

IT Services

Annex to the Purchased Equipment Schedule

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A note on 'you'

'You' and 'your' mean the Customer.

Phrases that refer to 'either of us', 'neither of us', 'each of us', 'both of us', 'we each' or 'we both' mean one or both of BT and the Customer, whichever makes sense in the context of the sentence.

Words defined in the General Terms

Words that are capitalised but have not been defined in this Annex or the Purchased Equipment Schedule have the meanings given to them in the General Terms.

Part A – The Service

1. Application of this Annex

- 1.1 This Annex sets out the additional terms that will apply where BT provides you with Purchased Equipment intended for use in the following areas of the information technology market place: datacentre, cloud and hosted solutions; networking; unified communications and collaboration; security and end user computing.
- 1.2 The terms in this Annex apply in addition to those in:
 - 1.2.1 the Purchased Equipment Schedule; and
 - 1.2.2 the General Terms.

2. Provision of Purchased Equipment

- 2.1 BT will provide you with the Purchased Equipment as set out in any applicable Order. Where you ask BT to deliver the Purchased Equipment or perform any associated engineering services outside of Business Hours BT may ask you to pay reasonable additional Charges. BT will let you know in writing of any additional Charges. Alternatively you may arrange with BT to collect the Purchased Equipment yourself.
- 2.2 BT may make delivery in multiple consignments.
- 2.3 On the day of delivery you will sign for the Purchased Equipment and let BT know on the same day if:
 - 2.3.1 the quantity of Purchased Equipment delivered is different from the quantity shown on the delivery note; or
 - 2.3.2 there is any damage to the packages or boxes containing the Purchased Equipment.
- 2.4 Within five Business Days from the date of delivery or collection you will let BT know in writing if there is any damage to the Purchased Equipment or any other discrepancy in the Purchased Equipment that BT delivers to you or you collect, apart from where the damage is caused by you. You will let BT know the model and part numbers of affected Purchased Equipment and the identity of any Software application.
- 2.5 If you let BT know of any damage or discrepancy in the Purchased Equipment, BT may ask you to return the Purchased Equipment. You will make sure that any Purchased Equipment, including any manuals and other related documentation, is returned:
 - 2.5.1 in the condition that it was in at the time the damage was discovered;
 - 2.5.2 in its original packaging; and
 - 2.5.3 with an unbroken seal in the case of any Software (unless you have broken the seal and discovered that the Software is faulty).
- 2.6 The only remedy that you will have for any incomplete or damaged Purchased Equipment will be the replacement of the Purchased Equipment by BT at its own expense. BT will not be liable to you where you have not let BT know about the incomplete or damaged Purchased Equipment as set out in this Paragraph 2.
- 2.7 If you do something that might delay delivery or collection of any Purchased Equipment, BT may put back to a later date the date of delivery BT provides to you as set out in Paragraph 4.1.2 of the Purchased Equipment Schedule. If the delay continues for more than 10 Business Days:
 - 2.7.1 BT will be entitled to invoice you for the Charges for the Purchased Equipment;

- 2.7.2 regardless of what it says in Paragraph 7 of the Purchased Equipment Schedule, risk in the relevant Purchased Equipment will pass to you on the date of the invoice, delivery or collection of the Purchased Equipment whichever occurs first; and
- 2.7.3 in addition BT may charge a reasonable amount as a storage Charge for holding the Purchased Equipment as a result of your delay.
- 2.8 If either of us damages the other's equipment they will pay, subject to Clause 22 of the General Terms, for any repair or replacement needed. This does not apply where the damage results from normal use.
- 2.9 You are responsible for disposal of all packaging.

3. Specific Terms

3.1 Amendments to the General Terms

- 3.1.1 Clauses 3.2 and 3.3 of the General Terms are deleted.
- 3.1.2 The definition of Effective Date given in the General Terms is deleted and replaced with the following:
- "Effective Date"** means the date BT accepts your Order either expressly or, in the absence of express acceptance, impliedly by BT's provision of the Service including the making of a commitment on any third party supplier by BT in anticipation of providing the Service.

3.2 Cancelling an Order before the Service Start Date

- 3.2.1 Subject to Paragraph 6.1 of this Annex, you can cancel the Order as set out in Clause 16.1 of the General Terms any time before either:
- (a) you take delivery or possession of the Purchased Equipment; or
 - (b) if BT is to configure the Purchased Equipment prior to your taking delivery or possession, BT takes delivery or possession on your behalf.
- 3.2.2 If an Order includes installation of the Purchased Equipment, regardless of what it says in Clause 16.1 of the General Terms you cannot cancel the Order after delivery or possession of the Purchased Equipment is taken by you or BT.

3.3 Termination for convenience

Regardless of what it says in Clause 17 of the General Terms, you cannot terminate for convenience the Contract, the Service or any applicable Order.

3.4 EULA

- 3.4.1 In addition to what it says in Clause 12 of the General Terms and Paragraph 5.3 of the Purchased Equipment Schedule, where the Service includes Software (including without limitation Software that is pre-loaded or embedded in Purchased Equipment) that is licensed by a third party who requires you to accept their terms of use, whether or not listed in Paragraph 3.4.2, BT will only provide the Service if you have entered into an end user licence agreement with the relevant third party, as may be amended or supplemented from time to time by the relevant third party ("**EULA**").

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3.4.2 You can read third party terms of use as shown in the table below.

Purchased Equipment Manufacturer	Links to documents published by the Purchased Equipment Manufacturer
Cisco Systems, Inc.	EULA
CommVault Systems, Inc.	EULA
Fortinet, Inc.	EULA
Meraki, LLC	End Customer Agreement (incl. EULA)
Nervecentre Software Limited	EULA
NetApp, Inc.	See Paragraph 3.7

3.4.3 By accepting the terms of the EULA, you acknowledge their conditions and agree to observe and comply with them for any and all use of the Service.

3.4.4 If you do not comply with or observe the EULA, BT may restrict or suspend the Service upon reasonable Notice and Clause 15 of the General Terms will apply to any restriction or suspension of the Services in accordance with this Paragraph 3.3.

3.4.5 You will accept responsibility in accordance with the terms of the EULA for the use of the Software.

3.4.6 You will enter into the EULA for your own benefit and the rights, obligations, acknowledgements, undertakings, warranties and indemnities granted in accordance with the EULA will be between you and the relevant third party.

3.4.7 You will deal with the relevant third party with respect to any loss or damage suffered by you or the relevant third party under the EULA and such loss or damage will not be enforceable against BT.

3.4.8 Where the EULA is presented in the form of a 'click to accept' type function and BT configures or installs Software on your behalf you give BT the authority to bind you to the EULA.

3.5 Intellectual Property Rights

In addition to what it says in Clause 12 of the General Terms, if Clause 12.8 of the General Terms applies and if none of the remedies in Clause 12.8 of the General Terms are available to BT on reasonable terms, BT may give you Notice, refund you with amounts that you paid for the Purchased Equipment and collect the Purchased Equipment from the Site(s).

3.6 Freedom of information

3.6.1 BT will mark any Confidential Information given to you in connection with the Contract "In Confidence" and you will not disclose such Confidential Information to any person without BT's consent.

3.6.2 BT believes that such information will be exempt from the duty to confirm or deny, and from disclosure, under the Freedom of Information Act 2000.

3.6.3 Where you receive a request in accordance with the Freedom of Information Act 2000 that encompasses any information you hold in connection with the Contract, you will provide BT Notice, to the extent lawfully possible, of the request and you will allow BT at least 10 Business Days in which to make representations.

3.7 Purchased Equipment manufactured, licensed or distributed by NetApp

Where the Service includes the supply of Purchased Equipment manufactured, licensed or distributed by NetApp, Inc., NetApp B.V., or any of their affiliates ("**NetApp**"):

3.7.1 in addition to the terms of the Contract, supply of Purchased Equipment is subject to the relevant channel end user terms published by NetApp;

3.7.2 the NetApp channel end user terms that comprise the end user licence agreement together with, as appropriate, the support services terms and/or the professional services terms, set out the additional terms and conditions that will apply directly between you and NetApp. You can read the NetApp terms at <http://www.netapp.com/us/how-to-buy/stc.aspx>; and

3.7.3 BT is required by NetApp to let you know the following:

Use of Equipment: NetApp equipment and software must only be used in accordance with the relevant NetApp documentation as set out in the NetApp channel end user terms and is not designed or intended for use in or in the design, construction, operation or maintenance of a nuclear facility, aviation, life support systems or similar hazardous environment; and

Audit: NetApp and its independent accountants may audit you or your subcontractors once annually during regular business hours upon reasonable notice to verify compliance with the software license terms and restrictions set out in the NetApp channel end user terms. If the audit discloses material non-compliance, you will promptly pay to NetApp any additional license fees notified by NetApp, calculated in accordance with NetApp's price list, and the reasonable costs of conducting the audit, if any. Following any non-compliance, you may be subjected to more frequent audits by NetApp.

3.8 Service Credits

The Service does not include any Service Credits.

Part B – Delivery, Installation and Charges

4. Acceptance and Service Start Date

In addition to what it says in Paragraph 6.2.2 of the Purchased Equipment Schedule, if you delay installation of the Purchased Equipment or any other scheduled engineering work for 10 or more Business Days, the Service Start Date will occur on the tenth Business Day from the original scheduled date for installation.

5. Invoicing

In addition to what it says in Paragraph 8 of the Purchased Equipment Schedule:

- 5.1 The Charges and any Trade-In Credit are as set out in any applicable Order and unless otherwise stated, include delivery within the Territory.
- 5.2 If you delay installation of the Purchased Equipment or any other scheduled engineering work, BT may apply additional Charges and extend any date agreed for the performance of these activities. The additional Charges will depend on the point at which you let BT know of the delay and will be applied as set out below:

Notice before relevant scheduled start date	Additional Charge
10 or more Business Days	No charge
5-9 Business Days	£500
4 or fewer Business Days	£1,000

BT will let you know in writing of any additional Charges that you will owe BT.

- 5.3 In addition to what it says in Clause 9 of the General Terms, where the Contract includes performance of installation or other services, the scope of this performance will be as set out in a separate scope of works document and the Charges will be fixed for the specified scope. Any variations to the specified scope will be subject to the written agreement of both of us. Any reference to quantity of days or the derived value of the specified scope is only meant to be an estimate. In the event the Service is completed in fewer than any stated quantity of days, you will not be entitled to a reduction of the Charges, a refund of any amounts paid or performance of additional services.

6. Charges at the End of the Contract

- 6.1 In addition to what it says in Paragraph 8.3.1 of the Purchased Equipment Schedule, the charges that may be due under Clause 16.2.2 of the General Terms will include all charges incurred by BT from a supplier due to the cancellation, which may comprise Charges for the relevant Purchased Equipment.
- 6.2 On expiry of the Service you will pay BT:
 - 6.2.1 all outstanding Charges for Service rendered;
 - 6.2.2 any additional amounts due under the Contract; and
 - 6.2.3 any other Charges as set out in any applicable Order.

7. Trade-In Credit

- 7.1 Where the Contract includes Trade-In Credit, your entitlement to Trade-In Credit will be subject to the Trade-In Equipment having been in use in your network no fewer than 90 days prior to the date of delivery or collection of the Purchased Equipment and the Trade-In Equipment being returned to the manufacturer:
 - 7.1.1 complete with all components and in the same working condition in which it was removed from your network; and
 - 7.1.2 properly packaged to prevent damage in transit.
- 7.2 BT will arrange the collection of the Trade-In Equipment by or on behalf of the manufacturer from a location agreed with you.

- 7.3 Upon confirmation by the manufacturer of satisfactory return of the Trade-In Equipment, BT will credit you with the amount set out in the Contract in accordance with the arrangement for the payment of Trade-In Credit agreed with you.
- 7.4 In the event that the Trade-In Equipment is not returned as set out in Paragraph 7.1 or if anything not listed as Trade-In Equipment is returned in place of Trade-In Equipment, BT:
- 7.4.1 will not be obliged to apply any Trade-In Credit that otherwise would have been applied after the return of the Trade-In Equipment; and
 - 7.4.2 BT may invoice you for any Trade-In Credit already applied to the price of the Purchased Equipment.

8. Lease Sales of Purchased Equipment

Where you intend to make payment by means of a third party finance agreement, this Paragraph 8 will apply.

8.1 Formation of the Contract

- 8.1.1 In addition to what it says in Clause 3 of the General Terms, BT will require a valid Order from you for the items set out in the relevant quotation.
- 8.1.2 Where:
- a) the Customer Finance Agreement is not executed;
 - b) the Customer Finance Agreement is terminated or any offer made by the Company is withdrawn (in both cases for whatever reason) prior to BT's receipt of payment in respect of the Purchased Equipment or any associated engineering services;
 - c) you delay delivery or collection of the Purchased Equipment and the delay continues for more than 10 Business Days;
 - d) you do not sign an Acceptance Certificate as set out in Paragraph a);
 - e) you use the Purchased Equipment before signing the Acceptance Certificate; or
 - f) you are in breach of Paragraph 5 of the Purchased Equipment Schedule,
- you will, at BT's discretion, pay the Charges as set out in any applicable Order directly to BT and this Paragraph 8 will no longer apply.

8.2 Acceptance where Purchased Equipment is leased

- 8.2.1 Regardless of what it says in Paragraph 6 of the Purchased Equipment Schedule and Paragraph 4 of this Annex, your acceptance of the Purchased Equipment will take place on the earlier of:
- a) the date you sign the Acceptance Certificate; or
 - b) the date when you begin to use the Purchased Equipment; and
 - c) you agree that use of the Purchased Equipment before the Acceptance Certificate is signed may affect the Customer Finance Agreement. Where the Company requires an Acceptance Certificate but you do not sign an Acceptance Certificate in a timely manner, regardless that you have used the Purchased Equipment, Paragraph 8.1.2 will apply.

8.3 Transfer of title and risk

- 8.3.1 Regardless of what it says in Paragraph 7.1 of the Purchased Equipment Schedule:
- a) title in the Purchased Equipment (except for the Intellectual Property Rights) will pass to the Company when BT has received payment in full from the Company for the Purchased Equipment;
 - b) Paragraph 5.4 of the Purchased Equipment Schedule will apply to you until BT has received payment and title has passed as set out in Paragraph 8.3.1a); and
 - c) risk in the Purchased Equipment will pass to you when you take delivery or possession unless otherwise specified in the Customer Finance Agreement.

8.3.2 Regardless of what it says in Paragraph 7.2 of the Purchased Equipment Schedule:

- a) title in the Purchased Equipment (except for the Intellectual Property Rights) will pass from BT upon dispatch from the final shipping point in the Territory (or in transit if shipped from outside the Territory); and
- b) Paragraph 5.4 of the Purchased Equipment Schedule will apply to you until title has passed as set out in Paragraph 8.3.2a).

8.4 Invoicing and Charges

8.4.1 Regardless of what it says in Paragraph 8 of the Purchased Equipment Schedule and Paragraph 5 of this Annex:

- a) where the Charges are covered by the Customer Finance Agreement they are shown in this Contract for reference purposes only. You will pay the applicable Charges to the Company as set out in the Customer Finance Agreement; and
- b) BT will send invoices for any Charges arising under the Contract that are not covered by the Customer Finance Agreement or any additional charges under Paragraphs 2.1, 2.5, 2.7.3, 5.2 and 8.1.2 of this Annex, or Paragraphs 2.4 and 8.3 of the Purchased Equipment Schedule directly to you.

8.5 Cancelling an Order before the Service Start Date

Regardless of what it says in Clause 16 of the General Terms, Paragraph 8.3.1 of the Purchased Equipment Schedule or Paragraph 3.2 of this Annex, you cannot cancel an Order after the Effective Date.

8.6 Terminating the Contract or a Service for convenience

Regardless of what it says in Clause 17 of the General Terms, Paragraph 9.1 of the Purchased Equipment Schedule or Paragraph 3.3 of this Annex, you cannot terminate the Contract, the Service or any applicable Order for convenience.

8.7 Terminating a Service if there is a Force Majeure Event

Regardless of what it says in Clause 19 of the General Terms, you cannot terminate the Service if there is a Force Majeure Event.

Part C – Warranty

9. Warranty

In addition to what it says in Paragraph 10 of the Purchased Equipment Schedule, the warranty will operate as set out below:

- 9.1 the warranty period will be as granted by the manufacturer of the Purchased Equipment;
- 9.2 where you enter into a maintenance agreement for the Purchased Equipment either with BT or another maintainer approved by the manufacturer, the warranty will apply in addition to the maintenance agreement;
- 9.3 where you enter into a maintenance agreement for the Purchased Equipment with another maintainer, you will let BT know in writing of your chosen maintainer within 30 days of delivery or collection of the Purchased Equipment;
- 9.4 where you do not enter into a maintenance agreement for the Purchased Equipment, the warranty only will apply; and
- 9.5 where you do not enter into a maintenance agreement for the Purchased Equipment or do not let BT know as set out in Paragraph 9.3, you will compensate BT for any applicable fees paid or payable by BT to the Purchased Equipment manufacturer.

Part D – Defined Terms

10. Defined Terms

In addition to the defined terms in the General Terms and the Purchased Equipment Schedule, capitalised terms in this Annex will have the following meanings (and in the case of conflict between these defined terms and the defined terms in the General Terms or the Purchased Equipment Schedule, these defined terms will take precedence for the purposes of this Annex).

“Acceptance Certificate” means documentation required by either the Company, BT or both to be signed by you to confirm either delivery of Purchased Equipment (in whole or in part) or completion of relevant acceptance testing.

“Business Hours” means between the hours of 09:00 and 17:30 in a Business Day.

“Company” means a finance house or other third party to which you apply for financial facilities under a Customer Finance Agreement.

“Customer Finance Agreement” means any agreement between you and the Company for any financing facilities for the Purchased Equipment and any associated engineering services.

“Effective Date” has the meaning given in Paragraph 3.1.2.

“EULA” has the meaning given in Paragraph 3.4.1.

“General Terms” means the general terms that the Purchased Equipment Schedule and this Annex are attached to, or where not attached, can be found at www.bt.com/terms, and form part of the Contract.

“NetApp” has the meaning given in Paragraph 3.7.

“Purchased Equipment Schedule” means the schedule to the general terms that this Annex is attached to, or where not attached, can be found at www.bt.com/terms, and forms part of the Contract.

“Territory” means the United Kingdom.

“Trade-In Credit” means the credit you receive against the Charges for Purchased Equipment that result from you returning Trade-In Equipment to the manufacturer as set out in Paragraph 6.

“Trade-In Equipment” means the equipment listed in the Contract that you will return to the manufacturer in order to receive Trade-In Credit.