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CONDITIONS

1. PROVISION OF THE EQUIPMENT

- 1.1 The provisions of the Contract will not affect the statutory rights of a Customer who is acting for purposes which are outside the Customer's trade, business or profession.
- 1.2 Where an order is placed by the Customer acting for purposes which are related to the Customer's trade, business or profession, it will be deemed a business to business transaction to which the Consumer Protection (Distance Selling) Regulations 2000 as amended by the Consumer Protection (Distance Selling) (Amendment) Regulations 2005 do not apply.

Site Preparation and Access

- 1.3 If BT installs the Equipment the Customer:
- (a) agrees to prepare the Site according to any instructions BT may give and to provide BT with reasonable access to the Site for the purposes of the Contract; and
 - (b) will obtain any permission needed, including permission for any changes to the Site.
- 1.4 The Customer and BT will meet each other's reasonable safety and security requirements when on the Site. If the Customer or BT damages the other's equipment it must pay for any repair or replacement needed. This does not apply where the damage results from normal use.

Delivery and Installation

- 1.5 BT will try to supply and install the Equipment by any date agreed with the Customer, but all dates are estimates.
- 1.6 If the Customer delays or prevents the delivery or installation of the Equipment, BT may apply reasonable additional charges and/or claim a reasonable extension to any date agreed under clause 1.5. BT will notify the Customer in writing of any additional charges or charges will be as set out in the BT Price List, which the Customer will pay directly to BT.
- 1.7 The Customer is responsible for making the Site good, after any work undertaken by BT at the Site, including putting items back and for re-decorating.

2. ACCEPTANCE

- 2.1 If BT installs the Equipment, BT will test it to ensure that it is ready for use. Acceptance of the Equipment by the Customer will take place on the earlier of:
- (a) the date when BT notifies the Customer that the Equipment has passed BT's tests and is ready for use; or
 - (b) the date when the Customer begins to use the Equipment.
- 2.2 If BT does not install the Equipment, acceptance of the Equipment by the Customer will take place when the Customer takes delivery or possession of the Equipment.
- 2.3 Acceptance will not be prevented by minor faults that do not affect the Equipment's performance, but BT will fix those minor faults within a reasonable time.

3. CUSTOMER'S OBLIGATIONS

- 3.1 Until it has paid for the Equipment, the Customer will:
- (a) keep the Equipment safe and only use it in accordance with any instructions BT may give;
 - (b) not move the Equipment or any part of it from the Site;
 - (c) ensure that the Equipment is without risk to health;
 - (d) only use or allow the Equipment to be used for any purpose for which it is designed;
 - (e) not make any alterations or attachments to the Equipment without BT's prior written consent. If BT gives its consent, any alterations or attachments will become part of the Equipment;
 - (f) not sell, charge, assign, transfer or dispose of or part with possession of the Equipment or any part of it;
 - (g) not allow any lien, encumbrance or security interest over the Equipment, nor pledge the credit of BT for the repair of the Equipment or otherwise;

- (h) not claim to be owner of the Equipment and ensure that the owner of the Site will not claim ownership of the Equipment, even if the Equipment is fixed to the Site;
- (i) indemnify BT against all claims and proceedings arising from the Customer's use of the Equipment or if the Equipment is stolen or damaged as a result of the Customer's negligence or gross misconduct. The Customer will keep BT informed of anything which may affect the rights of BT, or involve BT in any proceedings, loss or liability.

- (a) the Equipment has been properly kept, used and maintained in accordance with the manufacturer's or BT's instructions, if any, and has not been modified except with BT's written consent; or
- (b) the fault is not due to accidental or wilful damage; interference with or maintenance of Equipment by persons other than BT; or
- (c) the fault is not due to faulty design by the Customer where the Equipment has been manufactured to the Customer's design.

4. RISK AND OWNERSHIP

- 4.1 Where the Contract includes delivery or installation, risk passes to the Customer on delivery of the Equipment, but the Customer will not be liable for any loss or damage that is caused by BT's negligence.
 - 4.2 Where the Contract does not include delivery or installation risk passes to the Customer when the Customer takes possession of the Equipment.
 - 4.3 Ownership of the Equipment, (except for the Intellectual Property Rights) will pass to the Customer on payment in full of the charges as detailed on the Order Form.
 - 4.4 Until payment in full:
 - (a) the Equipment will appear in the Customer's books in the name of BT; and
 - (b) in the event of Bankruptcy or threatened seizure of the Equipment, the Customer will immediately notify BT and BT may take action to repossess the Equipment. The Customer will also notify interested third parties of BT's ownership of the Equipment.
- 5.2 This guarantee does not cover fair wear and tear.
 - 5.3 Unless agreed otherwise by BT in writing, where Equipment is installed by the Customer, the Customer will normally be required to return faulty Equipment to BT (where necessary, by arrangement with the Customer).
 - 5.4 If the Customer reports a fault and BT finds there is none or that the Customer has caused the fault, BT may apply a charge.
 - 5.5 Except where the Customer relies on BT's written advice, it is the Customer's responsibility to satisfy itself as to the suitability of Equipment for its needs.
 - 5.6 BT does not warrant that the Software supplied under the Contract will be free of all faults or that its use will be uninterrupted, but BT will remedy those defects which significantly impair performance (where necessary by arrangement with the Customer) within a reasonable time.

5. GUARANTEE

- 5.1 If, for 12 months (or any other period notified to the Customer by BT in writing) from acceptance of the Equipment, BT is notified of a fault in the Equipment which is due to faulty design, manufacture or materials, or the negligence of BT, BT will where necessary by arrangement with the Customer, replace or (at its option) repair the faulty part free of charge provided that:

6. WEEE REGULATIONS

- 6.1 The Customer is responsible under Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2006 ("the WEEE Regulations") for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any equipment supplied under the Contract that has become waste electrical and electronic equipment ("WEEE"). BT and the Customer acknowledge that for the purposes of Regulation 9 this clause is an agreement stipulating other financing arrangements for the collection, treatment, recovery, recycling and environmentally sound disposal of WEEE.

The Customer is responsible for any information recording or reporting obligations imposed by the WEEE Regulations. The Customer will indemnify BT against any claims or legal proceedings that are brought or threatened against BT by a third party which would not have been caused or made had the Customer fulfilled its express or implied obligations under this clause or in connection with the WEEE Regulations. BT will notify the Customer of any such claims or proceedings and keep the Customer informed as to the progress of such claims or proceedings.

7. CHARGES AND PAYMENT

7.1 The charges are as detailed on the Order Form.

7.2 BT will send bills for any charges to the address notified by the Customer to BT.

7.3 Unless otherwise stated, charges:

- (a) include delivery within the UK.
- (b) are exclusive of VAT which is chargeable at the applicable rate.

7.4 If payment of any charge becomes subject to withholding tax, levy or similar payment obligation imposed by a foreign tax authority on sums due to BT under the Contract such withholding tax amounts will be borne and paid for by the Customer in addition to the sums due to BT. The Customer will provide BT without charge the appropriate certificate(s) from the relevant authorities confirming the amount of withholding taxes, levies or similar payments borne and paid for by the Customer.

7.5 As part of its credit management procedures BT may at any time

- (a) require the Customer to pay a deposit; and/or
- (b) carry out a credit vet of the Customer. The Customer agrees to provide BT with any information that BT may reasonably require for this.

7.6 Payment is due on the date specified on the bill.

Disputed Bills

7.7 If the Customer disputes any charge on a bill the Customer must notify BT in writing within 6

months 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.

Late Payment

7.8 If BT does not receive payment by the due date, BT may charge the Customer daily interest on late payments at a per annum rate equal to 7% above the base lending rate of the European Central Bank, compounded daily, for the period beginning on the date on which payment is due and ending on the date on which payment is made.

7.9 If the Customer does not pay a bill, BT may instruct a debt collection agency to collect payment (including any interest) 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.

7.10 If any sum owed by the Customer to BT under the Contract or any other contract the Customer has with BT is not paid by the due date, BT may deduct this sum from any payment or credit due to the Customer under the Contract or any other contract with BT.

Fraud Prevention

7.11 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.

8. CHANGING THE CONTRACT

8.1 The Contract cannot be varied without the written agreement of the parties, except that BT may make minor changes to the specification of the Equipment which do not affect its performance.

9. ENDING THE CONTRACT

9.1 BT may end the Contract at any time

(a) before BT delivers the Equipment or the Customer takes possession of the Equipment on 7 days written notice to the Customer;

(b) with immediate effect if the Customer:

(i) breaches the Contract and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by BT to do so. In this clause breach includes non-payment of any valid invoice by the due date; or

(ii) ceases to do business; or has bankruptcy or insolvency proceedings brought against it; or makes an arrangement with its creditors (other than where solely for solvent amalgamation or solvent reconstruction); or a receiver, administrative receiver or administrator is appointed over any of its assets; or it goes into liquidation; or a notice is given, a petition is issued, a resolution is passed or any other step is taken to commence any of the foregoing procedures; or there is a corresponding event under Scottish law.

9.2 The Customer may:

(a) cancel an order prior to delivery and if it does so agrees to pay BT by way of compensation a cancellation charge, as notified by BT to the Customer or as set out in the BT Price List, which may include;

(i) BT's charges for order processing and management; and/or,

(ii) BT's charges for Equipment returns; and/or

(iii) the full charges for the Equipment and any Software.

BT will try to keep such charges to a minimum.

(b) end the Contract if

(i) BT materially breaches the Contract and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by the Customer to do so; or

(ii) BT ceases to do business; or has bankruptcy or insolvency proceedings brought against it; or makes an arrangement with its creditors (other than where solely for solvent amalgamation or solvent reconstruction); or a receiver, administrative receiver or administrator is appointed over any of its assets; or it goes into liquidation; or a notice is given, a petition is issued, a resolution is passed or any other step is taken to commence any of the foregoing procedures; or there is a corresponding event under Scottish Law.

10. LIMITATION OF LIABILITY

10.1 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.

10.2 Subject to clauses 10.1 and 10.3, the Customer and BT's liability to the other under or in connection with the Contract for all and any direct loss or damage for all incidents is limited to a total of;

(a) £1,000,000 for loss of or damage to physical property; and

(b) for all other loss or damage, the greater of either

(i) £25,000; or

(ii) 125% of the amounts payable by the Customer under the Contract.

10.3 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 the Contract or 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 or destruction of data, 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.

10.4 Nothing in this clause 10 or in the Contract excludes or limits the Customer's liability to pay (without set off) the charges.

10.5 The limitations of liability referred to in clauses 10.2 and 10.3 will not apply in respect of claims brought under clauses 3.1(i), 11.5 or 11.6.

10.6 Each part of this clause 10 operates separately. If any part of the clause is held by a Court to be unreasonable or inapplicable the rest of the clause will continue to apply.

11. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

Intellectual Property

11.1 All Intellectual Property Rights whether pre-existing or created by the Customer or BT during or arising from the performance of the Contract will remain the absolute property of that party or its licensors.

11.2 If Software is provided to enable the Customer to use the Equipment, BT grants the Customer a non-exclusive and non-transferable licence to use the Software in object code form solely as necessary for its own use of the Equipment and solely in accordance with the Contract and the applicable documentation.

11.3 If the Customer is supplied with Software licensed by third parties who require the

Customer to accept their terms of use, the Customer must keep to those terms.

11.4 Except as permitted by applicable law or as expressly permitted under the Contract the Customer agrees not to copy, de-compile or modify any Software, or knowingly permit anyone else to do so.

11.5 BT will indemnify the Customer against all claims and proceedings arising from infringement of any third party's Intellectual Property Rights by BT's provision of the Equipment to the Customer. This indemnity will not apply to claims or proceedings arising from:

- (a) use of the Equipment or Software in conjunction or combination with other equipment or software or any other service not supplied by BT; or
- (b) any unauthorised modification of the Equipment or Software; or
- (c) content, designs, specifications or software supplied by or on behalf of the Customer; or
- (d) use of the Equipment or Software other than in accordance with the Contract; or
- (e) breach by the Customer of clause 11.3.

In relation to any claim or allegation of infringement the Customer will promptly notify BT in writing and must not make any admission without BT's prior written consent. The Customer will allow BT sole conduct of all negotiations and proceedings and give BT all reasonable assistance in doing so. BT will pay the Customer's reasonable expenses for such assistance.

11.6 If the Equipment becomes, or BT believes it is likely to become, the subject of a claim of infringement of any Intellectual Property Rights BT, at its option and expense, may:

- (a) secure for the Customer a right of continued use: or
- (b) modify or replace the Equipment so that it is no longer infringing, provided that modification or replacement must not materially affect the performance of the Equipment.

If the indemnity in clause 11.5 applies and none of the remedies in this clause is available to BT on reasonable terms, BT may notify the Customer and collect the Equipment from the Site and refund the Customer the sums paid to BT for the Equipment.

- 11.7 The indemnity in clause 11.5 sets out the Customer's sole and exclusive remedy for infringement of Intellectual Property Rights.

Confidentiality

- 11.8 Subject to clause 11.9, BT and the Customer will keep in confidence all Confidential Information obtained under or in connection with the Contract and will not disclose it to any party other than in confidence to:

- (a) their employees or employees of their Group Companies; or;
- (b) their professional advisers; or
- (c) in the case of BT, employees of their subcontractors or suppliers who have a need to know such Confidential Information and to the extent necessary for performance of the Contract or use of the Equipment.

- 11.9 Clause 11.8 will not apply to information which is:

- (a) in the public domain other than through a breach of the Contract; or
- (b) in the possession of the Customer or BT without confidentiality restriction before disclosure under the Contract; or
- (c) developed by the receiving party independently of and without access to Confidential Information obtained under the Contract.

- 11.10 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.

- 11.11 The Customer and BT acknowledge that breach of clauses 11.8 to 11.10 may cause irreparable harm for which damages may not be an adequate remedy and that injunctive relief may be available for such breach.

- 11.12 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.

- 11.13 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 the Contract the Customer will:

- (a) notify BT immediately of the request; and
- (b) give BT at least five Working Days to make representations.

12. GENERAL TERMS

Matters Beyond Reasonable Control

- 12.1 (a) 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 the Contract.

- (b) BT will not be liable for failure to or delay in supplying the Equipment if legal or regulatory restrictions are

imposed that prevent BT from supplying the Equipment.

- (c) If any of the events detailed in clauses 12.1(a) or 12.1(b) materially affects the performance of the Contract and continues for more than three months then the Customer or BT may terminate the Contract in whole or part by written notice to the other.

Escalation and Dispute Resolution

- 12.2 (a) BT will try to work through any 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 clause 12.2 (b).

- (b) 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

(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.

- (c) If the dispute is not resolved after the procedures detailed in clause 12.2(b)

have been followed then the parties agree to consider resolving the dispute by an Alternative Dispute Resolution (ADR) mechanism, including but not limited to:

(i) early neutral evaluation in accordance with the IDRS (Dispute Resolution Services) Model Early Neutral Evaluation Procedure; or

(ii) expert non-binding determination in accordance with the IDRS Cost-Controlled Expert Determination Procedure; or

(ii) mediation in accordance with the IDRS Cost-Controlled Mediation Procedure.

(d) Any ADR will be conducted in London and in the English language.

(e) Nothing in this clause 12.2 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.

Transfer of Rights and Obligations

- 12.3 The Customer and BT may not transfer any of their rights or obligations under the Contract without the written consent of the other, except that:

(a) The Customer may transfer its rights or obligations or both to a Group Company with the written consent of BT, such consent not to be unreasonably withheld or delayed; and

(b) BT may transfer its rights or obligations or both to a Group Company without consent provided that it notifies the Customer that it has done so.

Severability

- 12.4 If any term of the Contract is held invalid, illegal or unenforceable by any court of competent jurisdiction, it will be severed and the remaining terms will continue in full force as if the Contract had been made without the invalid, illegal or unenforceable terms.

Survival

- 12.5 Subject to clause 11.3, clause 11.2 will survive the termination or expiry of the Contract and clauses 11.8 to 11.13 will survive the termination or expiry of the Contract for two years.

Entire Agreement

- 12.6 (a) The Contract contains the entire agreement between the Customer and BT and supersedes all previous understandings, commitments, representations, agreements, draft agreements, arrangements, undertakings, or prior collateral contracts of any nature made by the Customer and BT, whether written or oral relating to its subject matter.
- (b) The Customer and BT each agree that in entering into the Contract they have not relied upon and have no rights or remedies (whether in tort, under statute or otherwise) in respect of any statements, collateral or other warranties, assurances, undertakings or representations (whether innocently or negligently made) of any party (whether party to the Contract or not) in relation to the subject matter of the Contract, except for those contained in the Contract.
- (c) Nothing in this clause 12.6 excludes or restricts the liability of either the Customer or BT to the other arising out of pre-contract fraudulent misrepresentation or fraudulent concealment.

Waiver

- 12.7 A failure or delay by the Customer or BT to exercise any right or act upon a breach under the Contract will not be a waiver of that right or breach. If the Customer or BT waives a right or breach of the Contract, that waiver is limited to the particular right or breach.

Rights of Third Parties

- 12.8 The Contract does not create any right enforceable by any party who is not the Customer or BT (a "Third Party") under the Contract (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a Third Party which exists or is available apart from that Act.

Notices

- 12.9 Notices given under the Contract must be in writing and delivered by hand, email or first class post to the following addresses:
- (a) to BT at the address shown on the bill or any address (including email address) which BT provides to the Customer for this purpose; or
- (b) to the Customer at any one or more of the following: the address to which the Customer asks BT to send bills or the address of the Site or the Customer's primary email address or if the Customer is a limited company, its registered office.

This clause does not apply to notices given under clause 7.2.

Law and Jurisdiction

- 12.10 The Contract is governed by the law of England and Wales and is subject to the non-exclusive jurisdiction of the English courts.

Data Protection

- 12.11 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.

Security

- 12.12 The Customer is responsible for the proper use of any IDs, user names, personal identification numbers and passwords used with the Equipment, and must take all necessary steps to ensure they are kept confidential, secure and not made available to unauthorised persons.
- 12.13 BT does not guarantee the security of the Equipment against unauthorised or unlawful access or use.

Customer's Instructions

- 12.14 BT may take instructions from a person whom it thinks, with good reason, is acting with the Customer's permission.

13. DEFINITIONS

13.1 In the Contract the following terms have the meanings shown next to them:

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

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

Conditions These Conditions of Sale

Confidential Information any information (including know-how, trade secrets, software or data) of a confidential nature which is obtained under the Contract whether such information is in written, oral or any other form and whether or not marked as confidential

Contract this agreement between BT and the Customer comprising the following documents in order of precedence:

the Order Form;
the Conditions;
and any other documents expressly incorporated by any of these documents or by agreement between the Customer and BT

Customer The party with whom BT contracts to provide the Equipment

Equipment Each item of equipment, including any Software

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

Intellectual means any patent, petty

Property Right(s) patent, copyright, database right, design right, community design right, semiconductor topography right, registered design, rights in confidential information and know-how, or any similar right in any part of the world and will include any applications for the registration of any such rights capable of registration in any part of the world.

Order Form the document that sets out the Equipment to be supplied under the Contract

Site the place at which the Equipment is delivered

Software any software and associated written and electronic documentation and data provided by BT under the Contract

Working Day any day between Monday and Friday, excluding bank and public holidays