



Conditions for Maintenance Services for Customer Premises Equipment

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SERVICE SCHEDULE

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1. INTERPRETATION

In this Contract:

“**BT**” means British Telecommunications plc of 81 Newgate Street, London EC1A 7AJ, registered in England No. 1800000.

“**BT Group Company**” means a subsidiary or holding company including a holding company, or a subsidiary of any such holding company, all as defined by Part 38 of the Companies Act 2006.

“**BT Price List**” means the document containing a list of Charges for the Service and which may contain definitions, notes, terms and conditions forming part of this Contract. The document can be seen at:
<http://www.bt.com/pricing>

(or any other address that BT may advise the Customer).

“**Contract**” means, in order of precedence, these Conditions, the Service Schedule, the BT Price List and the Order Form.

“**Customer**” means the person named on the Order Form. BT may accept instructions from another person who BT reasonably believes is acting with the Customer’s authority or knowledge.

“**Equipment**” means the equipment listed on the Order Form.

“**Maintenance Acceptance Test**” means an inspection which BT carries out in order to assess the suitability of the Equipment for the Service.

“**Minimum Period**” means the first 12 months of the Service or any other minimum period specified in the Order Form, starting on the date that the Service is first made available to the Customer.

“**Order Form**” means the form that details the Service to be ordered by the Customer which when signed by both parties will form part of this Contract.

“**Service**” means the Service or, where appropriate, part of the Service detailed in the Service Schedule to this Contract.

“**Site**” means a place at which BT agrees to provide the Service.

“**Working Day**” means any day between Monday and Friday, excluding Bank and Public Holidays.

“**Working Hours**” means the hours during which each Service option (as detailed in the Service Schedule) will operate.

2. COMMENCEMENT OF THIS CONTRACT

2.1 This Contract begins on the date that the Order Form is signed by both parties. BT may require the Equipment to pass a Maintenance Acceptance Test prior to commencement of the Service. The Service begins on the date that the Service is first made available to the Customer.

2.2 Orders placed for the Service are business to business transactions to which the Consumer Protection (Distance Selling) Regulations 2000 as amended by the Consumer Protection (Distance Selling) (Amendment) Regulations 2005 do not apply.

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- 2.3 Where the Equipment has failed the Maintenance Acceptance Test, either:
- (a) the Customer will authorise BT to carry out the remedial work required by BT to bring the Equipment to the appropriate software and hardware level and/or standard. The Customer agrees to pay BT's charges for such remedial work;
 - (b) the Customer will arrange at its own expense for the Equipment to be brought up to the appropriate software and hardware level and/or standard required by BT. BT will review the changes and may raise a charge for the second Maintenance Acceptance Test; or
 - (c) the Customer or BT can terminate this Contract on 30 days' written notice and the Customer will pay BT the relevant charges for the Maintenance Acceptance Test(s).

3. PROVISION OF THE SERVICE

- 3.1 BT will provide the Service to the Customer on the terms of this Contract.
- 3.2 BT will provide the Service with the reasonable skill and care of a competent telecommunications service provider.

4. ACCESS AND SITE REGULATIONS

- 4.1 To enable BT to carry out its obligations under this Contract, the Customer will provide BT employees and anyone acting on BT's behalf, who produces a valid identity card, with access at all reasonable times to any Site or any other premises outside BT's control. For the purposes of carrying out routine maintenance, BT will normally only require access between 08h00 and 17h00 Monday to Friday (excluding Public/Bank holidays) but may, on reasonable notice, require the Customer to provide access at other times. For the purposes of carrying out repair work, BT will require access during the hours of cover applicable to the fault repair service to be provided under this Contract.
- 4.2 BT employees and anyone acting on BT's behalf will observe reasonable Site regulations, as previously advised in writing to BT by the Customer. In the event of any conflict between the Site regulations and these Conditions, these Conditions will prevail.
- 4.3 BT and the Customer will meet each others reasonable requirements for the safety of people on any Site.

5. CONFIDENTIALITY

- 5.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under this Contract and will not, without the written consent of the other party, disclose that information to any person (other than their employees or professional advisers, or in the case of BT the employees of a BT Group Company or their suppliers, who need to know the information).

This paragraph 5 will not apply to:

- (a) any information which has been published other than through a breach of this Contract;

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- (b) information lawfully in the possession of the recipient before the disclosure under this Contract took place;
 - (c) information obtained from a third party who is free to disclose it; and
 - (d) information which a party is requested to disclose and, if it did not, could be required to do so by law.
- 5.2 If either BT or the Customer receives a demand from a lawful authority, regulatory authority or court to disclose any Confidential Information provided to it by the other, it may comply with such demand if it has:
- (a) satisfied itself that the demand is lawful;
 - (b) given the other party the maximum written notice permissible under the demand in which to make representations; and
 - (c) marked the required information as the Confidential Information of the other party.
- 5.3 The Customer and BT acknowledge that breach of paragraphs 5.1 and 5.2 may cause irreparable harm for which damages may not be an adequate remedy and that injunctive relief may be available for such breach.
- 5.4 Information BT holds about the Customer may be used for fraud prevention and credit vetting purposes and this may include BT sharing such information with third party companies including other communication companies.
- 5.5 Where the Freedom of Information Act 2000 applies to the Customer and the Customer receives a request under the Act that includes any information held by the Customer that was provided by BT in connection with this Contract the Customer will:-
- (a) notify BT immediately of the request; and
 - (b) give BT at least five Working Days to make representations.

This paragraph 5 will remain in effect for 2 years after the termination of this Contract.

6. CHARGES

- 6.1 The charges for the Service will be calculated in accordance with the BT Price List. Charging will begin from the date of commencement of the Service. BT will bill in pounds sterling and the Customer will pay all charges in pounds sterling.
- 6.2 BT may revise the charges in accordance with paragraph 12.2.
- 6.3 BT may revise the charges where the Customer has increased or decreased the quantity of Equipment as listed on the Order Form.
- 6.4 The Customer will pay the charges within 28 days of the date of BT's invoice. 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.
- 6.5 BT will make an additional charge for work arising out of any of the circumstances described in paragraph 2.2 of the Service Schedule.

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- 6.6 The Customer must pay BT's revised charges or single payment charges (or both) in respect of changes made to the Service in accordance with paragraph 12 of these Conditions.
- 6.7 All charges exclude VAT which is payable by the Customer and will be added to BT's invoice.
- 6.8 BT may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills.
- 6.9 The Customer is responsible for and must pay the charges for the Service whether the Service is used by the Customer or someone else.
- 6.10 If the Customer does not pay a bill, BT may instruct a debt collection agency to collect payment (including any interest and/or late payment charges) on its behalf. If BT instructs an agency, the Customer must pay BT an additional sum. This will not exceed the reasonable costs BT has to pay to the agency, who will add the sum to the Customer's outstanding debt on BT's behalf.
- 6.11 If any sum owed by the Customer to BT under the Contract or any contract with BT is not paid by the due date, BT may deduct this sum from any payment or credit due to the Customer under this Contract or any other contract with BT.
- 6.12 If the Customer disputes any charge on a bill the Customer will notify BT in writing within 14 days of the date of the bill with all relevant information. Where the disputed amount is:-
- (a) less than 5% of the total bill, the Customer will pay the full amount of the bill; or
 - (b) more than 5% of the total bill, the Customer must pay the amount not in dispute.
- Any disputes will be resolved promptly and the resolved amount if any is payable immediately.
- 6.13 BT may check the Customer's details with a fraud prevention agency. If the Customer provides information that BT reasonably believes to be false or incorrect and BT suspects fraud, BT may record this information with a fraud prevention agency. BT and other organisations may use and search this information.

7. LIMITATION OF LIABILITY

- 7.1 Neither the Customer or BT excludes or restricts in any way its liability under or in connection with the Contract for death or personal injury caused by its negligence or to any extent not permitted by law.
- 7.2 Subject to paragraphs 7.1 and 7.3, the Customer and BT's liability to the other under or in connection with this Contract for all and any direct loss or damage arising from any one incident or series of connected incidents in any period of 12 months is limited to the total charges payable under this Contract.
- 7.3 Neither the Customer or BT will be liable to the other (whether in contract, tort, under statute, for misrepresentation or otherwise (including in each case negligence) and whether or not the party concerned was advised in advance of the possibility of such loss or damage, for:
- (a) any of the following types of loss or damage whether direct, indirect or consequential howsoever arising under or in connection with this Contract or

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any part of it: loss of profit, loss of revenue, loss of anticipated savings, loss of opportunity, loss of business, wasted expenditure, loss from business interruption, loss of contracts, loss from expenditure of time by managers and employees, liability to third parties, pecuniary losses arising from goodwill, or loss of or damage to goodwill; or

(b) any indirect or consequential loss or damage whatsoever.

7.4 Nothing in this paragraph 7 or in this Contract excludes or limits the Customer's liability to pay (without set off) the charges.

7.5 Each part of this paragraph 7 operates separately. If any part of the paragraph is held by a Court to be unreasonable or inapplicable the rest of the paragraph will continue to apply.

7.6 The Customer is advised to obtain its own business continuity insurance.

8. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY

8.1 If the Customer or BT is prevented, hindered or delayed from performing any obligation under the Contract because of something beyond its reasonable control including: act of God, natural disaster, lightning, flood, subsidence, earthquake, weather conditions, epidemic, pandemic, fire, explosion, war, civil disorder, acts of terrorism, something beyond the reasonable control of its suppliers, industrial disputes, acts or omissions of local or central government or other competent authorities, or acts or omissions of parties for whom the Customer or BT is not responsible, change of law or any other cause whether similar or dissimilar that is outside its reasonable control, then it will have no liability to the other for any resulting failure, delay, defect or omission in performing its obligations under this Contract.

8.2 In the event of:

(a) a refusal or delay by a third party to supply a telecommunications service to BT and where there is no alternative service available at reasonable cost; or

(b) the imposition of restrictions of a legal or regulatory nature which prevent BT from supplying the Service.

then BT will have no liability to the Customer for failure to supply the Service.

8.3 If any of the events detailed in paragraphs 8.1 or 8.2 continue for more than 3 months either party may serve notice on the other terminating this Contract.

9. ESCALATION AND DISPUTE RESOLUTION

9.1 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:

(i) where appropriate, in accordance with the details set out in BT's Customer Complaints Code located at www.bt.com/complaintscode, copies of which are available on request; and

(ii) otherwise, as set out in paragraph 9.2 below.

9.2 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:

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- (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
- (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.

9.3 If the dispute is not resolved after the procedures detailed in paragraph 9.2 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:-

- (i) 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
- (ii) all negotiations on the dispute and any agreement reached will be kept confidential.

Nothing in this paragraph 9 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 this Contract.

10. TERMINATION OF THIS CONTRACT BY NOTICE

10.1 Subject to paragraphs 10.2, 10.3 and 10.4 below, this Contract will run for the Minimum Period and thereafter BT may terminate this Contract on 30 days' notice to the Customer.

10.2 The Customer may terminate this Contract by giving 30 days' written notice during the last 29 days of the Minimum Period or within a 30 day period following the end of the Minimum Period, without being liable for the termination charges detailed in paragraph 10.3 below. Termination of the Contract will occur on expiry of the 30 day notice period. If the Customer does not terminate this Contract during those two periods, the Contract will renew for a further Minimum Period.

10.3 If the Customer terminates this Contract during the Minimum Period the Customer must pay BT a termination charge of 30 per cent of the Contract value remaining at the date of termination.

10.4 Clause 10.3 will not apply if the Customer gives 30 days written notice to end the Contract within three months of BT giving notice under Clause 12.2 of either a notice of an increase to the charges above the Retail Price Index measured over the preceding 12 month period or a change to the Conditions of this Contract to the Customer's significant detriment.

10.5 If at any time (including during the Minimum Period) BT is unable to obtain support from its suppliers to enable it to provide the Service or any part of the Service, BT may, on giving as much prior notice as is reasonably possible to the Customer, terminate either its obligation to provide Service in respect of the Equipment specified in the notice or where applicable, this Contract.

11. BREACHES OF THIS CONTRACT

11.1 Either party may terminate this Contract or the Service (or both):

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- (a) immediately on notice if the other party commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do so; or
 - (b) immediately on notice if the other party commits a material breach of this Contract which cannot be remedied; or
 - (c) on reasonable notice if the other party is repeatedly in breach of this Contract and fails to remedy the breach within a reasonable time of a written notice to do so; or
 - (d) immediately on notice if the other party 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.
- 11.2 If BT is entitled to terminate this Contract under paragraph 11.1, BT may, on giving prior notice where practicable, suspend the Service without prejudice to such rights. Where the Service is suspended under this paragraph the Customer must pay the charges for the Service until this Contract is terminated.
- 11.3 If this Contract is terminated by BT during the Minimum Period because of an event specified in paragraph 11.1 the Customer must pay BT, without prejudice to any other rights BT may have, the termination charges specified in the BT Price List.
- 11.4 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.
- 11.5 Upon termination under either paragraph 10 or 11 of this Contract, the rights of BT and the Customer accrued up to the date of termination shall remain unaffected.

12. CHANGES TO THIS CONTRACT

12.1 Service

If the Customer asks BT to make any change to the Service BT may ask the Customer to confirm the request in writing. If BT agrees to a change, this Contract will be amended from the date when BT confirms the change in writing.

12.2 Conditions

BT can change this Contract (including the charges) at any time. BT will publish details of any relevant changes online at www.bt.com/pricing (or any other online address that BT may advise the Customer) no later than the day on which the changes take effect.

13. TRANSFER OF RIGHTS AND OBLIGATIONS

Neither party may transfer any of its rights or obligations under this Contract, without the written consent of the other, except that BT may transfer its rights or obligations (or both) to a BT Group Company without consent.

14. ENTIRE AGREEMENT

- 14.1 This Contract contains the whole agreement between the parties and supersedes all previous written or oral agreements relating to its subject matter.

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14.2 The parties 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 are for breach of this Contract and that all other rights and remedies are excluded.

14.3 The provisions of paragraphs 14.1 and 14.2 shall not affect the parties' rights or remedies in relation to any fraud or fraudulent misrepresentation.

14.4 A person who is not 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.

15. NOTICES

Notices given under this Contract shall be in writing and shall be sent by prepaid post, facsimile or email to the following addresses:

- (a) to BT at the address of the BT office shown on the Order Form or any alternative address which BT notifies to the Customer. Or to a facsimile number or email address as advised by BT to the Customer;
- (b) to the Customer at the address to which the Customer asks BT to send invoices, the address of a Site or, if the Customer is a limited company, its registered office. Or to a facsimile number or email address as advised by the Customer to BT.

16. SEVERABILITY

If any provision of this Contract is held invalid, illegal or unenforceable for any reason by any court or competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision omitted.

17. LAW & JURISDICTION

This Contract is governed by the law of England and Wales and both parties submit to the exclusive jurisdiction of the English courts.

18. DATA PROTECTION

The Customer and BT will comply with their respective obligations under the Data Protection Act 1998 and any data protection, privacy or similar laws that apply to any personal data processed in connection with the Contract. The Customer and BT will provide such help and co-operation as is reasonably necessary or requested by the other to enable compliance with this clause.