



Conditions for Redcare Alarm Monitoring Services

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Conditions for Redcare Alarm Monitoring Services

1. INTERPRETATION

In this Contract:

“**Access Circuit**” means a copper-wire telecommunication connection between an End User’s premises and the local BT telephone exchange;

“**Affiliate**” means any legal entity that directly or indirectly controls, is controlled by or is under common control with a party;

“**Analogue Redcare Network**” means the network provided by BT that supports the operation of the Service;

“**Annex**” means any annex to a Service Schedule that describes a Service or sets out the specific terms that apply to it;

“**Applicable Law**” means the laws of England and Wales and any laws and regulations, as may be amended from time to time, that apply to the provision or receipt of a Service, including:

(a) anti-corruption laws set out in the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America; and

(b) all applicable export laws and regulations, including those of the United States of America;

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

“**BT Equipment**” means equipment (including any software) placed on a Customer’s or End User’s premises for the provision of the Service;

“**BT Group**” means BT Group plc and its Affiliates;

“**BT Group Company**” means a BT subsidiary or holding company, or a subsidiary of that holding company, all as defined by Section 736 of the Companies Act 1985, as amended by the Companies Act 1989;

“**BT Privacy Policy**” means the policy that BT has implemented and may update from time to time on how it Processes Personal Data and that is set out at: <http://www.btplc.com/privacycentre/index.htm>;

“**Confidential Information**” means 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**” means, in order of precedence, any Annexes, the Service Schedule, these Conditions, the Electronic Trading System and any Orders;

“**Customer**” means the party with whom BT contracts to provide the Service;

“**Customer Contact**” means any individuals authorised to act on the Customer’s behalf for Service management matters;

“**Customer Personal Data**” means only the proportion of Personal Data where the Customer is the Controller and that BT needs to Process on the Customer’s behalf as a Processor in providing the Services to the Customer under the Contract;

“**Data Protection Legislation**” means collectively (i) any applicable laws of the European Union, (ii) any applicable local laws relating to the Processing of Personal Data and the protection of an individual’s privacy, (iii) the GDPR, and (iv) any binding guidance or code of practice issued by a Supervisory Authority;

“**Electronic Trading System**” means the online site made available to the Customer for the purpose of ordering the Service;

“**End User**” means any person, firm or company with whom the Customer has an agreement to provide an alarm monitoring or telemetry service, and may include the Customer themselves;

“**EU-US Privacy Shield**” means a legal framework adopted by the European Commission in its adequacy decision of 12 July 2016 that ensures an adequate level of protection for Personal Data transferred from the European Union to organisations in the United States that have self-certified to the EU-US Privacy Shield;

“**GDPR**” means the General Data Protection Regulation (EU) 2016/679 and any amendment or replacement to it, (including any corresponding or equivalent national law or regulation that implements the GDPR);

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“Intellectual Property Right(s)” means any patent, petty 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;

“Minimum Period” means 12 months beginning on the Operational Service Date, unless stated otherwise in the Service Schedule. A further minimum period of 12 months or such other period set out in the Service Schedule may apply in respect of each new STU, facility added or change made to the Service;

“Monitoring Equipment” means the equipment operated by the Customer for receiving and monitoring signals from STUs;

“Operational Service Date” means the earlier of the date when the Service is first made available to the Customer or the date when the Customer first starts to use the Service;

“Redcare System” means a telecommunications system operated by BT for conveying alarm and monitoring signals;

“Service” means the service or, where appropriate, part of a service described in the Service Schedule to this Contract;

“Service Schedule” means any schedule that describes a Service and sets out the specific terms that apply to it, and includes any Annexes for that Service except for the purposes of the order of precedence set out in the definition of Contract.

“Sub-Processor” means a BT Affiliate or BT's supplier or subcontractor that BT engages to Process Customer Personal Data for the purposes of the Contract.

“Subscribers Terminating Unit (STU)” means the device provided by the Customer and located on the End User's premises for the purpose of transmitting to and receiving signals from the Monitoring Equipment;

“Volume Connection Move” means the transfer of multiple Services from one Customer to another Customer;

“Working Day” means Monday to Friday between the hours of 9:00 a.m. and 5:00 p.m., excluding Public and Bank Holidays.

2. COMMENCEMENT OF THIS CONTRACT

This Contract begins on the date that the Customers order is accepted by BT.

3. PROVISION OF THE SERVICE

3.1 BT will provide the Service to the Customer on the terms of this Contract.

3.2 When placing an order for connection to the Analogue Redcare Network, the Customer must ensure that a suitable BT exchange line exists at the End User's premises within 15 metres of where the alarm panel is to be fitted.

3.3 BT will use reasonable endeavours to provide the Service by the date agreed with the Customer, but unless otherwise stated in the Service Schedule all dates are estimates and BT has no liability for any failure to meet any date, unless the Service Schedule says otherwise.

3.4 BT will provide the Service with the reasonable skill and care of a competent telecommunications service provider.

3.5 It is technically impracticable to provide a fault free Service and BT does not undertake to do so. BT will however repair any faults in the Service in accordance with the fault repair service it has agreed to provide to the Customer.

3.6 Where the End User's premises are designated as a 'Hot Site' by an Electricity Company, Service will not be available.

3.7 Occasionally BT may:

- (a) for operational reasons, change the codes or the numbers allocated to the Customer or the technical specification of the Service, provided that any change to the technical specification does not materially affect the performance of the Service; or
- (b) suspend the Service for operational reasons such as maintenance or because of an emergency; or
- (c) give the Customer instructions which it believes are necessary for reasons of health, safety or the quality of any telecommunications service provided by BT to the Customer or any other customer.

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BT will give the Customer as much notice as possible before taking any of the above actions and if it is necessary to suspend the Service will, whenever practicable, agree with the Customer when this will happen.

3.8 Connections that are moved as part of a Volume Connection Move will retain their existing Minimum Period expiry dates.

4. BT EQUIPMENT

4.1 The Customer will, at its own expense, to enable the installation and use of the BT Equipment:

- (a) obtain all necessary consents, including consents for any necessary alterations to buildings;
- (b) provide a suitable environment and accommodation, including any necessary trunking, conduits and cable trays;
- (c) take up or remove, any fitted or fixed floor coverings, ceiling tiles, suspended ceiling and partition covers, as BT advises are necessary, and carry out afterwards any making good or decorator's work required; and
- (d) provide any electricity and connection points required by BT.

All preliminaries must be completed in advance of any installation work.

4.2 The Customer is responsible for the BT Equipment and must not add to, modify or in any way interfere with the BT Equipment, nor allow anyone else (other than someone authorised by BT) to do so. The Customer will be liable to BT for any loss of or damage to the BT Equipment, except where such loss or damage is due to fair wear and tear, or is caused by BT or anyone acting on BT's behalf.

5. CONNECTION OF EQUIPMENT TO THE SERVICE

5.1 Any equipment connected to or used with the Service must be connected and used in accordance with any instructions, safety and security procedures applicable to the use of that equipment.

5.2 Any equipment, which is attached (directly or indirectly) to the Service, must be technically compatible with the Service and approved for that purpose under any relevant legislation.

6. ACCESS AND SITE REGULATIONS

6.1 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 to the Customer's premises and any other premises outside BT's control, at all reasonable times. BT will normally only require access during its usual working hours but may, on reasonable notice, require the Customer to provide access at other times. BT may agree to work outside its usual working hours, but the Customer must pay BT's additional charges for doing so.

6.2 BT employees and anyone acting on BT's behalf will observe the Customer's reasonable site regulations as previously advised in writing to BT. In the event of any conflict between the site regulations and these Conditions, these Conditions will prevail.

6.3 The Customer will provide a suitable and safe working environment for BT employees and anyone acting on BT's behalf.

7. USE OF THE SERVICE

7.1 The Service must not be used in a way that does not comply with:

- (a) the terms of any legislation or any licence applicable to the Customer or that is in any way unlawful; or
- (b) any instructions given under clauses 3.7(c) and 5.1 or
- (c) the Customer's obligations under this Contract.

7.2 The Customer shall maintain and use the Service for the purposes for which it is provided. BT reserves the right to suspend the Service if not properly maintained or if used for other purposes.

7.3 BT may suspend the Service if BT believes that this is necessary for reasons of security or if the Customer is conducting its business illegally or for an illegal purpose.

8. INDEMNITIES

8.1 The Customer must indemnify BT against any claims or legal proceedings which are brought or threatened against BT by a third party because:

- (a) the Service is used in breach of clause 7.1; or

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- (b) the Service is faulty or cannot be used by that third party.

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.

9. CONFIDENTIALITY

9.1 Subject to clause 9.2 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

who have a need to know such Confidential Information and to the extent necessary for performance of the Contract or use of the Service.

9.2 Clause 9.1 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) obtained from a third party who has a lawful right to disclose it; or
- (d) developed by the receiving party independently of and without access to Confidential Information obtained under the Contract.

9.3 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.

9.4 The Customer and BT acknowledge that breach of clauses 9.1 to 9.3 may cause irreparable harm for which damages may not be an adequate remedy and that injunctive relief may be available for such breach.

9.5 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.

9.6 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.

10 DATA PROTECTION

10.1 In this Contract, the following terms each have the meaning given to it in the GDPR: "Binding Corporate Rules", "Controller", "Data Subject", "Personal Data", "Personal Data Breach", "Processing", "Processor" and "Supervisory Authority".

10.2 Notwithstanding any other provision in the Contract, for BT to provide a Service, Personal Data may be:

10.2.1 used, managed, accessed, transferred or held on a variety of systems, networks and facilities (including databases) worldwide; or

10.2.2 transferred by BT worldwide to the extent necessary to allow BT to fulfil its obligations under this Contract and the Customer appoints BT to perform each transfer in order to provide the Services provided that BT will rely on appropriate transfer mechanisms permitted by Data Protection Legislation, including:

- (a) BT Group's Binding Corporate Rules (for transfers among BT's Affiliates);
- (b) agreements incorporating the relevant standard data protection clauses adopted by the European Commission; and

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- (c) where applicable, the EU-US Privacy Shield.
- 10.3 BT will be either Controller, Processor or both under the Contract depending on the type of Personal Data Processed and the purpose of the Processing.
- 10.4 If BT acts as a Controller:
- 10.4.1 BT may collect, Process, use or share Personal Data with BT Affiliates and Sub-Processors, within or outside the country of origin in order to do any or all of the following:
- (a) administer, track and fulfil orders for the Service;
 - (b) implement the Service;
 - (c) manage and protect the security and resilience of any BT Equipment, the BT Network and the Services;
 - (d) manage, track and resolve Incidents (as defined in the Service Schedule) with the Service as set out in the Service Schedule(s);
 - (e) administer access to online portals relating to the Service;
 - (f) compile, dispatch and manage the payment of invoices;
 - (g) manage the Contract and resolve any disputes relating to it;
 - (h) respond to general queries relating to the Service or Contract; or
 - (i) comply with Applicable Law;
- 10.4.2 BT will Process the Personal Data in accordance with applicable Data Protection Legislation, and as set out in the BT Privacy Policy and, where applicable, BT Group's Binding Corporate Rules; and
- 10.4.3 BT may, from time to time, contact the Customer Contact, or other network, IT or procurement manager involved in the procurement or management of the Service, to provide additional information concerning the Service, or other similar services.
- 10.5 If BT acts as a Processor:
- 10.5.1 the subject-matter, duration, nature and purpose of the Processing, the type of Customer Personal Data and categories of Data Subjects will be set out in the applicable Annex that can be found online at www.bt.com/terms;
- 10.5.2 in order to perform its obligations under the Contract, BT will:
- (a) Process the Customer Personal Data on behalf of the Customer in accordance with the Customer's documented instructions as set out in clause 10.5.11, except where:
 - (i) Applicable Law requires BT to Process the Customer Personal Data otherwise, in which case, BT will notify the Customer of that requirement before Processing, unless to do so would be contrary to that Applicable Law on important grounds of public interest;
 - (ii) in BT's reasonable opinion an additional instruction or a change to the instructions provided by the Customer in accordance with clause 10.5.11 infringes the Data Protection Legislation and BT will inform the Customer of its opinion without undue delay and will not be required to comply with that instruction;
 - (b) to protect the Customer Personal Data against a Personal Data Breach, implement technical and organisational security measures, including those that may be set out in the Service Schedule, that are appropriate to the risk represented by BT's Processing and the nature of the Customer Personal Data being Processed;
 - (c) provide notice to the Customer without undue delay after becoming aware of a Personal Data Breach affecting the Customer Personal Data;
 - (d) only use the Sub-Processors approved by the Customer by entering into the Contract or in accordance with clause 10.5.9; and
 - (e) assist the Customer in its compliance with the Data Protection Legislation, taking into account the nature of the Processing of the Customer Personal Data and the information available to BT, relating to:

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- (i) its obligation to respond to lawful requests from a Data Subject, to the extent practicable;
 - (ii) the security of the Processing of the Customer Personal Data;
 - (iii) notification of a Personal Data Breach affecting the Customer Personal Data to the Supervisory Authority or the Data Subjects; and
 - (iv) a data protection impact assessment as may be required by Article 35 of the GDPR and prior consultation with the Supervisory Authority,
- (b) the Customer (or its third party auditor) will comply with BT's relevant security policies and appropriate confidentiality obligations; and
 - (c) the Customer will reimburse BT's reasonable costs associated with the audit and, where BT conducts an audit of its Sub-Processors to demonstrate BT's compliance with its obligations set out in clauses 10.5, those of its Sub-Processors;

and the Customer will reimburse BT's reasonable costs for this assistance except for the assistance set out in clause 10.5.2(e)(iii) where a Personal Data Breach affecting the Customer Personal Data occurred as a direct result of a breach of BT's obligations set out in clause 10.5.2(b)

10.5.3 unless Applicable Law requires BT to store a copy of the Customer Personal Data, upon expiry or termination of the Contract and at the Customer's option, BT will delete or return the Customer Personal Data within a reasonable time period and the Customer will reimburse BT's reasonable costs for this deletion or return of the Customer Personal Data;

10.5.4 BT will make available to the Customer the information demonstrating BT's compliance with its obligations set out in clause 10.5, and, subject to 30 days' notice from the Customer, allow for and reasonably cooperate with the Customer (or a third party auditor appointed by the Customer) to audit this compliance at reasonable intervals (but not more than once per year), so long as:

- (a) the audit will:
 - (i) not disrupt BT's business;
 - (ii) be conducted during Working Days;
 - (iii) not interfere with the interests of BT's other customers;
 - (iv) not cause BT to breach its confidentiality obligations with its other customers, suppliers or any other organisation; and
 - (v) not exceed a period of two successive Working Days;

10.5.5 BT may demonstrate its compliance with its obligations set out in clause 10.5 by adhering to an approved code of conduct, by obtaining an approved certification or by providing the Customer with an audit report issued by an independent third party auditor (provided that the Customer will comply with appropriate confidentiality obligations and not use this audit report for any other purpose);

10.5.6 BT will not disclose Customer Personal Data to a third party unless required for the performance of the Service, permitted under the Contract or otherwise required by Applicable Law;

10.5.7 BT will ensure that persons authorised by BT to Process the Customer Personal Data will be bound by a duty of confidentiality;

10.5.8 BT may use Sub-Processors in accordance with clause 19 and will ensure that data protection obligations in respect of Processing Customer Personal Data equivalent to those set out in clause 10.5 will be imposed on any Sub-Processors;

10.5.9 BT will inform the Customer of proposed changes to BT's Sub-Processors from time to time by either:

- (a) providing the Customer with online notice of the intended changes at www.bt.com/terms and the Customer will have 30 days starting from the first Working Day of the calendar month following the date of the online notice to object to the change; or,
- (b) giving the Customer notice in accordance with clause 21 and the Customer will have 30 days starting from the date of the notice to object to the change, and

if the Customer does not object in accordance with clauses 10.5.9(a) or 10.5.9(b), the Customer will be deemed to have authorised the use of the new Sub-Processors;

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- 10.5.10 the Customer may object to the use of a new Sub-Processor by giving notice in accordance with clause 21 documenting material concerns that the Sub-Processor will not be able to comply with the Data Protection Legislation, and if such notice is received within the time required by clause 10.5.9, both parties will address the Customer's objection in accordance with the process set out in clause 14 and BT may use the relevant Sub-Processor to provide the Service until the objection is resolved in accordance with clause 14;
- 10.5.11 the Contract contains the Customer's complete instructions to BT for the Processing of Customer Personal Data and any additional instructions or changes to the instructions will be incorporated into this Contract in accordance with clause 18.1 to take account of any resulting change in the Charges or the Service;
- 10.5.12 the Customer will comply with applicable Data Protection Legislation and will fulfil all the requirements necessary for the provision of the Service by BT, including providing any notifications and obtaining any regulatory approvals or consents required when sharing Personal Data with BT; and
- 10.5.13 the Customer will only disclose to BT the Personal Data that BT requires to perform the Service.
- 10.6 If permitted by Applicable Law:
- 10.6.1 a party in breach of the Data Protection Legislation or this clause 10 will be liable to the other for any losses, costs and liabilities (including those arising from Claims) incurred or suffered by the other party where those losses, costs and liabilities are caused by, or in connection with, that breach including where the parties are jointly and severally liable; and
- 10.6.2 where the parties are jointly and severally liable for a Claim caused by Processing neither party will make any payment or any offer of payment to any Data Subject (including third parties acting on behalf of any Data Subject) in response to any Claim caused by or relating to the Processing of Personal Data, without the prior written agreement of the other party.
- 10.7 Where each party acts as a Controller in relation to the Processing of Personal Data under the Contract, the parties will not act as joint Controllers for the purposes of Article 26 of the GDPR in relation to such Processing.
- 10.8 BT may make amendments to the Contract to reflect changes to BT's security measures, policies and processes to enable BT to comply with the Data Protection Legislation.
- 11. CHARGES AND DEPOSITS**
- 11.1 The charges for the Service will be as shown within the News Flash section of the Electronic Trading System, Service Schedule or any other notices in accordance with clause 21. Charging will begin on the Operational Service Date. Charges for use of the Service will be calculated in accordance with the details recorded by, or on behalf of, BT.
- 11.2 Where charges are changed, this change will take effect on the first twelve (12) month anniversary date, or subsequent twelve (12) month anniversary date following the Operational Service Date, unless otherwise notified by BT.
- 11.3 The Customer will pay the charges within 30 calendar days of the date of BT's invoice. BT may charge daily interest on late payments at a rate equal to 8% per annum above the base-lending rate of the Bank of England.
- 11.4 BT may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills. BT's procedures for deposits are published in its major offices.
- 11.5 All charges and any other sums payable under this Contract are exclusive of any applicable value added tax, sales tax or other taxes, fees or surcharges, which shall be charged in accordance with the applicable law and payable by the Customer. Early termination charges will not be subject to value added tax.
- 12. LIMITATION OF LIABILITY**
- 12.1 Neither the Customer nor 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.
- 12.2 Subject to clauses 12.1 and 12.3, the Customer and BT's liability to the other under or in connection with the Contract for all and any direct loss or damage arising from any one incident or series of connected incidents in any period of 12 months 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.

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- 12.3 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 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.
- 12.4 Nothing in this clause 12 or in the Contract excludes or limits the Customer's liability to pay (without set off) the charges.
- 12.5 Each part of this clause 12 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.
- 13. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY**
- 13.1 (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 its obligations under the Contract.
- (b) BT will not be liable for failure to or delay in supplying the Service if:
 - (i) another supplier delays or refuses the supply of an electronic communications service to BT and no alternative service is available at reasonable cost; or
 - (ii) legal or regulatory restrictions are imposed that prevent BT from supplying the Service.
 - (c) If any of the events detailed in clauses 13.1(a) or 13.1(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.
- 14. ESCALATION AND DISPUTE RESOLUTION**
- 14.1 (a) 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 to:
- (i) where appropriate, in accordance with the details set out in BT's Code of Practice for Residential Customers and Small Businesses located at <http://www.btplc.com/Thegroup/RegulatoryandPublicaffairs/Cod eofpractice/index.htm>, copies of which are available on request; and
 - (ii) otherwise, as set out in clause 14.1(b) below.
- (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.

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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 14.1 (b) 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.
- (d) Nothing in this clause 14.1 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.

15. CANCELLATION

The Customer may cancel the Service at any time before the Operational Service Date. If the Customer cancels the Service 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 mitigate the amount of such costs.

16. TERMINATION BY NOTICE

- 16.1 Either party may terminate this Contract or the Service to any End Users' STU on one month's notice to the other.
- 16.2 If the Customer terminates this Contract or the Service to any End Users' STU during its Minimum Period (other than because BT has increased its charges, or has materially changed the Conditions of this Contract to the Customer's detriment), the Customer must pay BT charges due for the balance of the Minimum Period as a compensatory termination charge.

- 16.3 Upon termination, BT will repay or credit the Customer with the appropriate proportion of any charges paid in advance for any period ending after the Customer's liability to pay charges ceases (except where termination results from a breach of the Customer's obligations under this Contract).

- 16.4 BT may terminate Service to an End User's STU immediately, on notice:
- (a) where the End User or the telecommunications service provider (whether BT or any other telecommunications service provider) arranges for disconnection of the Access Circuit; or
 - (b) where the End User arranges for disconnection of the relevant BT network service provided over the Access Circuit; or
 - (c) where the End User subscribes to a telecommunications service via the Access Circuit that is technically incompatible with the Service.

17. BREACHES OF THIS CONTRACT

- 17.1 Either party may terminate this Contract or the Service 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 a written notice to do so; or
 - (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.
- 17.2 If any of the events detailed in 17.1 occur because of the Customer, BT may suspend the Service without prejudice to its right to terminate this Contract. Where the Service is suspended under this clause, the Customer must pay the charges for the Service until this Contract is terminated.

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17.3 If this Contract is terminated by BT during the Minimum Period because of an event specified in clause 17.1, the Customer must, without prejudice to any other remedy that BT may have, pay BT the charges for the balance of the Minimum Period.

17.4 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.

18. CHANGES TO THIS CONTRACT

18.1 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 to the Customer.

18.2 Conditions

BT can change the Conditions of this Contract (including the charges) at any time. Unless otherwise stated in the Service Schedule BT will publish details of any changes to the Conditions on its website at http://www.redcare.bt.com/Terms_conditions.html and changes to charges on the Electronic Trading System at least 2 weeks before the change is to take effect.

19. TRANSFER OF RIGHTS AND OBLIGATIONS

19.1 Neither party may transfer any of their 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.

19.2 BT may subcontract the performance of any of its obligations under the Contract, including subcontracting the provision of any Services to a BT Affiliate, although BT will remain responsible for the performance of its obligations under the Contract to the Customer. If BT subcontracts the performance of any of its rights or obligations to a BT Affiliate as described in this clause 19.2, the Customer will, once it receives notice from BT in accordance with clause 21, deal directly with the BT Affiliate for ordering, provisioning or maintaining the Services.

20. ENTIRE AGREEMENT

20.1 (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 20 excludes or restricts the liability of either the Customer or BT to the other arising out of pre-contract fraudulent misrepresentation or fraudulent concealment.

Rights of Third Parties

20.2 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.

21. NOTICES

21.1 Notices given under the Contract must be in writing and delivered by hand, email or first class post to the following addresses unless otherwise stated in the Contract:

(a) to BT at the address shown on the bill or any 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.

21.2 A notice will be duly served:

(a) if delivered by hand, at the time of delivery;

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- (b) if sent by first-class post, three (3) Working Days after the date of posting; and
- (c) if sent by e-mail, at the time of successful transmission.

21.3 The Customer must inform BT immediately if there is any change to any of the contact information the Customer provided to BT.

22. SEVERABILITY

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 Agreement had been made without the invalid, illegal or unenforceable terms.

23. INTELLECTUAL PROPERTY

23.1 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.

23.2 If software is provided to enable the Customer to receive and use the Service, BT will grant the Customer a, non-transferable and non-exclusive licence to use the software in object code form solely as necessary for receipt of the Service and solely in accordance with the Contract and the applicable documentation. The term of any licence granted by BT under this clause is co-terminus with the term of the Service with which the software is associated.

23.3 If the Service provides the Customer with software licensed by third parties who require the Customer to accept their terms of use, the Customer must keep to those terms.

23.4 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.

23.5 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 Service to the Customer. This indemnity will not apply to claims or proceedings arising from:

- (a) use of the Service or any 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 Service or any Software; or

(c) content, designs, specifications or software supplied by or on behalf of the Customer; or

(d) use of the Service or any software other than in accordance with the Contract.

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.

23.6 If the Service 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 Service so that it is no longer infringing, provided that modification or replacement must not materially affect the performance of the Service.

If the indemnity in clause 23.5 applies and none of the remedies in this clause is available to BT on reasonable terms, BT may notify the Customer and terminate the Service without liability to the Customer.

23.7 The indemnity in clause 23.5 sets out the Customer's sole and exclusive remedy for infringement of Intellectual Property Rights.

24. LAW AND JURISDICTION

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