



On-Site Support (No Employees Transferring) Solution Terms Annex to the EE Mobile Schedule

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A NOTE ON 'YOU'

'You' and 'your' mean the Customer.

WORDS DEFINED IN THE GENERAL TERMS

Words that are capitalised but have not been defined in these Solution Terms have the meanings given to them in the General Terms, EE Mobile Schedule, Orders and EE Price Guide.

Part A – This Solution

1 STATEMENT OF REQUIREMENTS

1.1 This Solution requires a Statement of Requirements.

2 CHARGES

2.1 EE will invoice you for the Subscription Charge.

3 YOUR OBLIGATIONS

- 3.1 You will (and will ensure that your Users will) meet your obligations set out in the On-Site Support Solution Description.
- 3.2 If you request BT to manage a part of your mobile fleet that is connected to a Third Party Network, you will ensure that BT has free and adequate access to your Third Party Network account. If you do not, BT will not be able to provide the On-Site Support Services in relation to the relevant Third Party Network Connections.
- 3.3 You will ensure that the total number of Third Party Network Connections managed by BT will not exceed 20 per cent of the total number of Connections on the Mobile Network.

4 BT'S OBLIGATIONS

- 4.1 If BT provides the On-Site Support Services in relation to Third Party Network Connections, the On-Site Support Services will be subject to a bespoke level of management. BT will determine the applicable level of management based on:
 - 4.1.1 the level of access to the relevant account(s) that you have obtained for BT (as set out in Paragraph 3.2); and
 - 4.1.2 the management tools supported by the Third Party Network provider.
- 4.2 BT will not:
 - 4.2.1 negotiate any commercial terms in your account(s) with any Third Party Network provider; or
 - 4.2.2 be responsible for any service performance or contract breaches, or other escalations relating to your Third Party Network account(s).

5 THE END OF THE SOLUTION

- 5.1 A Minimum Term applies to this Solution as set out in the Initial Order or applicable Contract Change Note.
- 5.2 If you terminate this Solution before the end of the Minimum Term, in addition to any other payments due to EE under the Contract, you will pay EE Termination Charges, which will be calculated as follows:
(Subscription Charges x number of months remaining in the Minimum Term) – 5 per cent

6 EMPLOYMENT

- 6.1 You warrant that there is no person whose employment contract will, as a result of BT providing the On-Site Support Services in accordance with the Contract, have effect as if originally made between such person and BT in accordance with TUPE or otherwise.
- 6.2 You will indemnify BT and keep BT indemnified from and against any Losses which BT suffers or incurs arising from the transfer to BT of the employment contract of any person in breach of the warranty given at Paragraph 6.1, including any Losses suffered or incurred in connection with:
 - 6.2.1 any Employee Emoluments due to any such person; or
 - 6.2.2 the employment or termination of employment of any such person prior to, on or after the Service Start Date.
- 6.3 BT will ensure that:

- 6.3.1 each of the BT Personnel are suitably qualified, trained and capable of providing the applicable part of the On-Site Support Services; and
- 6.3.2 there are an adequate number of BT Personnel to provide the On-Site Support Services.
- 6.4 Paragraph 6.3.1 will not apply to any new BT Personnel, including any Incoming Employees, for one calendar month following their commencement of employment with BT.
- 6.5 The full or partial transfer of the On-Site Support Services from BT to you or any Replacement Supplier may be a Relevant Transfer.
- 6.6 If a Relevant Transfer occurs, then the Outgoing Employees' employment contracts will have effect on and from the Service Transfer Date as if originally made between the Outgoing Employees and you (or where appropriate the Replacement Supplier) except:
 - 6.6.1 where any Outgoing Employee objects in accordance with regulation 4(7) of TUPE; or
 - 6.6.2 where TUPE provides otherwise.
- 6.7 For each Outgoing Employee, BT will:
 - 6.7.1 provide Employee Liability Information in accordance with regulation 11 of TUPE; and
 - 6.7.2 discharge the Employee Emoluments up to the Service Transfer Date.
- 6.8 You will (or, where appropriate, you will ensure that any Replacement Supplier will) discharge the Employee Emoluments in respect of the Outgoing Employees from the Service Transfer Date.
- 6.9 Each of us will make all necessary apportionments.
- 6.10 Each of us will indemnify the other (or where appropriate the Replacement Supplier) against all Losses arising as a result of each of our respective failures to comply with each of our obligations under this Paragraph 6.
- 6.11 BT will indemnify you (or where appropriate any Replacement Supplier) from and against all Losses arising in connection with or as a result of any act or omission of BT relating to any Outgoing Employee's employment prior to the Service Transfer Date.
- 6.12 You will indemnify BT from and against all Losses arising in connection with or as a result of your act or omission (or where appropriate, the act or omission of any Replacement Supplier) relating to any Outgoing Employee's employment on or after the Service Transfer Date.
- 6.13 Despite Clause 27 of the General Terms, the Contracts (Rights of Third Parties) Act 1999 will apply to the extent necessary to ensure that any Replacement Supplier will have the right to enforce the obligations owed to, and indemnities given to, the Replacement Supplier by BT under Paragraph 6.11.
- 6.14 You will not, nor will you attempt to, solicit, entice away, employ, or engage any person who is, or has been, engaged as BT Personnel for the provision of the On-Site Support Services, unless BT provides you with prior written consent.
 - 6.14.1 If BT provides consent in accordance with Paragraph 6.14, you will pay BT a sum equivalent to:
 - (a) 20 per cent of the then annual remuneration of BT Personnel; or
 - (b) if higher, 20 per cent of the current annual remuneration to be paid by you to BT Personnel.
 - 6.14.2 This Paragraph 6.14 will only apply for the period from the date of acceptance of these Solution Terms until the expiry of 12 months after the last date of supply of the On-Site Support Services.

Part B – Defined Terms

7 DEFINED TERMS

In addition to the defined terms in the General Terms, EE Mobile Schedule, Orders and EE Price Guide, capitalised terms in these Solution Terms will have the following meanings (and in the case of conflict between these defined terms and the defined terms in the General Terms, EE Mobile Schedule, Orders or EE Price Guide, these defined terms will take precedence for the purposes of these Solution Terms):

“BT Personnel” means BT's or its Affiliates' employees, agents or subcontractors.

“Employee Emoluments” means all employment related outgoings including salaries, wages, bonus or commission, holiday pay, expenses, national insurance and pension contributions and any liability to taxation.

“Employee Liability Information” means the information required to be provided by Regulation 11(2) of TUPE.

“Existing Supplier” means any organisation providing services to you which are the same as or similar to the On-Site Support Services on or before to the Service Start Date.

“Incoming Employees” means those employees, listed as incoming employees in the Order, whose contracts of employment will transfer to BT from you or any Existing Supplier as at the Service Start Date.

“Losses” means actions, proceedings, losses, damages, awards, orders, liabilities (including any liability to taxation), claims, costs, demands and expenses, including fines, penalties, reasonable legal and other professional fees and expenses.

“On-Site Support Services” means the services described in the On-Site Support Solution Description.

“Outgoing Employees” means those BT Personnel who are assigned to the provision of the On-Site Support Services (or any part of the On-Site Support Services) as at any Service Transfer Date.

“Relevant Transfer” means a relevant transfer for the purposes of TUPE.

“Replacement Services” means any services which are identical or substantially similar to the On-Site Support Services and which you receive in substitution to the On-Site Support Services whether those services are provided by you internally or by any Replacement Supplier.

“Replacement Supplier” means any third party supplier of Replacement Services appointed by you from time to time.

“Service Transfer Date” means the date on which the On-Site Support Services (or any part of the On-Site Support Services), for whatever reason transfer from BT to you or any Replacement Supplier.

“Third Party Network Connections” means a connection by which a third party gives you access to a Third Party Network.

“Third Party Network” means a network other than the Mobile Network.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.