



# ***Conditions for VoIP Calls Commitment Scheme***

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# Conditions for VoIP Calls Commitment Scheme

## 1. DEFINITIONS

“**Committed Spend**” means the level of annual spend (gross of discount) which the Customer commits to, as specified in the Application Form;

“**Contract**” means this contract between the Customer and BT incorporating these terms and conditions, the BT Price List Entry and CRF;

“**Contract Period**” means a period specified by the Customer on the CRF commencing on the Operational Service Date or an anniversary of the Operational Service Date;

“**Customer**” means the person so named on the CRF and anyone reasonably appearing to BT to be acting with that person's authority or permission;

“**Customer Requirement Form**” (CRF) means a document to capture the Inventory and other Customer information to enable provision of the VoIP Calls Commitment Scheme.

“**Inventory**” means a document, disk, CD-ROM, or other electronic material attached to the CRF which contains details, as appropriate, of the lines, sites, telephone numbers and account numbers and any subsidiaries to which the VoIP Calls Commitment Charges are to be applied;

“**Operational Service Date**” means the date specified by BT on the CRF as the date by which it will have applied the VoIP Calls Commitment Charges to all the VoIP Calls Commitment Scheme in accordance with the details recorded in the CRF and commenced measurement of the Committed Spend;

“**Spend Measurement Date**” means the day and month date specified by BT on CRF as the date in each year on which BT will measure the Committed Spend against the Customer's actual annual spend;

“**Standard Contract**” means a contract on the BT standard terms and conditions applicable to the VoIP Calls Commitment Scheme provided or to be provided;

“**Subsidiary**” means a company that is either a subsidiary of the Customer or the Customer's holding company, as defined by Section 736 of the Companies Act 1985 as amended by the Companies Act 1989;

“**VoIP Calls Commitment Charges**” means the prices set out in the BT Price List entry applicable to Customers who have signed this Contract;

“**VoIP Calls Commitment Scheme**” means the services eligible for VoIP Calls Commitment discounts as defined in the BT Price List;

## 2. DURATION

2.1 This Contract begins on the date BT signs the CRF. The Contract Period begins on the Operational Service Date and will continue thereafter for a further Contract Period until terminated by either party in accordance with the provisions of this Contract.

## 3. COMMENCEMENT OF CONTRACT

3.1 BT agrees to provide the VoIP Calls Commitment Scheme specified in the Inventory for the Standard Contract as amended by paragraphs 4.2, 4.3, 4.4 and 6 of this Contract and the BT Price List Entry for VoIP Calls Commitment Scheme.

3.2 On signature of this Contract the Customer will deliver and confirm to BT the Inventory.

3.3 On the request of the Customer, the Customer's VoIP Calls Commitment Charges will be applied to the VoIP Calls Commitment Scheme of a Subsidiary. Any such request shall constitute a warranty from the Customer that it has the authority to vary the Subsidiary's Standard Contract in accordance with paragraph 3.1 and that the Subsidiary has given consent to BT to disclose billing information to the Customer. The Customer agrees to produce a copy of this authority if BT requests it.

3.4 BT will apply the VoIP Calls Commitment charges as soon as practical to each category of VoIP Calls Commitment Scheme by no later than the Operational Service Date.

## 4. INVENTORY CHANGES

4.1 During the Contract Period the Customer may request additional and new Standard Contracts to be included in the VoIP Calls Commitment Scheme and the Inventory will be amended by BT to record the change.

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- 4.2 In respect of new Standard Contracts BT will apply the VOIP Calls Commitment Charges from the date BT agrees with the Customer to provide the new Service or from the date the Customer uses the new Service which ever is earlier. In respect of existing Standard Contracts BT will apply the VOIP Calls Commitment Charges within 28 days of the Customer request.
- 4.3 At the time a VOIP Calls Commitment Scheme is added the relevant Standard Contract will be amended in accordance with this Contract.
- 5. VOIP CALLS COMMITMENT SPEND MEASUREMENT**
- 5.1 In respect of each Contract Period BT will measure the Committed Spend and the aggregate actual spend in that Contract Period of the Customer and any Subsidiary to whom paragraph 3.3 applies. This review will be undertaken on the Spend Measurement Date.
- 5.2 If on the Spend Measurement Date the actual annual spend, calculated in accordance with paragraph 5.1, is below the Committed Spend after discount, BT will apply the Reconciliation Charges as defined in paragraph 7 below.
- 6. CHARGES AND BILLING**
- 6.1 BT will submit a bill monthly or quarterly in arrears according to Customer choice. This provision will replace any reference to a different interval between bills in Standard Contracts. Each billing period BT will apply the VOIP Calls Commitment Charges incurred under the VOIP Calls Commitment Scheme.
- 7. RECONCILIATION**
- 7.1 Customers' actual annual spend will be assessed against Committed Spend after discount once a year, in accordance with the Customer's billing cycle. At that point the Customers actual spend is permitted to be up to 10% less than the annual or 2-year plus Committed Spend after discount. In year 1 of a 2 year plus contract the actual Customer spend is permitted to be up to 25% less than the annual Committed Spend after discount.
- 7.2 If the Customer's actual annual spend or 2 year plus committed spend after discount is more than 10% below the Committed Spend after discount, then BT will recover the discount overpaid and charge the Customer 20% of the difference between the actual expenditure and the Committed Spend after discount which will be raised on the next appropriate bill.
- 7.3 If the Customer's actual annual spend or 2 year plus committed spend is more than their Committed Spend and qualifies the Customer for a higher discount tier, the Customer may either:
- remain on their current tier, or
  - commit in writing to a higher Committed Spend qualifying them for a higher discount tier from the start of the next new Contract period.
- 8. TERMINATION**
- 8.1 Either party may give 7 days notice to the other to end this Contract. Termination of the Contract will occur on the Customer's next bill date following expiry of the 7 day notice period. If the Customer terminates this Contract before the end of a Contract Period, if applicable, the Customer must pay the termination charges as specified in the BT Price List.
- 8.2 The Customer may terminate this Contract by giving BT 7 days notice on the last 6 days of a Contract Period, or up to 28 days following the end of a Contract Period, without being liable in respect of the new Contract Period, for the termination charges referred to in paragraph 8.1 above. Termination of the Contract will occur on expiry of the 7-day notice period.
- 8.3 Notice of termination by the Customer shall constitute termination of this Contract by the Customer on behalf of all Subsidiaries.
- 8.4 On termination of this Contract, all VOIP Calls Commitment Charges will revert to the relevant Standard Contract including the applicable terms and conditions and the standard applicable charges as defined in the BT Price List.
- 9. BREACHES OF THIS CONTRACT**
- 9.1 Either party may terminate this Contract immediately, on notice, if the other:
- (a) commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within a reasonable time of written notice to do so; or

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- (b) commits a material breach of this Contract which cannot be remedied; or
- (c) is repeatedly in breach of this Contract; or
- (d) is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation or a receiver or administrator is appointed over their assets.

9.2 If either party delays on 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.

### 10. LIMITATION OF LIABILITY

- 10.1 BT accepts unlimited liability for death or personal injury resulting from its negligence. Paragraphs 10.2 and 10.3 do not apply to such liability.
- 10.2 BT is not liable to the Customer, either in contract, tort (including negligence) or otherwise for any direct or indirect loss of profits, business or anticipated savings, nor for any indirect loss or damage or for any destruction of data.
- 10.3 BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £250,000 for any one incident or series of related incidents and to £500,000 for all incidents in any period of 12 months.
- 10.4 Each provision of this Contract, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts will continue to apply.

### 11. GIVING NOTICE

- 11.1 Unless otherwise agreed or specified by BT, a notice given under this Contract must be in writing and may be delivered by hand or sent by pre-paid post to the addressees at the following addresses:

- (a) **To the Customer:** the address to which the Customer asks BT to send bills, or in the case of a limited company its registered office.
- (b) **To BT:** The address shown on the CRF or any alternative address which BT may specify from time to time.

### 12. CHANGES TO THIS CONTRACT

- 12.1 BT may from time to time change the terms and conditions of this Contract. BT will publish details of any changes (including operative date) in each of BT's main offices as soon as possible and in any event not less than 14 days before any change is due to take effect.
- 12.2 The Customer must inform BT immediately if there is a change to any of the information provided by the Customer to BT including changes to the Inventory under this Contract.
- 12.3 The Customer may increase the Committed Spend throughout the Contract Period, but cannot decrease the Committed Spend.
- 12.4 The Customer is responsible for notifying all of the Subsidiaries of any changes agreed with BT.

### 13. THIRD PARTY RIGHTS

- 13.3 A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.