



Conditions for Bespoke High Bandwidth Private Service

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Note: These Conditions are not applicable to any part of the High Bandwidth Private Circuits that are outside BT's Area

Conditions for Bespoke High Bandwidth Private Service

1. DEFINITIONS

In this Contract, the following terms have the definitions shown next to them:

"BT" - British Telecommunications plc of 81 Newgate Street, London EC1A 7AJ, registered in England Number 1800000.

"BT Equipment" - equipment (including any software) placed by BT or anyone acting on BT's behalf, at the Premises to provide the Service.

"BT Group Company" - a BT subsidiary or holding company, including without limitation a holding company of BT, or a subsidiary of any such holding company, all as defined by Section 736 of the Companies Act 1985, as amended by the Companies Act 1989.

"BT's Area" - the United Kingdom other than the Hull Area, Isle of Man or the Channel Islands.

"Connecting Point" - a block terminal, a socket for a removable plug, a distribution frame, or any other device, supplied, installed and maintained by BT in the Premises to facilitate the connection of the BT or Customer Equipment to Service.

"Conditions" - these terms and conditions for BT's Bespoke High Bandwidth Private Service.

"Contact Telephone Number" - the telephone number and name of a person nominated by the Customer, for BT to contact to report the progress and clearance of a fault.

"Contract" - these Conditions, the Price List and the BT Order Form. This Contract begins on the date that BT accepts the Customer's request for the Service.

"Contractual Delivery Date" - the date as set out in the Price List, on which BT is to provide the High Bandwidth Private Circuit, or such later date as may be agreed in writing by BT and the Customer.

"Customer" - the legal entity with whom BT contracts to provide the Service.

"Customer Equipment" - equipment that is not part of BT's network and which the

Customer uses or plans to use with the Service.

"failure of a High Bandwidth Private Circuit" - any failure of the Customer's High Bandwidth Private Circuit, causing continuous total loss of the ability to use the Service. It does not include the loss of such ability, arising as a result of BT's suspension of Service, under any provision of this Contract.

"High Bandwidth Private Circuit" - a terrestrial telecommunication link of 34 megabits per second or greater provided between two or more specified points within BT's Area, (none of which is a point at which BT's telecommunications systems are connected to telecommunications systems run by another telecommunications provider), other than by means of one of BT's public switched telecommunications systems.

"the Hull Area" - the area in which Kingston Communications (Hull) plc was previously licensed, by virtue of its licence dated 30 November 1987 under the Telecommunications Act 1984 to run telecommunication systems from 1 January 1988.

"Licence" - any licence granted, or having effect as if granted, under the Telecommunications Act 1984, the Cable and Broadcasting Act 1984 or the Wireless Telegraphy Act 1949, or any replacement or re-enactment of any of them, or any similar licence as amended by the Communications Act 2003.

"Minimum Period" - the first 12 months of the Service, or any other period shown in the Price List and set out on the BT Order Form. A further Minimum Period of 12 months, or any other period shown in the Price List, may apply in respect of each new facility added or changes made (for example shifts or upgrades) to the Service provided by BT to the Customer.

"Premises" - the place at which BT agrees to provide the Service.

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

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“Reduced Charges Cycle” - a period of time, ending two complete calendar months before the date of the Customer's bill. The first such cycle will commence on the day the Service is first made available and the final cycle will end on the date of termination of this Contract.

“Reduced Charges Scheme” - the scheme set out in the Price List.

“Service” - the facility for telecommunication service, which BT provides by means of a High Bandwidth Private Circuit and any related services listed in the Price List that BT agrees to provide to the Customer under this Contract.

“Service Care” — either Standard Care, Prompt Care or Total Care.

“Standard Care” - fault repair work carried out during working hours (0800-1700) on Working Days. For a fault report received before 1700 hours on one Working Day, BT will aim to respond by the end of the next Working Day.

“Prompt Care” - fault repair work carried out during working hours (0800-1700) on Mondays to Saturdays but excluding Public/Bank Holidays. BT will respond within 4 working hours of receipt of a fault report, unless it has agreed with the Customer in writing, at the time of signature of this Contract, that there are other periods within which it will respond to a fault report. If the fault is not cleared during this period, BT will advise the Customer, via the Contact Telephone Number, of the progress being made to clear the fault.

“Total Care” - fault repair work carried out 24 hours per day, 7 days per week, including Public/Bank Holidays. BT will respond within 4 hours of receipt of a fault report, unless it has agreed with the Customer in writing, at the time of signature of this Contract, that there are other periods within which it will respond to a fault report. If the fault is not cleared during this period, BT will advise the Customer, via the Contact Telephone Number, of the progress being made to clear the fault.

“Telecommunications Apparatus” has the same meaning as in Paragraph 1(1) of the Telecommunications Code contained in Schedule 2 of the Telecommunications Act

1984, as subsequently amended by the Communications Act 2003.

“Working Day” - Mondays to Fridays but excluding Public/Bank Holidays.

2. PROVIDING THE SERVICE

2.1 BT will provide the Service to the Customer on the terms of this Contract, which set out the entire Contract between BT and the Customer.

2.2 For operational reasons, BT may vary the technical specification of the Service or interrupt the Service. BT will restore the interrupted Service as quickly as possible.

2.3 It is technically impracticable to provide a fault free Service and BT does not undertake to do so. BT does undertake certain obligations with regard to faults in the Service; see paragraph 6 below.

2.4 Requests made to BT, relating to providing the Service, are, to be made or confirmed in writing.

2.5 BT agrees to provide a High Bandwidth Private Circuit by a Contractual Delivery Date. If the Customer requests a change to the specification of a High Bandwidth Private Circuit before it is provided, the date by which BT agrees to provide the High Bandwidth Private Circuit to the new specification will become the Contractual Delivery Date.

2.6 Any other date proposed by BT for providing the Service or a facility is to be treated as an estimate only and BT accepts no liability for failure to meet it.

2.7 Where, at the request of the Customer, any work to provide the Service is done outside BT's normal working hours, the Customer will pay a charge for such work, calculated at BT's applicable hourly rate as stated in the Price List.

2.8 The Customer accepts that occasionally BT will provide instructions regarding the Service. The Customer must follow these instructions.

3. PROVIDING THE SERVICE BY SPECIAL MEANS

3.1 Where, in order to meet the Customer's requirements:

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3.1.1 BT considers it appropriate or necessary, in the circumstances applying, to provide Service, wholly or in part, by means of non-standard apparatus, apparatus constructed by non-standard or exceptionally expensive methods or at substantially greater expense than it normally incurs, so as to render its standard tariffs inappropriate, or

3.1.2 at the Customer's request, Service is provided at greater expense by reason of the type of materials used, the length, or the manner of installation, than BT normally incurs, then

BT may determine, in addition to any standard charge payable, a supplementary rate of rental and/or other charge in relation to the relevant application for Service. BT will inform the Customer by notice in writing of the extra rate of rental or other charge and the Customer may, in a case where paragraph 3.1.1 applies, within 14 days of the date of BT's notice cancel the application by written notice. If this paragraph 3.1 applies to the provision of a High Bandwidth Private Circuit, the Contractual Delivery Date will be the date agreed in writing by BT and the Customer.

3.2 A rate of rental or other charge determined under paragraph 3 may be in addition to, or instead of, any applicable standard rates of rental and/or other charges for Service.

3.3 BT may determine in an individual case (having regard to the non-standard nature or proposed special means of provision of the Service or facility in question, or the circumstances of the proposed provision, or the interests of other customers or users of Service) that it is necessary or appropriate that special terms and conditions will apply in addition to, or instead of, any terms and conditions of this Contract. BT will inform the Customer concerned, by notice in writing, of the special terms and conditions and the Customer may in a case where paragraph 3.1.1 applies, within 14 days of the date of BT's notice cancel the application by written notice. In any conflict between any terms and conditions determined in accordance with this paragraph and this Contract as a whole, the special terms and conditions will prevail.

4. BT'S GENERAL POWERS

Occasionally, BT may:

4.1 in an emergency, suspend Service temporarily in order to provide or safeguard service to a hospital or to the emergency, or other essential services;

4.2 temporarily suspend Service for the purpose of alteration of BT's Telecommunications Apparatus, to permit the passage of vehicles with abnormal loads;

4.3 temporarily suspend Service for the purpose of repair, maintenance or improvement of any of BT's telecommunication systems and Telecommunications Apparatus.

BT will give the Customer as much notice as possible before doing any of the above things and BT will restore Service as soon as possible after temporary suspension.

5. BT'S RESPONSIBILITY FOR SERVICE TO A POINT IN THE HULL AREA, THE ISLE OF MAN, THE CHANNEL ISLANDS OR IRELAND (REPUBLIC OF)

5.1 Where Service provided under this Contract enables the connection of a point in BT's Area and a point in the Hull Area, the Isle of Man, the Channel Islands or Ireland (Republic of), this Contract applies only to the provision of Service by means of telecommunication systems which BT was previously authorised to run by a Licence and,

5.1.1 BT may terminate or suspend Service summarily, without prior notice to the Customer, if the provision of any service outside BT's Area is terminated or suspended;

5.1.2 the Customer is responsible for making application for service to the telecommunications provider in the Hull Area, the Isle of Man, the Channel Islands or Ireland (Republic of), as the case may be and for compliance with that provider's conditions.

6. FAULT REPAIR

6.1 The Customer must report a fault in Service by telephoning the number specified in the BT Order Form or such other number as BT

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- may from time to time provide to the Customer. When the Customer reports the fault the Customer will provide BT with a Contact Telephone Number to enable BT to advise on the progress being made to clear the fault.
- 6.2 If the Customer reports a fault in Service, BT will respond in line with the level of repair service applicable to the Service, by carrying out one or more of the following actions:
- 6.2.1 providing advice by telephone, including advice, where appropriate, as to tests and checks to be carried out by the Customer;
- 6.2.2 where possible, carrying out diagnostic checks from BT premises; or
- 6.2.3 visiting the Customer's Premises or a point in BT's network only if BT's action under paragraphs 6.2.1 and 6.2.2 does not result in the fault being diagnosed or cleared and where such a visit is considered necessary by BT.
- 6.3 BT will take all proper steps to correct the fault without undue delay.
- 6.4 If the Customer reports a failure of a High Bandwidth Private Circuit and BT fails to restore the High Bandwidth Private Circuit in accordance with the parameters set out in the Reduced Charges Scheme on one or more occasions during the Reduced Charges Cycle, BT will reduce the rental for the High Bandwidth Private Circuit in accordance with the Reduced Charges Scheme. The Reduced Charges Scheme will not apply if, in order to correct a fault, BT has to cross other people's land and the Customer has failed to obtain their permission, in accordance with paragraph 8.3, or access to the Customer's property has been denied or impeded by the Customer.
- 6.5 If the Customer reports a fault and BT finds there is none, or that the Customer caused the fault, BT may charge the Customer for any work, as set out in the Price List.
- 6.6 If BT agrees to attend a reported fault in Service outside the normal working hours appropriate to the level of Service Care BT is contracted to provide for the Customer, the Customer must pay a charge calculated at BT's applicable hourly rate.
- 6.7 If BT agrees to attend a reported fault inside the normal working hours appropriate to the level of Service Care BT is contracted to provide for the Customer, and either access to the Customer's property is denied or impeded by the Customer or the Customer has failed to obtain any necessary permission in accordance with paragraph 8.3, the Customer must pay a charge calculated at BT's applicable hourly rate.
- 7. CUSTOMER EQUIPMENT**
- 7.1 Customer Equipment must only be connected to BT's telecommunications systems using Connecting Points, unless BT agrees otherwise. BT may end any such agreement, after giving the Customer reasonable notice.
- 7.2 Customer Equipment must only be used with BT's telecommunications systems, in a way that meets the relevant standards and any licences applicable to the Customer. If the Customer Equipment does not meet those standards or any applicable licence, the Customer must immediately disconnect it or allow BT to do so, at the Customer's expense. If the Customer asks BT to test the Customer Equipment to make sure that it meets those standards or any applicable licence, the Customer must pay BT any applicable charges set out in BT's Price List.
- 8. ACCESS TO AND PREPARING THE PREMISES**
- 8.1 The Customer agrees to prepare the Premises before Service is provided, according to any instructions BT may give, and provide BT with reasonable access to the Premises.
- 8.2 When BT's work is completed, the Customer will also be responsible for putting items back and for any redecorating which may be needed.
- 8.3 If BT needs to cross other people's land, or put BT Equipment on their property (for example a neighbour or landlord), the Customer agrees to obtain their permission.
- 8.4 BT will meet the Customer's reasonable safety and security requirements when on the Premises, and the Customer agrees to do the same for BT.
- 8.5 The Customer agrees to provide, at its expense, a suitable place and conditions for

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- BT Equipment and, where required, a continuous mains electricity supply and connection points.
- 8.6 The Customer agrees to look after any BT Equipment and to pay for any repair or replacement needed if it is damaged, unless it is due to fair wear and tear, or is caused by BT or anyone acting on BT's behalf. BT will look after the Customer's physical property as set out in paragraph 15.2.
- 9. MISUSING THE SERVICE**
- 9.1 Nobody must use the Service:
- (a) to send offensive, indecent, menacing, nuisance or hoax messages or communications; or
 - (b) fraudulently or in connection with a criminal offence; or
 - (c) in breach of instructions BT has given under paragraph 2.8.
- 9.2 The Customer agrees to take all reasonable steps to make sure that this does not happen. The action BT can take, if this happens, is explained in paragraph 13. If a claim is made against BT because the Service is misused in this way, the Customer must reimburse BT in respect of any sums BT is obliged to pay.
- 10. LIMITATION ON USE OF SERVICE**
- 10.1 Neither the Customer nor any other person is permitted to use the Service otherwise than in compliance with the provisions of any licence applicable to the Customer or, as the case may be, that other person in connection with the use of Service.
- 11. CHARGES**
- 11.1 The Customer agrees to pay all rental and connection charges for the Service, as shown on the BT Order Form and calculated using the details recorded by BT.
- 11.2 The Customer agrees to pay all other charges for the Service, as shown in the BT Price List (or as otherwise agreed) and calculated using the details recorded by BT.
- 11.3 The Customer agrees to pay all charges for the Service, whether the Service is used by the Customer or someone else and upon receipt of BT's invoice.
- 11.4 Unless the Price List or the BT Order Form provides otherwise, all charges for Service are exclusive of value added tax, for which, if it is applicable, an amount will be added to the Customer's bill.
- 11.5 Rental for Service will commence on the Contractual Delivery Date, unless:
- 11.5.1 BT notifies the Customer of a later date for the commencement of the Service, when rental will be payable from the date notified; or
 - 11.5.2 the Customer uses the Service before the Contractual Delivery Date, when rental will be payable from the date the Customer first uses the Service.
- 11.6 Except for temporary Service, the Customer must pay rental in accordance with BT's billing cycle. If BT begins, or ceases, Service on a day which is not the first or last day of the period by reference to which BT charges rental, BT will apportion rental on a daily basis for the incomplete period. Rental is normally payable in advance but BT may on occasion bill the Customer in arrears.
- 11.7 BT may ask the Customer for payment in advance before Service is provided.
- 11.8 BT may charge daily interest on late payments at a rate equal to 4% per annum above the base lending rate of HSBC Bank plc.
- 12. CANCELLING OR ENDING THIS CONTRACT**
- 12.1 The Customer may cancel this Contract or any part of the Service at any time before BT provides the Service. In this event, the Customer must pay BT for any work done or money spent in getting ready to provide the Service. BT will take reasonable steps to limit the amount of its costs.
- 12.2 The Customer agrees that, if the Customer alters the original Contractual Delivery Date more than three times, BT may, on expiry of 7 days' written notice, treat this Contract as cancelled by the Customer under paragraph 12.1.
- 12.3 Unless otherwise stated in the Price List, the Contract can be ended by:

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- (a) the Customer, on one month's written notice to BT: or
- (b) BT, on one month's written notice to the Customer.
- 12.4 If BT gives notice, the Customer must pay rental up to the expiry of the notice. If the Customer gives notice after the Minimum Period, the Customer must pay rental until one month after the date BT receives the notice or until expiry of the notice, whichever is later.
- 12.5 If the Customer gives notice within the Minimum Period the Customer must pay rental or other charges for the remainder of any Minimum Period at the rate in force at termination or as otherwise provided in the Price List. This paragraph 12.5 will not apply if the Customer ends this Contract because BT has changed the Contract to the Customer's material detriment under paragraph 16.2(a).
- 12.6 The Customer's notice does not avoid any other liability for Service already provided. Whoever gives the notice, BT will repay or credit the appropriate proportion of any rental paid in advance (unless it is for part of the Minimum Period or further Minimum Period in respect of any facility added to Service), for a period ending after the Customer's liability for rental ceases.
- 13. IF THE CUSTOMER BREAKS THE CONTRACT**
- 13.1 BT can suspend the Service or end this Contract (or both) at any time without notice if one of the following applies:
- (a) the Customer breaches this Contract or any other agreement the Customer has with BT and fails to put right the breach within a reasonable time of being asked to do so;
- (b) BT reasonably believes that the Service is being used in a way forbidden by paragraphs 9 and 10. This applies even if the Customer does not know that the Service is being used in such a way;
- (c) bankruptcy or insolvency proceedings are brought against the Customer, or if the Customer does not make any payment under a judgment of a Court on time, or the Customer makes an arrangement with its creditors, or a receiver, administrative receiver or an administrator is appointed over any of its assets, or the Customer goes into liquidation; or a corresponding event under Scottish law.
- 13.2 If the Customer does not pay a bill, BT will generally not suspend the Service or end this Contract until 28 days after the payment was due (21 days if the Customer pays monthly). However, sometimes BT may take this action after only 14 days (7 days if the Customer pays monthly).
- 13.3 If the Service is suspended, BT will tell the Customer what needs to be done before it can be re-instated. However the Customer must continue to pay rental charges whilst the Contract continues.
- 13.4 On termination under paragraph 13.1 in addition to any other sums payable up to the end of the Contract, the Customer must pay BT the rental and any other charges which would have been payable for the remainder of the appropriate Minimum Period, at the rate in force at termination or as otherwise provided in the Price List.
- 13.5 If either party delays in acting upon a breach of this Contract, that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Contract, that waiver is limited to that particular breach.
- 14. RESOLVING DISPUTES**
- BT will try to resolve any disputes with the Customer. However, if the parties cannot agree, the Customer may refer the dispute to any recognised dispute resolution service. Details of these and how to refer a dispute are set out in BT's Code of Practice for consumers and small businesses.
- 15. LIMITS OF LIABILITY**
- 15.1 BT accepts unlimited liability for death or personal injury resulting from its negligence.
- 15.2 BT accepts liability for loss or damage to the Customer's physical property arising from its negligence, up to £2 million in any 12 month period.
- 15.3 BT cannot guarantee that the Service will never be faulty. However, BT accepts liability:-

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- (a) if it fails to provide a High Bandwidth Private Circuit by the Contractual Delivery Date, the Reduced Charges Scheme will be applied by BT to the connection charge applicable;
- (b) if it fails on one or more occasions to restore a failure of a High Bandwidth Private Circuit in accordance with the appropriate parameters of the Reduced Charges Scheme; BT will, at the end of the Reduced Charges Cycle, apply the Reduced Charges Scheme to the High Bandwidth Private Circuit rental for the period covered by the Reduced Charges Cycle. If Standard Care applies to the Customer's High Bandwidth Private Circuit and BT fails to restore a failure of the High Bandwidth Private Circuit in accordance with the parameters of the Reduced Charges Scheme, any claim for application of the Reduced Charges Scheme must be made within 2 months of restoration of the High Bandwidth Private Circuit.

- 15.4 The Customer must notify BT in writing within 2 months of the date of a bill, if there is a dispute concerning the application by BT of the Reduced Charges Scheme to the charges shown on the bill concerned.
- 15.5 Unless BT is negligent, BT's only liability under this Contract is as set out in the Reduced Charges Scheme.
- 15.6 Unless the Reduced Charges Scheme says otherwise, BT is not liable to the Customer for any loss of business, revenue, profit or expected savings, wasted expense, financial loss, goodwill (including pecuniary losses arising from loss of goodwill) or data being lost or corrupted or for any loss that could not have been reasonably foreseen.
- 15.7 Unless paragraphs 15.1 and 15.2 apply, BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £1 million in any 12 month period.
- 15.8 Each provision of this Contract, that excludes or limits BT's liability, operates separately. If any part is disallowed or is not effective, the other parts will still apply.

16. CHANGES TO THIS CONTRACT

- 16.1 BT can change the Contract (including the charges and any discount schemes) at any time.
- 16.2 BT will notify the Customer of any changes to the Contract by giving prior notice to the Customer which will be published online at www.bt.com/pricing (or any other online address that BT may advise the Customer) as follows:
- (a) For changes that are to the Customer's material detriment, at least 30 days before the change is due to take effect; and
 - (b) for all other changes, at least 14 days before the change is to take effect.

17. TRANSFERRING THIS CONTRACT

BT and the Customer can transfer this Contract, with the written consent of the other. It is agreed that BT can transfer this Contract to a BT Group Company.

18. NOTICES

If the parties need to write to each other, they must do so as follows:-

- (a) to BT, at any address which BT provides to the Customer or the address shown on the bill ;
- (b) to the Customer, at the address to which the Customer asks BT to send invoices, the address of the Premises or, if the Customer is a limited company, its registered office.

19. MATTERS BEYOND BT'S REASONABLE CONTROL

Neither party will be liable for any breach of this Contract which is caused by a matter beyond its reasonable control including Acts of God, fire, lightning, explosion, war, disorder, flood, industrial disputes (whether or not involving their employees), extremely severe weather or acts of local or central Government or other competent authorities.

20. THIRD PARTY RIGHTS

The parties agree that the terms of this Contract are not enforceable by a third party under the Contracts (Rights of Third Parties) Act 1999.