information in order for the Customer or BT to fulfil its obligations under this Contract; or
 - (b) in the case of the Customer, its Users to the extent that they are required to use or access the Service; or
 - (c) in the case of BT, the employees or professional advisers of its suppliers who need the information in order for BT to fulfil its obligations under this Contract.
- 8.7 Information will not be treated as confidential if it is:
- (a) in the public domain other than in breach of this Contract; or
 - (b) lawfully in the possession of the Customer or BT before disclosure has taken place; or
 - (c) obtained from a third person who is free to disclose it; or
 - (d) replicated independently by someone without access or knowledge of the Information.

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8.8 If the Customer receives a request under the Freedom of Information Act 2000 or the Freedom of Information (Scotland) Act 2002 which encompasses any information held by the Customer which was provided by BT in connection with this Contract the Customer will notify BT immediately of the request and give BT at least 10 working days to make representations.

9. GENERAL TERMS

Matters Beyond Reasonable Control

9.1 (a) If the Customer or BT is unable to perform, or is delayed in performing, any obligation under this Contract because of something beyond its reasonable control including act of God, lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes or acts or omissions of local or central government or other competent authorities, or beyond the reasonable control of its suppliers, it will have no liability to the other for that failure or delay in performing.

(b) BT will not be liable for failure to or delay in supplying the Service if:

- (i) another supplier delays or refuses the supply of a telecommunications service to BT and no alternative service is available at reasonable cost; or
- (ii) legal or regulatory restrictions are imposed that prevent BT from supplying the Service.

(c) If any of the events detailed in clauses 9.1(a) or 9.1(b) continue for more than three months the Customer or BT may terminate this Contract in whole or part by written notice to the other.

Escalation and Dispute Resolution

9.2 (a) Any dispute must be raised in writing with the Customer's or BT's representative as appropriate. The Customer and BT will use reasonable endeavours to resolve any dispute as follows:

(i) a dispute which has not been resolved by the Customer's or BT's representative within seven days of being raised may be referred by the Customer or BT to the first level by written notice to the other; and

(ii) if the dispute is not resolved at the first level within seven days of referral, the Customer or BT may refer the dispute to the second level by written notice to the other.

The Customer's and BT's representatives at the first and second levels are as notified by the Customer and BT to the other from time to time.

(b) If the dispute is not resolved after the procedures detailed in clause 9.2(a) have been followed then, if the Customer and BT agree, the dispute will be settled by mediation in accordance with the procedures specified by the Centre for Dispute Resolution (CEDR). If the dispute is referred to a mediator:

i) the mediator will be appointed by agreement of the Customer and BT. If the Customer and BT fail to agree within seven days of a proposal by one party, the mediator will be appointed by CEDR; and

ii) all negotiations on the dispute and any agreement reached will be kept confidential.

(c) Nothing in this clause 9.2 shall prevent the Customer or BT from exercising any rights and remedies that may be available in respect of any breach of the provisions of this Contract.

Transfer of Rights and Obligations

9.3 The Customer and BT may not transfer any of their rights or obligations under this Contract without the written consent of the other, except that:

(a) The Customer may transfer its rights or obligations or both to a Group Company with the written consent of

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BT, such consent not to be unreasonably withheld or delayed; and

- (b) BT may transfer its rights or obligations or both to a Group Company without consent provided that it notifies the Customer that it has done so.

Severability

- 9.4 If any term of this Contract is held invalid, illegal or unenforceable by any court of competent jurisdiction, it will be severed and the remaining terms will continue in full force as if this Contract had been made without the invalid, illegal or unenforceable terms.

Survival

- 9.5 Clauses 8.6 and 8.7 will survive the termination or expiry of this Contract for two years. Clause 8.8 will survive the termination or expiry of this Contract.

Entire Agreement

- 9.6 (a) This Contract contains the entire agreement between the Customer and BT and replaces all previous written or oral agreements relating to its content.
- (b) The Customer and BT agree that:
- (i) they have not been induced to enter into this Contract by, nor have they relied on, any statement, representation, warranty or other assurance not expressly incorporated; and
- (ii) in connection with this Contract their only rights and remedies in relation to any statement, representation, warranty or other assurance are for breach of this Contract and that all other rights and remedies are excluded.
- (c) The terms of clauses 9.6(a) and 9.6(b) will not affect the rights or remedies of the Customer and BT for any fraudulent misrepresentation.

Waiver

- 9.7 A failure or delay by the Customer or BT to exercise any right or act upon a breach under this Contract will not be a waiver of that right or breach. If the Customer or BT waives a right or breach of this Contract, that waiver is limited to the particular right or breach.

Rights of Third Parties

- 9.8 A person who is not the Customer or BT (including an employee, the officer, agent, representative or subcontractor of the Customer or BT) has no right under Contracts (Rights of Third Parties Act 1999) to enforce any term of this Contract. This does not affect any right or remedy that exists or is available apart from that Act.

Notices

- 9.9 Notices given under this Contract must be in writing and delivered to the following addresses:
- (a) to BT at the address shown on the bill or any address which BT provides to the Customer for this purpose; or
- (b) to the Customer at the address to which the Customer asks BT to send bills, the address of the Site or, if the Customer is a limited company, its registered office.

This clause does not apply to notices given under clauses 1.1 and 5.1.

Law and Jurisdiction

- 9.10 This Contract is governed by the law of England and Wales and is subject to the non-exclusive jurisdiction of the English courts.

Data Protection

- 9.11 The Customer and BT will comply with their respective obligations under the Data Protection Act 1998 and any data protection, privacy or similar laws that apply to any personal data processed in connection with this Contract. The Customer and BT will provide such help and co-operation as is reasonably necessary or requested by the other to enable compliance with this clause.

Customer's Instructions

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9.12 BT may take instructions from a person whom it thinks, with good reason, is acting with the Customer's permission.

Customer Requirements Form

The BT form that sets out the requirements for the Service agreed between the Customer and BT

Group Company

A subsidiary or holding company including a holding company, or a subsidiary of any such holding company, all as defined by Section 736 of the Companies Act 1985 and as amended by the Companies Act 1989

10 DEFINITIONS

10.1 In this Contract the following terms have the meanings shown next to them:

BT British Telecommunications plc of 81 Newgate Street, London EC1A 7AJ, registered in England No. 1800000

Intellectual Property Rights

Any patent, petty patent, registered design, copyright, design right, database right, rights in designs, invention, semiconductor topography right, know-how, or any similar right exercisable in any part of the world and including any applications for the registration of any patents or designs

BT Equipment Any equipment, including any Software, owned or controlled by BT and placed on the Site to provide the Service

Minimum Period

The first twelve months or any longer period specified in the Order Form, measured from the Service Start Date or Order Form date whichever is later.

BT Price List The document containing a list of BT's charges and terms that apply to the Service and which can be seen at www.bt.com/pricing (or any other on-line address that BT may advise the Customer)

Minimum Term

A period of time applicable to the Service or part of the Service, facility, option or site measured from the Service Start Date. Minimum Terms for the various Service elements are stated in the BT Price List.

Conditions These Conditions for BT Business Communications Service

Contract This agreement for the provision of the Service between BT and the Customer comprising in order of precedence:

Order Form

The form that details the Service ordered by the Customer

the Order Form;
the Conditions;
the Service Schedule;
the BT Price List;
the Customer Requirements Form (if any); and
any other documents expressly incorporated into this Contract

Service

The service specified in the Service Schedule

Customer The person with whom BT contracts to provide the Service

Service Schedule

The schedule to this Contract

Customer Equipment Any equipment, including any software, for use with the Service that is not part of BT's network and which is owned or controlled by the Customer

Service Start Date

The date on which the Service or part of the Service is first made available to the Customer, or the date on which the Customer first uses the Service or part of the Service, whichever occurs first.

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- Site** The place at which BT agrees to provide the Service being either:
- (a) one or more premises in the same building or within an area of land attached to the premises and forming one enclosure with it or;
 - (b) a multi-occupancy building with single ownership where the owner acts as a sole contractee with BT for the whole building
- Software** Any software and associated written and electronic documentation and data provided by BT under this Contract
- User** Anyone who is permitted by the Customer to use or access the Service