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# Conditions for BT Billing Analyst Elite

## Interpretation

'Contract' means in order of precedence these Conditions, the Order Form and any other document expressly stated to form part of this Contract.

'Customer' means the person so named on the Order Form who is the recipient of BT One Bill/OneBillPlus via a CD-ROM and anyone appearing to BT to be acting with that Customer's authority or permission.

'Cost Centre' means a preferred format which the Customer chooses to view the Customer's detailed billing information.

'BT Analyst Elite' means a billing analysis software package as varied by us from time to time which the Customer downloads from the internet via URL <http://www.bt.com/btbillinganalyst>.

'OneBill' means OneBill/OneBillPlus on a CD-ROM.

'Order Form' means the online application form which the Customer must complete.

'Service' means the provision of BT Analyst Elite which provides the Customer with the service as described in paragraph 2.4.

'Software' means the BT Analyst Elite software enabling use of the Service, and any associated documentation.

'URL' means a uniform resource locator, which is the full address for a web site.

a competent telecommunications service provider.

2.4. The Service comprises the ability to analyse the billing analysis data relating to the Customer's contracts with BT for telephone service which the Customer receives on the OneBill/OneBillPlus CD ROM.

2.5. The BT Analyst Elite software is enabled with a date limiting device which will automatically prevent the Customer from using it after a fixed period of no more than 12 months. BT will notify the Customer when the BT Analyst Elite is due to be updated and provide the Customer with the software updates via URL <http://www.bt.com/btbillinganalyst>. It is the Customer's responsibility to download any updates of the software which BT provides via URL <http://www.bt.com/btbillinganalyst>.

2.6. BT may be unable to provide the Service if the call data on the Customer's OneBill/OneBillPlus exceeds 3.5 million call records per bill.

2.7. BT may temporarily suspend the provision of the Service without notice if the Customer's telephone service with BT is suspended.

2.8. If any of the Customer's telephone service contracts for lines for which the Service is provided are terminated, the Customer acknowledges that BT can no longer provide the Service in respect of those lines terminated.

## 3. The Customer's responsibilities

3.1. The Customer will take all reasonable measures to ensure proper use of any information disclosed by BT relating to this Contract including compliance with the Data Protection Act 1998 and any other applicable legislation.

3.2. The Customer is responsible for making all necessary arrangements with BT for the provision of telephone service and for paying all charges for it.

3.3. The Customer must indemnify BT against any claims or legal proceedings anybody makes or threatens to make against BT because of the Customer's use of the Service, or as a result of any third party's use of the Service.

3.4. The Customer is responsible for keeping their contact details up to date.

3.5. To access the Service it is necessary that the Customer has a web browser with the

## 1. Duration

This Contract begins when the Customer's order for the Service is accepted by BT following completion by the Customer of the online ordering process (which incorporates these Conditions) and will continue until terminated in accordance with the terms of this Contract.

## 2. Provision of Service

2.1. BT agrees to provide the Customer with the Service on these Conditions

2.2. BT will endeavour to provide the Service by the date agreed with the Customer but all dates are estimates and BT accepts no liability for failure to meet those dates.

2.3. BT agrees to provide the Customer with the Service using the reasonable skill and care of

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- minimum requirements necessary for the Customer to access bt.com.
- 3.6. The Customer is responsible for providing suitable computer hardware, software and telecommunications equipment and services necessary to access and use the Service. This Contract does not include the provision of telecommunications services necessary to connect to the Service.
- 3.7. The Customer acknowledges and accepts that:
- (a) they will not receive any paper based itemised call reports as such information will be contained on the CD ROM for BT OneBill/One BillPlus;
  - (b) they will not receive any paper based summary reports from 3 months after they are first made available via BT Analyst Elite;
  - (c) they will manage the itemisation levels on their BT source accounts using the BT Analyst Elite, without the intervention of the BT billing team; and
  - (d) they will manage their own Cost Centres using the BT Analyst Elite, without the intervention of the BT billing team.
- 4. Intellectual property rights**
- 4.1. BT grants the Customer a non-exclusive non-transferable licence to use the Software for the sole purpose of using the Service. The Customer will keep the Software supplied under this Contract confidential and will not disclose it, other than to its employees who need it to use the Service.
- 4.2. The Customer shall not copy, or except as permitted by law, modify the Software in any way, nor copy the operating manuals or documentation, without BT's prior written consent.
- 4.3. The Customer agrees to sign any agreement required by the owner of the copyright in the Software to protect the owner's interest in that Software.
- 5. Limitation of liability**
- 5.1. BT does not exclude or restrict liability for death or personal injury resulting from BT's negligence.
- 5.2. BT's sole liability to the Customer in contract, tort (including negligence) or otherwise for errors or omissions in any part of the Service which may arise from any failure by BT to exercise the reasonable skill and care of a competent telecommunications service provider, will be limited to the provision of services of the same nature as those originally provided in order to correct such errors or omissions, provided BT is notified of the errors or omissions within 3 months following completion of such part of the Service.
- 5.3. BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £100,000.
- 5.4. Each provision of this paragraph 5 operates separately. If any part is held unreasonable or inapplicable in any circumstances the other parts shall continue to apply.
- 6. Matters beyond the reasonable control of either party**
- If either party is unable to perform any obligation under this Contract because of a matter beyond its reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (whether or not involving its employees), or acts of local or central Government or other competent authorities, it will have no liability to the other party.
- 7. Variation of contract**
- 7.1. Conditions
- BT can change the Conditions of this Contract at any time and will notify the Customer at least 2 weeks before the change is to take effect.
- 8. Assignment**
- The Customer must not assign or transfer any rights or obligations under this Contract.
- 9. Breaches of the contract**
- 9.1. If the Customer commits a breach of this Contract and:
- (a) if it is possible to remedy the breach, fails to remedy the breach within a reasonable time of written notice to do so; or
  - (b) if it is not possible to remedy the breach; BT can terminate this

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- Contract or suspend the Service without notice and claim for the resulting losses or expenses
- 9.2. BT can also terminate this Contract if the Customer is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of the Customer's creditors, or if any of the Customer's assets are the subject of any form of seizure, or if the Customer goes into either voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or if a receiver or administrator is appointed over the Customer's assets.
- 9.3. If BT delays in acting upon a breach of Contract by the Customer, that delay will not be regarded as a waiver of that breach. If BT waives a breach of this Contract by the Customer, that waiver is limited to that particular breach.
- 10. Termination of the contract**
- 10.1. BT may terminate this Contract and withdraw the Service at any time without notice.
- 10.2. The Customer may terminate this Contract on 7 days' notice to BT.
- 10.3. Upon termination of this Contract for any reason, if requested by BT, the Customer will immediately return the BT Analyst Elite to BT or will immediately upon request from BT irrevocably delete the BT Analyst Elite from all memory and all electronic media.
- 11. Entire agreement**
- 11.1. This Contract contains the whole agreement between BT and the Customer relating to its subject matter and supersedes all previous written or oral agreements relating to it.
- 11.2. BT and the Customer acknowledge and agree that:
- (a) they have not been induced to enter into this Contract by any representation, warranty or other assurance not expressly incorporated into it; and
- (b) In connection with this Contract their only rights and remedies in relation to any representation, warranty or other assurance shall be for breach of this Contract and that all other rights and remedies are excluded, except in the case of fraud.
- 11.3. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
- 12. Notices**
- Notices given under this Contract must be delivered by hand or sent by first class post or electronic mail to the addressee at the following addresses:
- (a) to BT at the address of BT's office shown on the Customer's last bill or the e-mail address shown at URL: <http://www.bt.com/billing-payments> or any alternative address that BT notifies to the Customer at any time;
- (b) to the Customer at the e-mail address specified by the Customer when registering for the Service or any alternative email address which the Customer notifies to BT at any time or the address to which the Customer asks BT to send bills.
- 13. Escalation and Dispute Resolution**
- 13.1. BT will try to work through any complaint or dispute that the Customer may have with BT. If this does not resolve the matter then the Customer may refer it:
- (a) where appropriate, in accordance with the details set out in BT's Customer Complaints Code located at [www.bt.com/complaintscode](http://www.bt.com/complaintscode), copies of which are available on request; and
- (b) otherwise, as set out in clause 13.2 below.
- 13.2. Any dispute must be raised in writing with the Customer's or BT's representative as appropriate giving all relevant details including the nature and extent of the dispute. 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 14 days of being raised may be referred by the Customer or BT to the first level by written notice to the other; and

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- (ii) if the dispute is not resolved at the first level within 14 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.

13.3. If the dispute is not resolved after the procedures detailed in clause 13.2 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 Dispute Resolution Service – Chartered Institute of Arbitrators (“DRS-CiArb”). If the dispute is referred to a mediator:-

- (a) 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 DRS-CiArb; and
- (b) all negotiations on the dispute and any agreement reached will be kept confidential.

13.4. Nothing in this clause 13 will prevent the Customer or BT from exercising any rights and remedies that may be available in respect of any breach of the provisions of the Contract.

### 14. Law

This Contract is governed by English law.