



Master Services Agreement- General Terms and Conditions

This Master Services Agreement (“MSA”) consists of the terms and conditions set forth below along with any Service Schedules and Orders referencing this agreement. The Customer hereby agrees that by using the Service, Customer is bound by the terms and conditions set forth below along with any applicable Service Schedules. BT may modify this MSA at any time, and modifications shall be effective upon posting to this website. The Customer’s continued use of the Service shall be deemed its conclusive acceptance of the modified MSA.

1 PROVISION OF SERVICE

- 1.1 BT agrees to provide Customer with the Service and, if applicable, equipment in accordance with the terms and conditions of this MSA.

2 CHARGES

- 2.1 The Charges for the Service will be calculated in accordance with the terms of this MSA and will begin on the Operational Service Date, or other date specified in the applicable Service Schedule.
- 2.2 Customer must pay all Charges for the Services in accordance with the details on each invoice within thirty (30) days of the date of BT’s invoice, without any set-off, counterclaim or deduction (other than as provided in Section 2.5). Where applicable, BT may set-off any amounts it owes to the Customer against any amounts owed by the Customer to BT under this MSA. BT may, in its discretion, add interest charges, from the due date, to any past due amounts at 1.5% per month, compounded daily or the maximum amount allowed by law, whichever is less.
- 2.3 BT will invoice Charges in US Dollars and Customer will pay all Charges in US Dollars. Charges are exclusive of all taxes, fees or surcharges, however designated, (including but not limited to regulatory fees or surcharges) (“Taxes”), relating to equipment or Services under this MSA. The Customer will pay all such Taxes (except any tax based on or measured in whole or in part on net income or net profits of BT) including those paid or payable by BT and any related interest and penalties, for goods or services supplied under this MSA, except to the extent a valid exemption certificate is provided by Customer to BT prior to the delivery of Service.
- 2.4 In the event that payment of any amount of the Charges becomes subject to withholding tax, levy or similar payment obligation on sums due to BT under this MSA such withholding tax amounts shall be borne and paid for by Customer in addition to the sums due to BT. The Customer will provide BT free of charge with the appropriate certificate(s) from the relevant authorities confirming the amount of the withholding taxes, levies or similar payments borne and paid for by Customer in accordance with this Section 2.4.
- 2.5 In the event Customer wishes to dispute an invoice, Customer shall promptly, but in no event later than the payment due date, notify BT in writing of such disputed invoice, together with all information relevant to the Dispute and an explanation of the amount disputed. Customer must pay all undisputed amounts in accordance with Section 2.2. Disputes shall be resolved promptly and the resolved amount, if any, payable within fourteen (14) business days after resolution. Interest will accrue from the due date on subsequent payments of amounts withheld or from the date of overpayment for credits on overpayments refunded.
- 2.6 Without prejudice to any other provision of this MSA, if Customer fails to pay any sums due in accordance with the terms of this MSA, BT may, at its option on 14 days’ written notice to Customer restrict or suspend provision of the applicable Services until any balance due



Master Services Agreement

is paid. If BT is required to take action to recover any past due amounts, Customer will be responsible for the payment of reasonable attorney's fees and costs incurred by BT in connection with taking such action.

3 CONFIDENTIALITY

- 3.1 BT and Customer shall keep in confidence any Confidential Information obtained during the term of this MSA and shall not divulge the same to any person (other than their or their Affiliate's employees, representatives, contractors, and professional advisors who need to know the information) without the consent of the other Party.
- 3.2 This Section 3 shall not apply to information that is: (a) in the public domain other than in breach of this MSA; (b) in the possession of the receiving Party before such divulgence has taken place; (c) obtained from a third party who is free to divulge the same; (d) is independently developed without use of any Confidential Information of the other Party; or (e) is legally required to be disclosed.
- 3.3 The receiving Party must, for a period of three (3) years following the expiration or termination of this MSA (except in the case of Software, which shall be for an indefinite period) keep such Confidential Information in confidence and use the Confidential Information only for the purposes of performing this MSA.
- 3.4 A violation of this Section 3 might cause irreparable harm to the disclosing Party, for which monetary damages may be inadequate and injunctive relief may be sought for a breach of this Section.
- 3.5 Notwithstanding anything to the contrary in this Section 3, BT is granted permission to use Customer's name and logo, and a brief, non-detailed synopsis of the scope of the Services, contract term and value in BT's marketing and publicity collateral, and to list Customer as a reference.

4 INTELLECTUAL PROPERTY

- 4.1 Neither Party acquires any rights to the other Party's patents, copyrights or other intellectual property under this MSA, except as expressly provided otherwise under this MSA. Neither Party may use any Marks of the other Party, except as expressly provided otherwise under this MSA.
- 4.2 Ownership of and all intellectual property rights in any BT equipment, software, operating manuals and associated documentation, made available as part of any Service or otherwise generated in connection with this MSA, shall remain the property of BT or its licensors. BT grants Customer a personal, non-transferable and non-exclusive license to use, in object code form, all software and associated written and electronic documentation and data ("Software") furnished by BT to enable Customer to use the Service, solely in connection with the Service and solely in accordance with this MSA and the applicable written and electronic documentation. The term of any license granted by BT in Section 4.1 is coterminous with the term for the Service with which the Software is associated.
- 4.3 Customer must not, without BT's prior written consent, copy or download the Software and must promptly return all tangible material relating to the Software to BT following termination of a Service or this MSA whichever takes place earliest unless required under applicable law and/or regulation and unless the material is required for the provision of a Service which is still being provided to Customer at the time of termination of the MSA. The Customer must not take any steps to modify the Software, or reverse assemble, reverse compile (except as permitted by applicable law) or otherwise derive a source code version of the Software. The Software is and will remain the sole and exclusive property of BT or its supplier.
- 4.4 BT warrants that it has all rights, authorizations and licenses required to provide the Services and Software licenses granted to Customer.

5 INTELLECTUAL PROPERTY INDEMNITIES

- 5.1 BT will defend, indemnify and hold Customer harmless against all claims and proceedings arising from alleged infringement of any third party's intellectual property rights by reason of BT's provision of the Service. As a condition of this indemnity, Customer must: (a) notify BT promptly in writing of any allegation of infringement; (b) make no admission relating to the infringement; (c) allow BT to conduct all negotiations and proceedings and give BT all reasonable assistance in doing so (BT will pay Customer's reasonable out-of-pocket expenses for such assistance); and (d) allow BT to modify or replace the Service or equipment, or any item provided as part of the Service, so as to avoid the infringement, provided that the modification or replacement does not materially affect the performance of the Service.
- 5.2 If the Service becomes, or BT believes it is likely to become, the subject of an allegation or claim for infringement of any intellectual property rights as referred to in Section 5.1, BT, at its option and expense, may secure for Customer a right of continued use or modify or replace the Service, as set forth in Section 5.1(d), so that it is no longer infringing. If neither of those remedies is available to BT on reasonable terms, BT may so notify Customer and terminate such infringing Service without penalty to either Party.
- 5.3 Without prejudice to the provisions of the applicable law, the indemnity and remedies in Sections 5.1 and 5.2 are the exclusive remedies for claims of infringement and do not apply to claims for infringements related to Customer's or User's Content in connection with the Service, the use of the Service in conjunction with other equipment, software or services not supplied by BT or to infringements occasioned by work done by BT in accordance with directions or specifications given by Customer or designs made by, or on behalf of, Customer, including any part of the Service designed to Customer's specifications. The Customer will indemnify and hold BT harmless against all claims, proceedings and expenses arising from such infringements and will immediately cease any activity which gives rise to the alleged infringement. Customer's indemnity obligations shall be subject to conditions equivalent to those applicable to BT's obligations, as set forth in Section 5.1.
- 5.4 The limitations and exclusions of liability contained in Section 10, do not apply to this Section 5.

6 FORCE MAJEURE

- 6.1 Neither Party shall be liable for failure to perform its obligations caused by or resulting from force majeure, which shall include but not be limited to events that are unpredictable, unforeseeable, irresistible and beyond the Parties' control, such as any extremely severe weather, flood, landslide, earthquake, storm, lightning, fire, subsidence, epidemic, acts of terrorism, military hostilities (whether or not war is declared), riot, explosions, strikes or other labor unrest, civil disturbance, sabotage, expropriation by governmental authorities, explosion, electrical or communication line failure, equipment failure or non-delivery, inability to obtain materials or other act or any event that is outside the reasonable control of the concerned Party. In the event of such a force majeure, the affected Party shall be entitled to a reasonable extension of time for the performance of its obligations under this Agreement.
- 6.2 If any of the events detailed in Section 6.1 continue for more than thirty (30) days, either Party may serve notice on the other terminating the affected part of the Service, without liability to the other Party.

7 USE OF THE SERVICE

- 7.1 Customer shall use the Services only for its own purposes and shall remain responsible for any access and use of the Service by its Users and for all charges incurred and compliance with all terms and conditions by it and its Users under this Contract.



Master Services Agreement

- 7.2 So far as may be permitted by relevant law or regulation, it is agreed that BT will have no liability and Customer will make no claim in respect of any matter arising from any use of the Service that is contrary to the provisions of this MSA and/or BT's specific instructions, such instructions to be given in writing under the notice provisions of Section 12 herein.
- 7.3 Except as may be otherwise specifically provided under this MSA, the obligations and responsibilities of BT under this MSA are solely to Customer and not to any third party, including any other User. To the extent permitted by law, Customer will indemnify BT against any liabilities or costs arising from any and all claims by any third party in connection with the use of the Services.

8 DISPUTE RESOLUTION

- 8.1 All disputes, controversies, or claims, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory, arising out of or relating to this MSA and the Services (collectively "Disputes"), shall be escalated to senior management levels within both Parties. Both Parties shall have up to thirty (30) days from written notice of one to the other to escalate and resolve a Dispute, after which either Party may initiate mediation or litigation.
- 8.2 Notwithstanding Section 8.1, each Party may, at any time, (i) initiate proceedings seeking interlocutory relief; or (ii) seek relief from a court of competent jurisdiction in relation to Disputes relating to non-compliance with Sections 3, 4 or 5.

9 TERMINATION OF SERVICES AND MSA

- 9.1 Either Party may terminate any individual Service provided under this MSA at the end of its Minimum Period of Service, upon ninety (90) days written notice to the other subject to payment by the Customer to BT of any outstanding Charges and any applicable termination charges set forth in a Service Schedule, Service Annex, Order or otherwise agreed by the Parties.
- 9.2 Either Party may terminate this MSA immediately on notice, if the other is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over its assets, or if the equivalent of any of those events occurs under the laws of any of the relevant jurisdictions to the other Party.
- 9.3 Either Party may terminate this MSA immediately on notice if the other: commits a material breach of this MSA which is capable of remedy, and fails to remedy the breach within sixty (60) days of a written notice to do so; or commits a material breach of this MSA which cannot be remedied. Termination for breach is without prejudice to any other available right or remedy arising from the breach.
- 9.4 If BT terminates this MSA pursuant to Section 9.2 or 9.3 Customer must pay BT any applicable termination charges specified in the applicable Service Schedule to this MSA.

10 LIMITATION OF LIABILITY

- 10.1 Either Party's liability for death or personal injury resulting from its negligence in connection with its performance under this MSA is unlimited. Sections 10.2 and 10.3 do not apply to such liability.
- 10.2 NEITHER PARTY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, SUPPLIERS OR SUBCONTRACTORS, WILL BE LIABLE IN CONTRACT, TORT OR OTHERWISE IN RELATION TO THIS AGREEMENT FOR MORE THAN PROVEN DIRECT DAMAGES NOT TO EXCEED, IN THE AGGREGATE DURING ANY TWELVE (12) MONTH PERIOD, AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS PAYABLE BY CUSTOMER FOR THE AFFECTED SERVICE DURING THE THREE (3) MONTHS PRECEDING THE MONTH IN WHICH THE DAMAGE OCCURRED,



Master Services Agreement

EXCLUDING PAYMENTS FOR EQUIPMENT SALES. THE FOREGOING DOLLAR LIMITATIONS WILL BE INAPPLICABLE TO, AND WILL NOT LIMIT A PARTY'S LIABILITY FOR, AMOUNTS DUE IN PAYMENT FOR SERVICES PROVIDED, OR AMOUNTS PAYABLE UNDER THE TERMS OF THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO EARLY TERMINATION CHARGES AND/OR SHORTFALL CHARGES).

- 10.3 NEITHER PARTY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, SUPPLIERS OR SUBCONTRACTORS WILL BE LIABLE TO THE OTHER PARTY FOR ANY DAMAGES FOR LOST PROFITS, DATA, ADVANTAGE, SAVINGS, GOODWILL OR REVENUES OF ANY KIND OR INCREASED COST OF OPERATIONS, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, RELIANCE OR SPECIAL DAMAGES OF ANY KIND, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.
- 10.4 EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ALL CONDITIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED TO THE EXTENT PERMITTED BY LAW. BT DOES NOT AUTHORIZE ANYONE, WHETHER A COMPANY EMPLOYEE, AGENT, SUB-CONTRACTOR, OR OTHERWISE, TO MAKE A WARRANTY OF ANY KIND ON ITS BEHALF AND CUSTOMER SHOULD NOT RELY ON ANY SUCH STATEMENT.
- 10.5 This MSA does not expressly or implicitly provide anyone other than BT and Customer with any remedy, claim, liability, reimbursement, cause of action or other right or privilege.
- 10.6 If service level commitments are associated with a Service and BT fails to meet any such commitments, Customer shall be eligible for the applicable remedies, which shall be the sole and exclusive remedies available to Customer and which shall be subject to the associated terms and conditions.

11 COMPLIANCE WITH LAWS

- 11.1 Both parties agree to comply with all applicable laws and regulations in any country where Service is provided.

12 NOTICES

- 12.1 Notices given under this MSA must be in writing and may be delivered by hand or by courier, or sent by registered first-class mail to the office addresses of BT (to the attention of Chief Counsel) and Customer shown on this MSA. Notice shall be deemed to have been given on the date when delivered if delivered personally or by confirmed fax or by overnight courier (unless delivered after normal business hours, in which case it shall be deemed given on the next business day); or five (5) days after the date of mailing.

13 ASSIGNMENT AND SUBCONTRACTING

- 13.1 Either Party reserves the right to assign all or part of the MSA at any time to any Affiliate which can sufficiently execute the obligations under the MSA, subject to providing the other Party a prior written notice of such assignment. Any other assignment requires the prior written agreement of the other Party, which shall not be unreasonably withheld.
- 13.2 This MSA will be binding on, and inure to the benefit of, the Parties and their successors and permitted assigns.
- 13.3 BT may subcontract the performance of any of its obligations under this MSA, but without relieving BT from any of its obligations to Customer. The Customer agrees and understands that it may need to interact directly with a subcontractor for ordering, provisioning or maintaining the subcontracted Service.

14 GOVERNING LAW AND JURISDICTION



Master Services Agreement

- 14.1 The validity, interpretation and performance of this MSA will be governed by the laws of the State of New York, USA, excluding its conflict-of-laws provisions, and further excluding the United Nations Convention on Contracts for the International Sale of Goods. The Parties irrevocably submit to the nonexclusive jurisdiction of the courts in New York, NY USA.

15 ENTIRE AGREEMENT

- 15.1 This MSA supersedes all prior oral or written understanding between the Parties and constitutes the entire agreement with respect to the subject matter. The terms and conditions of this MSA shall not be modified, amended or supplemented except in writing and signed by authorized representatives of all Parties or except as otherwise provided herein. This MSA shall take precedent over and supersede all terms and conditions contained in any purchase orders or similar documents issued by Customer.

16 ORDER OF PRECEDENCE

- 16.1 In the event of a conflict, the order of precedence within the MSA shall be first to the relevant Services Schedule terms, second to the General Terms and Conditions and third to the Order. Furthermore, an Order may vary or add information relevant to the ministerial aspects of order fulfillment, such as contact names, addresses, and the like, but may not add, delete or vary material contract terms, except with regards to pricing or as provided for in this MSA. Headings and bold type are for convenience only and do not affect the interpretation of this MSA.

17 INDUCEMENT

- 17.1 The Parties acknowledge and agree that they have not been induced to enter into this MSA by any representation, warranty or other assurance not expressly incorporated into this MSA.

18 NO WAIVER

- 18.1 Except as otherwise specifically provided in this MSA, no failure to exercise, or delay in exercising, any right, power or privilege set forth in this MSA will operate as a waiver of any right, power or privilege.

19 SEVERANCE

- 19.1 If any provision of the MSA is held to be invalid or unenforceable, it will be severed from the MSA, the remaining provisions will remain in full force and effect and the Parties will promptly negotiate a replacement.

20 SURVIVAL OF OBLIGATIONS

- 20.1 The Parties' rights and obligations, which, by their nature would continue beyond the termination, cancellation or expiration of this MSA shall survive termination, cancellation or expiration hereof.

21 CAPACITY

- 21.1 Each party warrants that it has the necessary rights, licenses and permissions to enter into and perform its obligations under the terms of this MSA.

22 DEFINITIONS

“**Affiliate**” of a Party means any entity which controls, is controlled by, or is under common control with such Party.

“**Business Day**” means any day which is customarily regarded in the country or locality as a day when business is undertaken, but does not include national, public, or bank holidays in such country or locality. If the day on or by which anything is to be performed is not a Business Day, it must be done on or by the next Business Day.



Master Services Agreement

“Business Hours” means the local working hours in a Business Day or as specified elsewhere in this MSA.

“Charges” means the fees payable for Services and termination when applicable.

“Confidential Information” means all documentation, technical information, Software, business information or other materials designated as confidential by the disclosing Party or that would reasonably be considered to be confidential that are disclosed by either Party to the other during the term of this MSA.

“Content” means information made available, displayed or transmitted in connection with a Service (including, without limitation, information made available by means of an HTML “hyperlink”, third party posting or similar means) including all trademarks, service marks and domain names contained in such information, as well as the contents of any bulletin boards or chat forums, and all upgrades, updates, modifications and other versions of any of the foregoing.

“Customer” means either the entity named on the MSA or on the Order as the case may be. BT may accept instructions from another person or entity who BT reasonably believes is acting with Customer’s authority or knowledge.

“Equipment” means hardware and software used in the provision of communications services, including the following types: (a) **“Customer Equipment”** means Equipment (including Software embedded in or run on such equipment), other than BT Equipment, used by Customer in connection with the Services; (b) **“BT Equipment”** means Equipment (including any Software) owned by or leased to BT or a BT Affiliate and used in the provision of the Service; and (c) **“BT-Provided Equipment”** means Customer Equipment that is purchased or leased from BT or a BT Affiliate by Customer pursuant to this MSA.

“General Terms and Conditions” means Sections 1 to 22 (inclusive) of this document, the General Terms and Conditions of the MSA.

“Marks(s)” means a trademark, service mark, trade name, logo or other indicia of origin that serves to identify a Party, its products or services.

“Minimum Period of Service” means the minimum duration for each Service or each component of the Service, as defined herein or on the relevant Service Schedule or Order.

“Month” means a calendar month.

“Operational Service Date” means the date on which any Service or part of a Service is first made available to Customer by BT or the date when Customer first starts to use such Service (or part of the Service), whichever date is earlier.

“Order” means an order form for Service hereunder, filled out with all necessary information, signed by both Parties

“Party” means either BT or Customer; “Parties” means both BT and Customer.

“Service” means the equipment procurement and delivery services provided by BT to Customer or the service or other deliverable provided pursuant to any Service Schedule under this MSA.

“Service Annex” means an annex further describing the Service which is appended to the relevant Service Schedule. References to Service Schedule in this MSA shall be deemed to be references to applicable Service Annex(s).

“Service Schedule” or **“Schedule”** means a schedule appended to this MSA (and those subsequently signed by the Parties stated to be part of this MSA) which sets forth the terms and conditions under which such Service is to be provided to Customer. Service Schedules may be added or revised from time to time by mutual agreement of the Parties and in accordance with the terms of this MSA.



Master Services Agreement

“**Site**” means the place at which BT agrees to provide the Service, or access to the Service.

“**Statement of Work**” means a statement of work further describing the Service which is appended to the relevant Service Schedule. References to Service Schedule in this MSA shall be deemed to be references to applicable Statement of Work(s).

“**User**” means anyone Customer allows to use or access the Service.