



# *Standard Conditions for BT Business Communications Service (Telemarketing Services)*

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## **CONTENTS**

### **Service Schedule**

#### **1. Service description**

##### **General Description**

1.1 BT Telemarketing Service consists of the delivery of a Call to a destination number (or numbers), at one or more Sites, using the Telemarketing Services Network. The destination number is specified by the Customer and included in the Call Plan. A Service Number allocated by BT is assigned to the destination number. A Call to the Service is routed in accordance with the Call Plan. Calls can be delivered 24 hours' a day, 365 days' a year.

1.2 The right to allocate a Service Number belongs to BT.

1.3 The Customer does not own the Service Number and must not attempt to sell the Service Number to any other person.

##### **Service Options**

1.4 The following options are available:

- (a) Service Management;
- (b) Call Plans, Advanced Features and Inline Services;
- (c) Reports and Controls;
  - \* Enhanced Information Statistics
  - \* Enhanced Rawcall Data (which may include Inbound Analyst)
  - \* Rapid Reports
  - \* Simple Control
  - \* Full Control
- (d) Cost Centre Billing; and
- (e) Service Assurance.

The Service options included in the Contract are set out in the order form. Details of the options are included in the BT Price List.

##### **Minimum Period**

1.5 The Minimum Period is set out in the order form.

#### **2. Service levels and fault management**

##### **2.1 Service Level**

The Service Level applicable to the Service is set out in the BT Price List.

##### **2.2 Fault Management**

The Fault Helpdesk provides a 24 hour fault reporting centre available 365 days' a year. When a customer telephones the Fault Helpdesk to report a fault in the Service, BT will respond in accordance with the Service Level. The Customer will, at the time of the fault report, provide BT with



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a contact telephone number to enable BT to provide the Customer with appropriate progress reports until the fault is cleared.

## **3 Charges**

3.1 Charging will start on the Service Start Date. The charges for the Service are set out in the order form.

### **Cancellation Charge**

3.2 Where the Customer cancels the Contract before the Service is provided, the Customer must pay BT's reasonable costs incurred in getting ready to provide the Service.

### **Underachievement Charges**

3.3 At each anniversary of the Service Start Date the total duration of all Calls over the previous Contract Year will be calculated ("the Achieved Minutes Figure"). Unless the Achieved Minutes Figure is greater than or equal to 90% of the Committed Call Volume an underachievement charge will apply as detailed in the BT Price List.

### **Termination within the Minimum Period**

3.4 The termination charges and underachievement charges that will apply where the Customer or BT terminates within the Minimum Period are set out in the BT Price List.

## **4. Additional conditions**

### **Customer Obligations**

4.1 The Customer must not make, nor allow anyone to make on the Customer's behalf, a Call to the Customer's service other than at what BT considers to be reasonable intervals for the purpose of testing that the Customer's service is operating correctly or as otherwise agreed with BT;

4.2 The Customer must give BT at least six Working Days' written notice before advertising the Customer's Service Number or Information on any mass media mechanism which includes but is not limited to television, radio, newspapers, and magazines.

### **Where a Call Payment is made to the Customer**

4.3 For the purposes of clause 5 of the Conditions, charges include Call Payments.

### **4.4 Call Payments**

(a) BT will pay the Customer the Call Payment as set out in the order form. The Call Payment is payable after 30 days' from the end of any period to which it applies, and will be accompanied by a statement showing details of the calculation of the payment. The Call Payment due to the Customer will be calculated in accordance with the duration of a Call made by a Caller to the Customer's service as recorded by BT's equipment or analytical methods and not by the Customer. BT's decision on the calculation of a Call Payment to the Customer will be final.

(b) BT operates a self-billing arrangement for payment of revenue due to the Customer. Accordingly, if the Customer is VAT registered, the Customer must complete and return the self-billing agreement that will be sent to the Customer on commencement of the Service.

(c) In the event that any sum owed by the Customer to BT under this Contract and any other contract with BT is not paid by the due date, BT may deduct such sum from any Call Payment payable to the Customer.



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(d) Where access to the Customer's service or Information is obtained by a Caller without payment of the appropriate Call Revenue to BT or any other public telecommunications operator then the Customer will not be entitled to any Call Payment from BT for the Call.

(e) The Customer will maintain a minimum payment of £100 per month. BT will not be liable to pay a Call Payment to the Customer unless a minimum payment of £100 per month is achieved.

## **4.5 BT's Rights**

If BT has reason to believe that the Customer's service or Information is being used in breach of clause 3.2 of the Conditions or clauses 4.1 or 4.2 of this Schedule, or the Customer does not maintain the minimum payment under clause 4.4 (e) of this Schedule for three consecutive months', BT may (without prejudice to its rights under clause 6 of the Conditions):

(a) suspend the Service (including temporarily barring or restricting access to the Customer's Service Number by a Caller) until the breach has been remedied or the Customer has given undertakings to the satisfaction of BT;

(b) withhold a Call Payment due to the Customer under this Contract and any other contract with BT without notice. The Call Payment may be withheld until BT is satisfied that a breach has not occurred. Where BT has already paid the Call Payment to the Customer in respect of a Call to the Customer's service during the period when any of the events specified in clause 3.2 of the Conditions or clauses 4.1 or 4.2 of this Schedule were happening or where BT has not been paid as specified in clause 4.4 (d) of this Schedule, BT may:

(i) deduct an amount equal to the amount already paid to the Customer whilst the event was happening or for which it has not been paid, from any Call Payment due to the Customer under this Contract or any other contract with BT; or

(ii) demand payment of the amount or the balance of the amount from the Customer within 14 days'; or

(iii) deduct the amount or the balance of the amount, from any deposit held as security for payment.

## **Where the Customer receives Reports and Controls**

4.6 The Customer is responsible for the provision, security and proper use of suitable computer hardware, software, telecommunications equipment and services necessary to access and use Reports and Controls. This Contract does not include the provision of Internet access services.

4.7 The Customer will appoint an administrator to act as the single point of contact for Reports and Controls and will inform BT of any changes in the information relating to the administrator.

4.8 BT is not responsible for any software or system interfaces not provided by BT that the Customer uses with the Software.

4.9 BT may offer updates or modifications to the Software. The Software provided for Inbound Analyst is date limited and it is the Customer's responsibility to update the Software with the upgrades supplied by BT. Failure to update the Software may affect the Customer's ability to use Inbound Analyst. The Customer will be advised of any charges for updates or modifications to Software.

4.10 Upon termination of this Contract (or Reports and Controls if earlier), the Customer will, on request, either return any Software to BT or irrevocably delete Software from all memory and all electronic media without delay and as requested by BT.



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## **Withdrawal of Service by Foreign Administrations**

4.11 Some countries require a written undertaking from the Customer that the Service will be solely for the Customer's own business purposes and will not be resold to a third party with a view to bypassing normal Call charging. In the case of breach of these requirements Service and/or the Customer's service may be discontinued by the foreign administration.

4.12 BT does not accept any liability if foreign administrations or other suppliers suspend or terminate the Customer's service during the term of the Contract.

## **Export Control**

4.13 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 consent. If, through no fault of BT, any necessary consent is not granted, then BT can terminate this Contract or the provision of the Service under it (as appropriate) without any liability to the Customer.

## **Notices**

4.14 In addition to the notice provisions in clause 9.9 of the Conditions, notices relating to Reports and Controls can be sent to:

- (a) the administrator at the electronic mail address nominated by the Customer;
- (b) the email address specified by the Customer when registering for the Service; or
- (c) any alternative email address which the Customer notifies to BT at any time.

## **5. Definitions**

In this Service Schedule the following terms have the meanings shown next to them.

**Advanced Service** including Advanced Features or Inline Services under which the Customer can request changes to their Call Plan allowing Calls to be routed to different destination numbers at different times.

**Advanced Features** a range of functions on the Telemarketing Services Network, which route a Call to a Customer's destination number.

**Call** a telephone call or calls which connects the Caller to the Customer's Service.

**Call Payment** the payment or payments that BT makes to the Customer, monthly in arrears, for a Call to the Customer's service as set out in the order form.

**Call Plan** a plan agreed by the Customer and BT which may include.

**Call Revenue** the amount payable by Caller to BT for access to the Customer's service.

**Caller** a person who makes a Call.

**Committed Call Volume** the number of minutes per Contract Year that the Customer agrees to achieve as set out in the order form.

**Contract Year** the first 12 month period following the Service Start Date and each 12 month period following that.



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**Information** information which is made available to a Caller by the Customer.

**Inline Services** a range of functions on the Telemarketing Services Network other than Advanced Features, which route a Call to a Customer's destination number.

**Reports And Controls** the call report information or call routing control provided to the Customer either by BT or via an on line facility as set out in the order form and described in the BT Price List.

**Service Number** a non-geographic number that a Caller dials. The number determines the cost of the Call to the Caller as set out in the BT Price List.

**Telemarketing Services** Network the BT telecommunications network used to provide to the Service.

**Working Day** Monday to Friday excluding UK Bank and public holidays.

## **Conditions**

### **1. Commencement**

1.1 This Contract begins on the date the Customer receives BT's notification of its acceptance of the Customer's request for the Service and continues until terminated by the Customer or BT in accordance with this Contract.

1.2 The Service commences on the Service Start Date.

### **2. Provision of the service**

#### Site Preparation, Access and Installation

2.1 The Customer agrees to prepare the Site according to any instructions BT may give and to provide BT with reasonable access to the Site. The Customer agrees to provide, at its expense, a suitable place and conditions for BT Equipment and, where required, a continuous mains electricity supply and connecting points.

2.2 The Customer will obtain any permission needed for BT to put BT Equipment on the Site.

2.3 The Customer and BT will meet each other's reasonable safety and security requirements when on the Site. The Customer and BT agree to look after each other's equipment on the Site. If the Customer or BT damages the other's equipment it must pay for any repair or replacement needed. This does not apply where the damage results from normal use.

2.4 BT will use reasonable endeavours to provide the Service by the date agreed with the Customer, but all dates are estimates, unless the Service Schedule says otherwise.

2.5 When BT's work is complete, the Customer will be responsible for putting items back and for any re-decorating which may be needed.

#### **Faults and Repair**

2.6 BT will use reasonable endeavours to provide uninterrupted Service, but from time to time faults may occur.



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2.7 If the Customer reports a fault in the Service BT will repair the fault in accordance with any applicable Service Level. If BT agrees to work outside the hours specified in this Contract, the Customer will pay BT's additional charges. If the Customer reports a fault and BT finds there is none or that the Customer has caused the fault, BT may apply a charge.

### **3. Regulations and use of the service**

3.1 Any Customer Equipment must be:

- (a) technically compatible with the Service and not harm BT's network or another customer's equipment; and
- (b) connected using the applicable BT network termination point, unless the Customer has BT's permission to connect by another means, and used in compliance with any relevant instructions, standards or laws.

3.2 The Service must not be used:

- (a) in any way that is unlawful or in contravention of any licence, code of practice, instructions or guidelines issued by regulatory authorities, third person's rights or BT's Acceptable Use Policy located at [www.abuse-guidance.com](http://www.abuse-guidance.com); or
- (b) to make offensive, indecent, menacing, nuisance or hoax calls or to cause annoyance, inconvenience or anxiety; or
- (c) to send, knowingly receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing; or
- (d) in any way which BT considers is or is likely to be detrimental to the provision of the Service to the Customer or service to any of BT's other customers; or
- (e) to spam or to send or provide unsolicited advertising or promotional material, or knowingly to receive responses to any spam, unsolicited advertising or promotional material sent or provided by any third party; or
- (f) in any way that does not comply with any instructions by any other public telecommunications operator or other competent authority in any country where the Service is provided.

3.3 The Customer will comply with BT's reasonable instructions regarding health, security, safety or the quality of the Service.

3.4 Occasionally, for operational reasons, BT may have to change the codes or numbers given to the Customer, or interrupt or suspend Service. BT will restore the Service as quickly as possible.

3.5 The Customer will 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 clause 3. 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.

3.6 BT monitors and records calls relating to customer services and telemarketing. BT does this for training purposes and to improve the quality of its customer services. BT also records all Calls to the 999 or 112 services.



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## **4. Charges and payments**

4.1 Charges for the Service are shown in the Service Schedule and calculated using the details recorded by BT. The Customer agrees to pay all charges within 30 days' of the date of BT's bill. The Customer agrees that BT may submit bills for some of the charges in advance as specified in the Service Schedule.

4.2. BT will send bills to the address requested by the Customer.

4.3 If the Customer disputes any charge on a bill the Customer will within 14 days' of the receipt of the bill notify BT in writing with all relevant information. Any disputes will be resolved promptly and the resolved amount, if any, is payable within 14 days'.

4.4 BT will have the right to charge daily interest on late payments in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 for the period beginning on the date on which payment is due and ending on the date on which payment is made.

4.5 If the Customer does not pay a bill, BT may instruct a debt collection agency to collect payment (including any interest and/or late payment charges) on its behalf. If BT instructs an agency, the Customer must pay BT an additional sum. This will not exceed the reasonable costs BT has to pay to the agency, who will add the sum to the Customer's outstanding debt on BT's behalf. This clause applies even if this Contract has ended.

4.6 Unless otherwise provided in the Service Schedule, all charges are exclusive of VAT which is chargeable at the applicable rate.

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

4.8 Unless otherwise advised by BT, the Customer will pay all charges by direct debit or monthly payment plan.

4.9 Unless otherwise advised by BT, payments made other than by direct debit or monthly payment plan will be collected by BT Payment Services Limited, a wholly owned subsidiary of BT. BT Payment Services Limited will levy a payment processing fee, as set out in the Price List. This fee will be deducted from any money received before any payment is allocated against the charges for the Service.

## **5. Changing this contract**

5.1 Unless otherwise stated in the Service Schedule, BT may change this Contract (including the charges) at any time.

5.2 BT will publish details of any changes at <http://www.bt.com> (or any other on-line address that BT may advise the Customer) as follows:

(a) For changes that are beneficial to or have no effect on the Customer, at least one day before the change is to take effect; and

(b) For all other changes, at least 14 days' before the change is to take effect.



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## **6. Ending this contract**

6.1 The Customer may cancel this Contract or any part of the Service at any time before BT provides the Service. The Customer will pay the charge set out in the Service Schedule.

6.2 This Contract may be ended by:

- (a) the Customer on seven days' written notice to BT; or
- (b) BT on one month's written notice to the Customer.

6.3 If the Customer or BT ends this Contract during the Minimum Period the Customer will pay BT the early termination charges (and any applicable underachievement charges) set out in the Service Schedule. The termination charges will not apply if:

- (a) the Customer ends this Contract during the Minimum Period because BT is in material breach of this Contract; or
- (b) the Customer ends this Contract because BT increases its charges, or changes the Conditions in either case to the Customer's significant disadvantage;
- (c) BT ends this Contract during the Minimum Period for convenience; or
- (d) this Contract ends because either clause 8.6 or 9.1(c) applies.

6.4 The Customer may end this Contract if:

- (a) BT materially breaches this Contract and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by the Customer to do so; or
- (b) insolvency proceedings are brought against BT or BT makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of BT's assets or BT goes into liquidation or a corresponding event under Scottish Law.

6.5 BT may suspend the Service or end this Contract, or both, at any time without notice if:

- (a) the Customer breaches this Contract or any other Contract that the Customer has with BT and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by BT to do so; or
- (b) BT reasonably believes that the Service is being used in a way forbidden by clause 3. This applies even if the Customer is unaware that the Service is being used in such a way; or
- (c) bankruptcy or insolvency proceedings are brought against the Customer or the Customer does not make any payment under a judgement of a Court on time or the Customer makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of the Customer's assets or the Customer goes into liquidation or a corresponding event under Scottish Law.

The Customer will continue to pay the charges during any period of suspension.

6.6 If this Contract ends BT will refund any money owed to the Customer after first deducting any money due to BT under this Contract or any other contract that BT has with the Customer.

## **7. Limitation of liability**

7.1 BT accepts liability as set out in clause 7. BT does not guarantee that the Service will be fault-free.



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7.2 Neither the Customer nor BT excludes or restricts its liability for death or personal injury caused by its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation or to any extent not permitted by law.

7.3 Unless otherwise expressly stated in this Contract neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any direct loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, business interruption or for any other similar direct loss which may arise in relation to this Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.

7.4 Unless otherwise expressly stated in this Contract neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, loss of or damage to physical property, business interruption or for any other indirect or consequential loss or punitive damages which may arise in relation to this Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.

7.5 Subject to clauses 7.3, 7.4 and 7.7, the Customer and BT accept liability to the other in contract, tort (including negligence) breach of statutory duty or otherwise for direct loss limited to:

(a) £1,000,000 for loss of or damage to physical property in any period of 12 consecutive months'; and

(b) £200,000 for all other loss or damage arising from any one incident or series of connected incidents and £1,000,000 for all incidents in any period of 12 consecutive months'.

7.6 Clause 7 will not apply to any obligation to pay charges or to clauses 3.5 and 8.5.

7.7 BT's liability to the Customer for failure to provide the Service in accordance with the Service Schedule will be limited to the amounts payable to the Customer by way of credits as set out in the Service Level.

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

## **8. Intellectual property and confidentiality**

### **Intellectual Property**

8.1 Except as expressly set out in this Contract, the Customer and BT do not acquire any rights or licences to the other's Intellectual Property Rights.

8.2 If software, documentation or manuals are provided to enable the Customer to receive and use the Service, BT grants the Customer, for the duration of this Contract, a non-exclusive, non-transferable licence to use such software, documentation or manuals for the Customer's own use. Unless otherwise agreed in writing, any licence granted by BT under this clause 8.2 will terminate when this Contract is terminated.

8.3 Except as permitted by applicable law or as expressly permitted under this Contract the Customer must not, without BT's prior written consent, copy, de-compile or modify any software, copy manuals or documentation or permit anyone else to do so.



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8.4 The Customer will sign any agreement required by the owner of the copyright in the Software to protect the owner's interest in that Software.

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

- (a) the use of the Service in conjunction with any equipment, software or any other service not supplied by BT; or
- (b) any modification which was not made by BT or with BT's prior written consent; or
- (c) designs or specifications supplied by the Customer; or
- (d) the use of the Service other than in accordance with the terms of this Contract.

8.6 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 secure for the Customer a right of continued use or modify or replace the Service so that it is no longer infringing, provided that the modification or replacement does not materially affect the performance of the Service. If the indemnity in clause 8.5 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.

## **Confidentiality**

8.7 Except to the extent any disclosure is required by law BT and the Customer will keep in confidence any information, whether written or oral, of a confidential nature obtained under or in connection with this Contract. The Customer and BT will not, without the consent of the other, disclose such information to any person other than:

- (a) their Group Company employees or professional advisers who need the information in order for the Customer or BT to fulfil its obligations under this Contract; or
- (b) in the case of the Customer, its Users to the extent that they are required to use or access the Service; or
- (c) in the case of BT, the employees or professional advisers of its suppliers who need the information in order for BT to fulfil its obligations under this Contract.

8.8 Information will not be treated as confidential if it is:

- (a) in the public domain other than in breach of this Contract; or
- (b) lawfully in the possession of the Customer or BT before disclosure has taken place; or
- (c) obtained from a third person who is free to disclose it; or
- (d) replicated independently by someone without access or knowledge of the Information.

8.9 If the Customer receives a request under the Freedom of Information Act 2000 which encompasses any information held by the Customer which was provided by BT in connection with this Contract the Customer will notify BT immediately of the request and give BT at least 10 working days' to make representations.

## **9. General terms**

### **Matters Beyond Reasonable Control**

9.1 (a) If the Customer or BT is unable to perform, or is delayed in performing, any obligation under this Contract because of something beyond its reasonable control including act of God, lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes or acts or



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omissions of local or central government or other competent authorities, or beyond the reasonable control of its suppliers, it will have no liability to the other for that failure or delay in performing.

(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 a telecommunications 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 9.1(a) or 9.1(b) continue for more than three months' the Customer or BT may terminate this Contract in whole or part by written notice to the other.

## **Escalation and Dispute Resolution**

9.2 (a) Any dispute must be raised in writing with the Customer's or BT's representative as appropriate. 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 seven 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 seven days' of referral, the Customer or BT may refer the dispute to the second level by written notice to the other.

The Customer's and BT's representatives at the first and second levels are as notified by the Customer and BT to the other from time to time.

(b) If the dispute is not resolved after the procedures detailed in clause 9.2(a) 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 Centre for Dispute Resolution (CEDR). 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 CEDR; and

(ii) all negotiations on the dispute and any agreement reached will be kept confidential.

(c) Nothing in this clause 9.2 shall prevent the Customer or BT from exercising any rights and remedies that may be available in respect of any breach of the provisions of this Contract.

## **Transfer of Rights and Obligations**

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

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

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

## **Severability**

9.4 If any term of this 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 this Contract had been made without the invalid, illegal or unenforceable terms.



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## **Survival**

9.5 Clauses 8.7, 8.8 and 8.9 will survive the termination or expiry of this Contract for two years'.

## **Entire Agreement**

9.6 (a) This Contract contains the entire agreement between the Customer and BT and replaces all previous written or oral agreements relating to its content.

(b) The Customer and BT agree that:

(i) they have not been induced to enter into this Contract by, nor have they relied on, any statement, representation, warranty or other assurance not expressly incorporated; and

(ii) in connection with this Contract their only rights and remedies in relation to any statement, representation, warranty or other assurance are for breach of this Contract and that all other rights and remedies are excluded.

(c) The terms of clauses 9.6(a) and 9.6(b) will not affect the rights or remedies of the Customer and BT for any fraudulent misrepresentation.

## **Waiver**

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

## **Rights of Third Parties**

9.8 A person who is not the Customer or BT (including an employee, the officer, agent, representative or subcontractor of the Customer or BT) has no right under Contracts (Rights of Third Parties Act 1999) to enforce any term of this Contract. This does not affect any right or remedy that exists or is available apart from that Act.

## **Notices**

9.9 Unless stated otherwise in the Service Schedule, notices given under this Contract must be in writing and delivered to the following addresses:

(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 the address to which the Customer asks BT to send bills, the address of the Site or, if the Customer is a limited company, its registered office.

This clause does not apply to notices given under clauses 1.1 and 5.

## **Law and Jurisdiction**

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

## **Data Protection**

9.11 The Customer and BT will comply with their respective obligations under the Data Protection Act 1998 and any data protection, privacy or similar laws that apply to any personal data processed in connection with this Contract. The Customer and BT will provide such help and co-operation as is reasonably necessary or requested by the other to enable compliance with this clause.



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## **Customer's Instructions**

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

## **10. Definitions**

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

### **BT**

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

### **BT Equipment**

Any equipment, including any Software, owned or controlled by BT and placed on the Site to provide the Service.

### **BT Price List**

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

These Conditions for BT Business Communications Service.

## **Contract**

This agreement for the provision of the Service between BT and the Customer comprising in order of precedence:

- \* the order/registration form;
- \* the Conditions;
- \* the Service Schedule; and
- \* the BT Price List;

Any other documents expressly incorporated into this Contract.

## **Customer**

The person with whom BT contracts to provide the Service.

## **Customer Equipment**

Any equipment, including any software, for use with the Service that is not part of BT's network and which is owned or controlled by the Customer.

## **Group Company**

A subsidiary or holding company including a holding company, or a subsidiary of any such holding company, all as defined by Section 736 of the Companies Act 1985 and as amended by the Companies Act 1989.

## **Intellectual Property Rights**

Any patent, petty patent, registered design, copyright, design right, database right, rights in designs, invention, semiconductor topography right, know-how, or any similar right exercisable in any part of the world and including any applications for the registration of any patents or designs.

## **Minimum Period**

The first twelve months' of the Service or any other period stated in the Service Schedule or the order/registration form, measured from the Service Start Date.



# *Standard Conditions for BT Business Communications Service (Telemarketing Services)*

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**Service**

The service specified in the Service Schedule.

**Service Level**

The standard of Service set out in the Service Schedule.