



CONTENTS

1. Interpretation
2. Commencement
3. Provision of the Service
4. Access and Site Regulations
5. Confidentiality
6. Charges
7. Limitation of Liability
8. Matters Beyond the Reasonable Control of Either Party
9. Escalation and Dispute Resolution
10. Termination of this Contract by Notice
11. Breaches of this Contract
12. Changes to this Contract
13. Transfer of Rights and Obligations
14. Entire Agreement
15. Notices
16. Severability
17. Law and Jurisdiction

SERVICE SCHEDULE



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 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.

“**Contract**” means, in order of precedence, these Conditions, the Service Schedule, 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.

“**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 during which the Working Hours for the relevant Service option apply.

“**Working Hours**” means the hours as detailed in the Service Schedule during which the Service operates.

2. COMMENCEMENT OF THIS CONTRACT

2.1 This Contract and the Service begin 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.

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. 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:

Conditions for Maintenance Service

- (a) any information which has been published other than through a breach of this Contract;
- (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 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 are detailed on the Order Form. Charging will begin from the date of commencement of the Service.

6.2 The Customer will pay the charges within 28 days of the date of BT's invoice. BT will have the right to charge daily interest on late payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 for the period beginning on the date on which payment is due and ending on the date on which payment is made.

6.3 BT will make an additional charge for work arising out of any of the circumstances described in paragraph 2.2 of the Service Schedule.

6.4 All charges exclude VAT which is payable by the Customer and will be added to BT's invoice.

7. LIMITATION OF LIABILITY

7.1 BT accepts unlimited liability for death or personal injury resulting from its negligence. Paragraphs 7.2 and 7.3 do not apply to such liability.

7.2 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.

7.3 BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £1 million for any

one incident or series of related incidents and to £2 million for all incidents in any period of 12 months.

7.4 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.

8. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY

8.1 If either party is unable to perform any obligation under this Contract because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes or acts of local or central Government or other competent authorities, or events beyond the reasonable control of that party's suppliers, that party will have no liability to the other for that failure to perform.

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 If a dispute arises between the parties to this Contract, the parties will use their reasonable endeavours to settle the dispute in accordance with the following procedures:

(a) a dispute which has not been settled by the Customer's representative and the BT representative within 7 days of the matter being raised, may be escalated by either party to the first level by written notice to the other party;

Conditions for Maintenance Service

- (b) if the dispute is not resolved at the first level within 7 days of escalation either party may refer the dispute to the second level.

The parties representatives and the people to whom a dispute must be escalated at the first and second levels are as notified by either party to the other, from time to time.

- 9.2 If a dispute is not resolved after the procedures set out in paragraph 9.1 have been followed then, if the parties agree, the dispute will be referred to a mediator:

- (a) the mediator will be appointed by agreement of the parties. In the event of a failure to agree within 3 days of a proposal by one party, the mediator will be appointed by the Centre for Dispute Resolution (CEDR);
- (b) within 14 days of the appointment of the mediator the parties will meet with the mediator in order to agree the procedure to be adopted for the negotiations;
- (c) all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings;
- (e) if the parties reach agreement on the resolution of the dispute the agreement will be put in writing and once signed by the parties will be binding on them;
- (f) if the parties are not prepared to agree to the dispute being referred to a mediator, or fail to reach agreement within 2 months of the mediator being appointed then either party may exercise any remedy that it has under this Contract.

10. TERMINATION OF THIS CONTRACT BY NOTICE

- 10.1 Subject to paragraphs 10.2 and 10.3 below, this Contract will run for the Minimum Period and thereafter either party may terminate this Contract on 30 day's notice to the other.
- 10.2 If the Customer terminates this Contract during the Minimum Period the Customer must pay BT an amount equal to the outstanding charges due in respect of the Minimum Period.

- 10.3 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):
 - (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, an amount equal to the outstanding charges due in respect of the Minimum Period.

Conditions for Maintenance Service

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.

12. CHANGES TO THIS CONTRACT

12.1 If the Customer and BT agree a change to this Contract, the change will be recorded in writing and will form part of this Contract when accepted by both the Customer and BT.

13. TRANSFER OF RIGHTS AND OBLIGATIONS

13.1 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.

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

15.1 Notices given under this Contract must be in writing and may be delivered by hand or by courier, or sent by first class post 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;
- (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.

16. SEVERABILITY

16.1 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 affect as if this Contract had been executed with the invalid, illegal or unenforceable provision omitted.

17. LAW & JURISDICTION

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