

Agreement for the Provision of BT Managed Conferencing Services

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1. INTERPRETATION

In this Agreement:

“**Agreement**” means, in order of precedence, these Conditions, the Service Schedule and the Charges Schedule.

“**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 Site for the provision of the Service.

“**BT Group Company**” means a BT subsidiary or holding company, including without limitation a holding company of BT, or a subsidiary of any such holding company, all as defined by Section 736 of the Companies Act 1985, as amended by the Companies Act 1989.

“**Charges**” means the charges for the Service(s) described in the Charges Schedule to this Agreement.

“**Customer**” means the person signing this Agreement. BT may accept instructions from another person who BT reasonably believes is acting with the Customer's authority or knowledge.

“**LAN**” means local area network.

“**Minimum Period**” means the minimum period specified in the Service Schedule beginning at the Operational Service Time.

“**Operational Service Time**” means the time when the Service is first made available to the Customer or the time when the Customer first starts to use the Service whichever is the earlier.

“**Service**” means the service or, where appropriate, part of the service described in the Service Schedule to this Agreement.

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

“**Systems Administrator**” means a person named by the Customer to be the point of contact with BT for matters relating to the provision of the Service.

“**User-ID(s)**” means the pass codes or access codes or other codes allocated by BT to the Customer, to allow the Customer to use the Service.

2. COMMENCEMENT AND TERM OF THIS AGREEMENT

2.1 This Agreement begins on the date it is signed by both parties.

2.2 After the Minimum Period the Agreement may be extended by the written agreement of both parties.

3. PROVISION OF THE SERVICE

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

3.2 BT will use reasonable endeavours to provide the Service at the date and time agreed with the Customer, but all dates and times are estimates and BT has no liability for any failure to meet a date and time, unless the Service Schedule says otherwise.

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

3.4 BT will use reasonable efforts to provide uninterrupted Service but from time to time faults may occur, which BT will repair as quickly as reasonably possible.

3.5 Occasionally BT may:

(a) for operational reasons, change the codes or the numbers used by BT for the provision of the Service or the technical specification of the Service, provided that any change to the technical specification does not materially affect the performance of the Service;

(b) 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; or

(c) temporarily suspend the Service because of an emergency or for operational reasons, maintenance or improvements. Service will be restored as soon as possible.

Before doing any of these things BT will give the Customer as much notice as possible.

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4. BT EQUIPMENT

4.1 If BT needs to install BT Equipment at a Site to enable BT to provide the Service the Customer will prior to installation:

- (a) prepare the Site in accordance with BT's reasonable instructions, if any;
- (b) make available a suitable place and conditions for the BT Equipment; and
- (c) provide at no charge to BT sufficient electricity to power the BT Equipment.

After installation is completed it is the Customer's responsibility to restore the condition of the Site including any re-decorating that may be required. However, subject to paragraph 14.3 BT will be responsible for the reasonable costs of any work to restore the Site to its original condition and which is required as a direct result of BT's negligence.

4.2 The Customer is responsible for the BT Equipment and must not add to, modify or in any way interfere with, 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 whilst it is in the Customer's possession, custody or control 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 AND/ OR LAN TO THE SERVICE

The Customer must ensure that any equipment and/ or LAN:

- 5.1 connected to or used with the Service is connected and used in accordance with any applicable instructions, safety and security procedures; and
- 5.2 attached (directly or indirectly) to the Service is compliant with any relevant legislation.

6. ACCESS AND SITE REGULATIONS

6.1 To enable BT to carry out its obligations under this Agreement, the Customer will provide BT employees and anyone acting on BT's behalf, who produces a valid identity card, with access at all reasonable times to any Site or any other premises outside BT's control.

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

Site regulations and these Conditions, these Conditions will prevail.

6.3 BT and the Customer will meet each others reasonable requirements for the safety of people on any Site.

7. SECURITY

7.1 The Customer is responsible for the security and proper use of User IDs.

7.2 The Customer must take all necessary steps to ensure that the User IDs are kept secure and confidential and must not disclose the User IDs to unauthorised people.

7.3 The Customer must immediately inform BT if there is any reason to believe that a User ID has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.

7.4 The Customer must not change or attempt to change a User ID. If a Customer forgets or loses a User ID the Customer must contact BT and satisfy such security checks as BT may operate.

7.5 BT reserves the right to suspend access to the Service and/ or change User IDs if at any time BT considers that there is or is likely to be a breach of security.

7.6 BT reserves the right (at its sole discretion) to require the Customer to change any User ID used by the Customer in connection with the Service.

8. USE OF THE SERVICE

8.1 It is the Customer's responsibility to obtain and keep in force any licence necessary for the Customer to use the Service in any country in which it is provided.

8.2 The Customer must only access the Service through the Software or in an alternative way permitted by BT and must not attempt at any time to circumvent system security or access the source software or compiled code.

8.3 Unless BT agrees otherwise in writing the Service is provided solely to the Customer and the Customer will not resell or attempt to resell the Service or any part or facility of it to any third party.

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- 8.4 The Service must not be used:
- (a) in a way that does not comply with the terms of any legislation or any licence applicable to the Customer or that is in any way fraudulent or unlawful;
 - (b) in a way that does not comply with any instructions given under paragraphs 3.5 (b) and 5.1 or by any other public telecommunications operator or other competent authority in any country where the Service is provided.
 - (c) to send, knowingly receive, upload, download, use or re-use any information or material which is abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights;
 - (d) to send or provide unsolicited advertising or promotional material, or knowingly to receive responses to any unsolicited advertising or promotional material sent or provided using the Service by any third party; or
 - (e) other than, where relevant, in accordance with BT's acceptable use policies in respect of BT's public switched telephone service.
- 8.5 If the Customer or anyone else, with or without the Customer's knowledge or approval, uses:
- (a) the Service in contravention of paragraphs 8.1 to 8.4; or
 - (b) the server capacity or any software made available to it in any way which, in BT's opinion is, or, is likely to be, detrimental to the provision of the Service to the Customer or any other customer and fails to take corrective action within a reasonable period of receiving notice from BT to do so;
- BT may treat the contravention as a breach of this Agreement for the purposes of paragraph 18.
- 8.6 The Customer must indemnify BT against any claims or legal proceedings which are brought or threatened against BT by a third party because the Service is used in breach of paragraphs 8.1, 8.2, 8.3 or 8.4. 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 and have due regard to the Customer's representations.
- 8.7 The Customer is responsible for the acts and omissions of all users in connection with the Service and is liable for any failure by any users to perform or observe the terms and conditions of this Agreement, including any instructions issued under paragraphs 3.5 or 5.1.
- ## 9. INTELLECTUAL PROPERTY RIGHTS
- 9.1 Where software is provided to enable the Customer to use the Service, BT grants the Customer a non-exclusive, non-transferable licence to use the software for that purpose.
- 9.2 The Customer will not, without BT's prior written consent, copy, decompile or modify the software, nor copy the manuals or documentation (except as permitted by law).
- 9.3 The Customer will sign any agreement reasonably required by the owner of the copyright in the software to protect the owner's interest in that software.
- 9.4 BT may offer updates or modifications to the software or documentation. Any applicable charges for such updates or modifications will be notified to the Customer at any time BT offers such updates or modifications.
- ## 10. INTELLECTUAL PROPERTY RIGHT INDEMNITIES
- 10.1 BT will indemnify the Customer against any claims and proceedings arising from infringement of any intellectual property rights through BT's provision of the Service to the Customer. As a condition of this indemnity the 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 the Customer's reasonable expenses for such assistance); and
 - (d) allow BT to modify the Service, or any item provided as part of the Service, so as to avoid the infringement, provided that the modification does not materially affect the performance of the Service.

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10.2 The indemnity in paragraph 10.1 does not apply to infringements caused by the use of the Service in conjunction with other equipment, software or services not supplied by BT or to infringements caused by designs or specifications made by, or on behalf of, the Customer. The Customer will indemnify BT against all claims, proceedings and expenses arising from such infringements.

10.3 The limitations and exclusions of liability contained in paragraph 14 do not apply to this paragraph.

11. LAN ACCESS

11.1 If the Customer accesses the Service via a LAN, the Customer is responsible for:

- (a) providing and maintaining a suitable LAN and Internet protocol ("IP") router capable of interfacing satisfactorily with the Service;
- (b) configuration of the IP router; and
- (c) the appointment of a Systems Administrator.

The Customer acknowledges that BT is not responsible for providing any support, whether technical or otherwise, for the Customer's LAN.

11.2 Where IP addresses are allocated to the Customer, these are for use in connection only with the Service and all rights in those IP addresses belong to BT. The Customer cannot sell them or agree to transfer them to anyone else and must not try to do so. If this Agreement is terminated for any reason the IP addresses will revert to BT.

12. CONFIDENTIALITY

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

12.2 This paragraph 12 will not apply to:

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

(b) information lawfully in the possession of the recipient before the disclosure under this Agreement took place;

(c) information obtained from a third party who is free to disclose it; and

(d) information which a party is requested to disclose and, if it did not, could be required to do so by law.

12.3 This paragraph 12 will remain in effect for 2 years after the termination of this Agreement.

13. CHARGES AND DEPOSITS

13.1 The Charges for the Service will be calculated in accordance with the Charges Schedule. Charges for use of the Service will be calculated in accordance with the details recorded by or on behalf of BT.

13.2 The Customer will pay the Charges within 28 days of the date of BT's invoice. BT may charge daily interest on late payments at a rate equal to 4% per annum above the base-lending rate of HSBC Bank plc.

13.3 All Charges will be invoiced and paid in pounds sterling unless otherwise stated in the Charges Schedule or agreed in writing by BT. Value Added Tax or any other applicable in country sales or use tax or like charge in a country where the Service is provided which is payable by the Customer will be added to BT's invoices as appropriate.

13.4 BT may, at any time, require the Customer to pay a deposit or provide a guarantee as security for payment of future bills.

14. LIMITATION OF LIABILITY

14.1 BT accepts unlimited liability for death or personal injury resulting from its negligence. Paragraphs 14.2, 14.3, 14.4 and 14.5 do not apply to such liability.

14.2 BT is not liable to the Customer, either in contract, tort (including negligence) or otherwise for any direct or indirect loss of profits, business or anticipated savings, nor for any indirect loss or damage or for any destruction of data.

14.3 Without prejudice to any other contract which may exist between BT and the Customer for the provision of any other service, BT is not liable under this Contract in respect of or, in connection with, any network or other service over which the Service is provided, including but not limited to

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- BT's other networks or other service or any third party network or service.
- 14.4 BT is not liable to the Customer either in contract, tort (including negligence) or otherwise for the acts or omissions of any other providers of service used in connection with the Service or for faults in or failures of equipment.
- 14.5 BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Agreement 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.
- 14.6 Each provision of this Agreement, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts will continue to apply.
- 15. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY**
- 15.1 If either party is unable to perform any obligation under this Agreement because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes or acts of local or central Government or other competent authorities, or events beyond the reasonable control of that party's suppliers, that party will have no liability to the other for that failure to perform.
- 15.2 In the event of:
- (a) a refusal or delay by a third party to supply a telecommunications service to BT and where there is no alternative service available at reasonable cost; or
 - (b) the imposition of restrictions of a legal or regulatory nature which prevent BT from supplying the Service
- then BT will have no liability to the Customer for failure to supply the Service.
- 15.3 If any of the events detailed in paragraphs 15.1 or 15.2 continue for more than 3 months either party may serve notice on the other terminating this Agreement.
- 16. ESCALATION AND DISPUTE RESOLUTION**
- 16.1 If a dispute arises between the parties to this Agreement, the parties will use their reasonable endeavours to settle the dispute in accordance with the following procedures:
- (a) a dispute which has not been settled by the Customer's representative and the BT representative within 7 days of the matter being raised, may be escalated by either party to the first level by written notice to the other party;
 - (b) if the dispute is not resolved at the first level within 7 days of escalation either party may refer the dispute to the second level.
- The parties representatives and the people to whom a dispute must be escalated at the first and second levels are as notified by either party to the other, from time to time.
- 16.2 If a dispute is not resolved after the procedures set out in paragraph 16.1 have been followed then, if the parties agree, the dispute will be referred to a mediator:
- (a) the mediator will be appointed by agreement of the parties. In the event of a failure to agree within 3 days of a proposal by one party, the mediator will be appointed by the Centre for Dispute Resolution (CEDR);
 - (b) within 14 days of the appointment of the mediator the parties will meet with the mediator in order to agree the procedure to be adopted for the negotiations;
 - (c) all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings;
 - (d) if the parties reach agreement on the resolution of the dispute the agreement will be put in writing and once signed by the parties will be binding on them;
 - (e) if the parties are not prepared to agree to the dispute being referred to a mediator, or fail to reach agreement within 2 months of the mediator being appointed then either party may exercise any remedy that it has under this Agreement.
- 17. TERMINATION OF THIS AGREEMENT BY NOTICE**
- 17.1 Either party may terminate this Agreement or the Service provided under it on 3 months notice to the other.

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17.2 The Customer may terminate this Agreement with immediate effect on notice to BT if:

- (a) the Service is temporarily suspended in accordance with paragraph 3.5(c); and
- (b) BT has not been able to restore the Service which has been suspended for more than 28 days.

17.3 If the Customer terminates this Agreement either before the Operational Service Time or during the Minimum Period, if any, for a reason other than in accordance with paragraph 17.2, the Customer must pay BT any Charges due which are specified in the Charges Schedule.

18. BREACHES OF THIS AGREEMENT

18.1 Either party may terminate this Agreement or the Service (or both):

- (a) immediately on notice if the other commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do so; or
- (b) immediately on notice if the other commits a material breach of this Agreement which cannot be remedied; or
- (c) on reasonable notice if the other is repeatedly in breach of this Agreement; or
- (d) 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 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, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the other party.

18.2 If BT is entitled to terminate this Agreement under paragraph 18.1, BT may, on giving prior notice where practicable, suspend the Service without prejudice to such rights. Where the Service is suspended under this paragraph the Customer must pay the charges for the Service until this Agreement is terminated.

18.3 If this Agreement is terminated by BT during the Minimum Period because of an event specified in paragraph 18.1 the Customer must pay BT, without prejudice to any other rights BT may have, the termination charges specified in the Charges Schedule

18.4 If either party delays in acting upon a breach of this Agreement that delay will not be regarded as a waiver of that breach. If either party waives a breach of this Agreement that waiver is limited to that particular breach.

19. CHANGES TO THIS AGREEMENT

19.1 (a) Except in the circumstances described in paragraphs 3.5a), and 19.2 if either party wishes to vary this Agreement including the specification of the Service it must notify the other party in writing, detailing the proposed change and the reason for it.

(b) The parties will discuss the proposed change.

(c) Within a reasonable time of receipt of a proposed change, or the date of the discussions under paragraph 19.1.b), the receiving party will notify the other party in writing whether the proposed change is feasible and the likely financial, contractual, technical and other effects of the proposed change.

(d) Within a reasonable time of notification of the effects of a proposed change the receiving party will advise the other party whether it wishes this Agreement to be amended to incorporate the change.

(e) Where the parties agree a change to this Agreement it will be recorded in writing and will form part of this Agreement when signed by both parties.

19.2 Where this Agreement is entered into in a country where BT is obliged by law or by its agreement with a public telecommunications operator to trade with all its customers for the Service on the same or particular terms then paragraph 19.1 will not apply and BT may amend this Agreement on 28 days notice to the Customer.

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20. EXPORT CONTROL

Provision of the Service to the Customer may be subject to export control law and regulations. BT does not represent that any necessary approvals and licences will be granted. The Customer will provide reasonable assistance to BT to obtain any necessary consents. If, through no fault of BT, any necessary consents are not granted, then BT can terminate this Agreement or the provision of the Service under it (as appropriate) without any liability to the Customer

21. TRANSFER OF RIGHTS AND OBLIGATIONS

Neither party may transfer any of its rights or obligations under this Agreement, 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.

22. ENTIRE AGREEMENT

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

22.2 The parties acknowledge and agree that:

- (a) they have not been induced to enter into this Agreement by any representation, warranty or other assurance not expressly incorporated into it; and
- (b) in connection with this Agreement their only rights and remedies in relation to any representation, warranty or other assurance are for breach of this Agreement and that all other rights and remedies are excluded.

22.3 The provisions of paragraphs 22.1 and 22.2 shall not affect the parties rights or remedies in relation to any fraud or misrepresentation.

22.4 A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

23. NOTICES

Except for notices given under paragraph 3.5 notices given under this Agreement must be in writing and may be delivered by hand or by

courier, or sent by first class post, facsimile or e-mail. Notices to be sent by first class post are to be addressed:

- (a) to BT at BT Conferencing, Customer Services Manager, Wheatstone House, 650-654 Chiswick High Road, Chiswick, London W4 5SA or any alternative address which BT notifies to the Customer;
- (b) to the Customer at the address to which the Customer asks BT to send invoices, the address of the Site or, if the Customer is a limited company, its registered office.

Addresses for notices to be sent by e-mail or facsimile must be agreed in writing by both parties.

24. SEVERABILITY

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

25. LAW AND JURISDICTION

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