



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

This **Agreement** consists of (i) the General Terms and Conditions; (ii) the Co-location Service (without Internet) Service Schedule, (iii) the Order Form (with Charges) signed by the Parties and (iv) the Co-location Service Levels Schedule, set forth below.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

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

“**Agreement**” means (i) the General Terms and Conditions; (ii) the Co-location Service (without Internet) Service Schedule; (iii) the Order Form (with Charges); and (iv) the Service Levels Schedule.

“**Approved Maintainer**” means anyone approved by the Customer and notified to BT as authorised to work on the Customer Equipment.

“**Authorised User**” means where applicable, anyone permitted by the Customer to use or access the Service or can be reasonably assumed by BT to have such permission.

“**Availability**” means the period of time when the Service is not affected by Downtime. This figure applies to the Service Window.

“**Back End**” means the network connection between the Customer Premises and the BT Data Centre.

“**BT**” means BT Communications Ireland Limited of Grand Canal Plaza, Upper Grand Canal Street, Dublin 4.

“**BT Data Centre**” means the data centre(s) located in Citywest Business Campus, County Dublin.

“**BT Equipment**” means equipment placed on Site by BT for the provision of the Service.

“**BT Infrastructure**” means the network structure which BT shall maintain to provide the required functionality and management services.

“**BT Software**” means any software owned by or licensed to BT and used to provide the Service (including, but not limited to operating system, monitoring, reporting and BT Virtual Software).

“**Category**” means the category applied to the Service based on Service Availability, as detailed in Section 1.1 of the SLA.

“**Change Management**” means the process of implementing and registering changes.

“**Charges**” means the fees payable for Services as specified in the Order Form and termination where applicable.

“**Order Form**”

“**Co-location Service (without Internet) Schedule**” means the schedule included in this Agreement which sets forth terms and conditions under which the Service is to be provided to Customer.

“**ComReg**” means the Commission for telecommunications regulation, the national regulatory authority for the telecommunications market in Ireland.

“**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 Agreement.

“**Content**” means information made available, displayed or transmitted in connection with the 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

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“**Customer**” means the customer entity named above. BT may accept instructions from another person or entity who BT reasonably believes is acting with Customer’s authority or knowledge.

“**Customer Equipment**” means all cabling, apparatus and facilities provided by Customer to enable Customer to connect to the Network Connection.

“**Customer Handbook**” means a document that typically outlines technical information and agreed procedures to be followed for the ongoing management and maintenance of the Service including relevant contact and escalation details and Datacentre rules and policies.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

“**Customer Information**” means data, information, video, graphics, sound, music, photographs, software, and any other materials (in whatever form) published or otherwise made available (directly or indirectly) by or on behalf of Customer by using the Service.

“**Customer Named Contact**” means a person who is appointed by the Customer and known to BT to report Incidents and/ or request Changes.

“**Customer Premises**” means all premises that are not owned, hired, leased or labeled specifically as BT premises.

“**Customer Website**” means Customer’s website(s) on the world wide web.

“**Delivery**” means the design and installation of the Service. Delivery is completed on the Operational Service Date.

“**Dispute**” means a dispute as defined in Section 9.1 of the General Terms and Conditions.

“**Domain Name**” means a name registered with an Internet registration authority for use as part of Customer’s URL.

“**Downtime**” means the period of time during which a Qualifying Fault exists as calculated in accordance with this Agreement excluding Scheduled Maintenance Windows, Planned Works, and Customer physical access and emergency maintenance periods.

“**Emergency**” means any crisis necessitating prompt action by BT.

“**Fault**” and “**Incident**” mean a Service affecting event during the Service Window.

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“**Functional Service Component**” or “**FSC**” means a functionality that is distinguished within the entire Service as set out in Section 1.2 of the SLA, and forms part of the Service as a whole as delivered to Customer.

“**Incidents**” means Service affecting events.

“**Incidents Management**” means the process of actively managing service elements in order to prevent or minimize the impact of faults on the business process.

“**Incident Report**” means a report generated which provides information on customers Incidents at the Customer’s request.

“**Internet**” means the global data network comprising interconnected networks using TCP/IP protocol suite.

“**Internet Standards**” means the generally accepted professional standards of the Internet industry.

“**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 Term**” unless otherwise specified on the Order Form the Minimum Term means thirty six (36) months which will commence on the Operational Service Date of the Service.

“**Month**” means a calendar month beginning on its first day.

“**Network**” means the telecommunications system owned and/or operated by BT.

“**Network Connection**” means all BT cabling, interface panels, cabinets, systems, apparatus, facilities and any other equipment which may be utilised by BT to provide the Service.

“**Normal Working Day**” means a day (other than a Saturday or Sunday) on which dealing banks are generally open for business in Ireland.

“**Normal Working Hours**” means the hours between 0800 and 1800 hours (Dublin time) on a Normal Working Day.

“**Order Form**” means the Order signed by the parties for the Services and containing the full Charges and Minimum Term.

“**Operational Service Date (OSD)**” means the date on which the Service or part of the Service is first made available (including any initial BT network circuits and/or cross connects) to Customer by provision of access details (i.e. User ID, passwords, IP addresses and relevant server details) to Customer by BT or the date when Customer first starts to use such Service (or part of the Service), or three months from Customer signature date, whichever date is earlier.

“**Other Networks**” means electronic systems owned or operated by third parties.

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

“**Planned Maintenance**” or “**Planned Works**” means any work planned in advance and notified to the Customer in accordance with section 6.9 of the Service Level agreement to be carried out by BT or on behalf of BT which may require the availability of the Service to be suspended.

“**Priority 1 Failure**” means a Fault or Incident classified as Priority 1 under BT’s incident management process, namely one of the following: (1) all Services unavailable on a single



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

platform (2) total loss of Service to environment (3) Service unavailable to a multitude of platforms (4) a suspected security breach/incident.

“Problem” means an unknown underlying cause of one or more incidents, and a ‘known error’ is a problem that is successfully diagnosed and for which either a work-around or a permanent resolution has been identified.

“Problem Management” means the resolution of the root cause of incidents and prevention of the re-occurrence of incidents and problems that are caused by errors within the IT infrastructure.

“Problem Manager” means a person who is assigned to own the Problem to resolution.

“Qualifying Fault” means a Priority 1 Failure resulting in a total loss of a Functional Service Component. The exact duration of the failure is subject to BT’s incident management process.

“Recurring Charges” means those Charges which comprise the monthly charges for the Service as detailed in the Order Form.

“Remote Hands” means the facility for the Customer to request BT personnel to carry out the routine tasks detailed in Section 8 of this Service Schedule.

“Remote Management” means management not at the BT Data Centre.

“Request for Change (RFC)” means a request for change which is captured in an RFC-form and sent to BT for assessment and or completion.

“Service” means the co-location (without Internet) service as outlined in this Agreement.

“Service Credit(s)” means a credit of the charges which Customer may claim from BT if BT fails to meet a Service Level and which is calculated in accordance with the monthly service element charges as set out in the SLA.

“Service Delivery Period” means the period of time commencing with the build phase and ends upon the start of the Operational Service Date.

“Service Schedule” means the Co-location (without Internet) Service Schedule.

“Service Credit Start Point (SCSP)” means a time allowance for Qualifying Faults, from which Downtime may result in payment of a Service Credit.

“Service Desk” means the initial contact point for the BT Data Centre facility provided by BT to handle communications (including enquiries, requests and escalations) between customers, agents of customers and BT to facilitate the Service.

“Service Elements” means those (cost) elements of the Service that form a Functional Service Component including (for example) but not limited to servers, software, management and monitoring.

“Service Levels” means the provisions relating to Availability, Delivery and/or Service Performance as set out in the Service Levels Schedule.

“Service Window” means the time that the Service is operational i.e. 24/7/365 during the contracted term from the Operational Service Date, excluding Scheduled Maintenance Windows, Planned Maintenance or Works, customer physical access to platform and emergency maintenance periods.

“Scheduled Maintenance Window” means regular BT scheduled maintenance window, currently scheduled on Thursdays, from 2 a.m. to 4 a.m. or as otherwise advised by BT.

“Site” means the BT Data Centre from which Service is provided.

“SLA” means the Service Level Agreement set out below.

“Software” has the meaning assigned to it in Clause 5.2 of the General Terms and Conditions.

“Termination Charges” means the charges payable by the Customer on termination being the Recurring Charges which would have been payable by Customer for the Service for the remainder of the Minimum Term as if the Service had not been terminated.

“Third Party information” means data, information, video, photographs, software and any other materials (in whatever form) not owned or generated by or on behalf of Customer, published or otherwise made available by Customer using the Service. This shall include information belonging to an Authorised User.

“URL” means a Uniform Resource Locator, which is the full address for Customer Website;

“User ID” means the identification character string provided to Customer by BT for the purposes of security in the provision of this Service;

“Year” means a full calendar year of 8760 hours in which Service is provided. The first Year commences at the Operational Service Date of the Service and ends 365 days later; thereafter the second Year starts and so on.

2. PROVISION OF THE SERVICE



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

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

3. CHARGES

3.1 The Charges for the Service will be calculated in accordance with the terms of this Agreement and will begin on the Operational Service Date.

3.2 Charges for the provision of the Service are invoiced and payable on a quarterly basis in advance.

3.3 For the purpose of calculating a charge payable for any period, each period will begin on the first day of the relevant month; and for any period where Service is provided for less than one month, the Recurring Charges will be pro rata on a daily basis.

3.4 Customer must pay all Charges for the Service 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 3.7). Where applicable, BT may set-off any amounts it owes to Customer against any amounts owed by Customer to BT under this Agreement. 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.

3.5 BT will invoice Charges in Euro and Customer will pay all Charges in Euro. 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 Agreement. 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 Agreement, except to the extent a valid exemption certificate is provided by Customer to BT prior to the delivery of Service.

3.6 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 Agreement such withholding tax amounts shall be borne and paid for by Customer in addition to the sums due to BT. 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 3.6.

3.7 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 3.4 above. Disputes shall be resolved promptly and the resolved amount, if any, payable within fourteen (14) Normal Working 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.

3.8 Without prejudice to any other provision of this Agreement, if Customer fails to pay any sums due in accordance with the terms of this Agreement, BT may, at its option on 14 days' written notice to Customer (a) restrict or suspend provision of the applicable Services until any balance due is paid; and/or (b) terminate the Service without liability to or right to compensation for Customer and without prejudice to BT's rights to be paid sums due. If BT is required to take action to recover any past due amounts, Customer will be responsible for the payment of reasonable legal fees and costs incurred by BT in connection with taking such action.

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

3.10 BT reserves the right to charge Customer for (i) work done by BT investigating faults/incidents reported by Customer and BT finds no fault/incident or that the fault/incident does not exist with BT Equipment; (ii) Service delivery outside of Normal Working Hours; (iii) restoring Service if the Service has been suspended.

3.11 Customer authorizes BT to check its credit status with any credit reference agency or bureau as it deems fit from time to time and to pass credit information about Customer to any credit reference agency or bureau at any time. If Customer is not satisfied with the information about Customer which BT receives from any credit reference agency or bureau Customer must deal directly with the credit reference agency or bureau.

3.12 If, following a credit check, BT is dissatisfied with the credit status of Customer, BT reserves the right to: (a) decline Customer's application for the Service; or (b) where the provision of Service



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

has commenced, suspend the Service to Customer and or terminate this Agreement immediately without liability to BT.

3.13 Termination Charges: In addition to the provisions of the General Terms and Conditions, if Customer terminates Service other than because BT has increased the Charges payable for the Service (except in accordance with agreed process) or in accordance with Clause 8 of the Service Level Agreement or BT terminates for breach, before the Minimum Term has expired, then in addition to all outstanding charges for Service rendered, Customer will pay the Termination Charges.

3.14 In the event that Customer action or inaction delays BT's ability to commence provision of Service hereunder (including, without limiting the generality of the foregoing, by failing to provide all or complete information that BT needs to deliver the Service, or by requesting postponement in delivery for any reason whatsoever, by submitting change, configuration and/or refinement requests) then BT may at its absolute discretion (i) change any customer commit date provided to Customer and charge Customer for all reasonable costs incurred by BT or (ii) terminate the Agreement without liability to BT and charge Customer for all reasonable costs incurred by BT.

4. CONFIDENTIALITY

4.1 BT and Customer shall keep in confidence any confidential information obtained during the term of this Agreement 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.

4.2 This section 4 shall not apply to information that is: (a) in the public domain other than in breach of this Agreement; (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.

4.3 The receiving Party must, for a period of three (3) years following the expiration or termination of this Agreement (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 Agreement.

4.4 A violation of this Section 4 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.

4.5 Upon signature of the Agreement, the Parties are entitled to announce publicly the fact that they have entered into the Agreement for the provision of the Service. Any other publicity, announcements and/or press releases about or in relation to the Agreement will require the prior written consent of the other Party which shall not be unreasonably withheld or delayed.

4.6 Subject to the provisions of Section 4.5 above, neither Party may publish or use any advertising, sales promotions, press releases or other publicity which uses the trademark, service mark, trade name, logo or other indicia of origin of the other Party or its Affiliates in connection with the Agreement or the Service, without the prior written approval of the other Party which shall not unreasonably be withheld.

5. INTELLECTUAL PROPERTY

5.1 Neither Party acquires any rights to the other Party's patents, copyrights or other intellectual property under this Agreement, except as expressly provided otherwise under this Agreement. Neither Party may use any Marks of the other Party, except as expressly provided otherwise under this Agreement.

5.2 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 Agreement, shall remain the property of BT or its licensors. Without prejudice to any open source software licence terms, 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 Agreement and the applicable written and electronic documentation. The term of any licence granted by BT in this Section 5.2 is coterminous with the term for the Service with which the Software is associated.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

5.3 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 Agreement 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 Agreement. Without prejudice to any open source software licence terms, which terms shall apply independent of this licence grant, 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.

5.4 BT warrants that it has all rights, authorisations and licences required to provide the Service and Software licences granted to Customer.

6. INTELLECTUAL PROPERTY INDEMNITIES

6.1 Excluding any open source software, 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.

6.2 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 6.1, 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 6.1(d) above, 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.

6.3 Without prejudice to the provisions of the applicable law, the indemnity and remedies in Sections 6.1 and 6.2 are the exclusive remedies for claims of infringement and do not apply to claims for infringements related to Customer's or Authorised 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. 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 6.1 above.

6.4 BT may offer updates or modifications to the Software or documentation. Any applicable charges for such updates or modifications will be notified to Customer at the time BT offers such updates or modifications.

6.5 Customer acknowledges that the deployment of servers dedicated by BT for Customer's use does not constitute a grant to the Customer of any right, title or interest in such server(s) or in any Software or other applications of any kind provided by BT and which are resident on such server(s).

6.6 Any intellectual property rights (whether registered or unregistered) created or acquired by BT in the course of providing the Service vest and remain vested in BT.

6.7 The limitations and exclusions of liability contained in Section 11 of the General Terms and Conditions, do not apply to this Section 6.

7. FORCE MAJEURE

7.1 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 labour unrest, civil disturbance, sabotage, expropriation by governmental authorities or other act or any event that is



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

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.

7.2 If any of the events detailed in Section 7.1 above continue for more than ten (10) days, either Party may serve notice on the other terminating the affected part of the Service, without liability to the other Party.

8. USE OF THE SERVICE

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

8.2 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 Agreement and/or BT's specific instructions, such instructions to be given in writing under the notice provisions of Section 13 of the General Terms and Conditions.

8.3 Except as may be otherwise specifically provided under this Agreement, the obligations and responsibilities of BT under this Agreement 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 Service.

9. DISPUTE RESOLUTION

9.1 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 Agreement and the Service (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.

9.2 Notwithstanding Section 9.1 above 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 4, 5 or 6 of the General Terms and Conditions.

10. TERMINATION OF SERVICE AND AGREEMENT

10.1 Either Party may terminate the Service (or part thereof) at the end of its Minimum Term, upon ninety (90) days written notice to the other subject to payment by Customer to BT of any outstanding Charges.

10.2 Either Party may terminate this Agreement 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 examiner 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.

10.3 Either Party may terminate this Agreement 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 thirty (30) days of a written notice to do so; or commits a material breach of this Agreement which cannot be remedied. Termination for breach is without prejudice to any other available right or remedy arising from the breach.

10.4 Persistent breach – In the event of five (5) or more separate and distinct Priority 1 Service Level failures, or two (2) or more separate and distinct Priority 1 Service Level failures due to electrical power and/or a single Priority 1 Service Level failure with a duration of no less than forty eight (48) hours relating to a Service which breaches the Functional Service Components targets in the Service Levels Schedule (i.e. resulting in a direct outage or fault of Customer Equipment) in any six (6) month period, the Customer shall be entitled at its option to terminate the Agreement in whole or in part, upon written notice to BT, in the event that BT does not cure the underlying root cause of the breach within thirty (30) days of receipt of a written notice from the Customer detailing the breach and advising of the Customer's intention to terminate.

10.5 Following termination of this Agreement any information which has been furnished to either party by the other shall be returned to that party, deleted, destroyed or expunged, as appropriate.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

11. LIMITATION OF LIABILITY

11.1 Neither Party excludes or restricts in any way its liability for death or personal injury resulting from its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation.

11.2 Subject to Section 11.1, neither Party shall be liable to the other or to any third party, whether in contract, tort, under statute or otherwise (including in each case negligence) for any of the following types of loss or damage arising under or in relation to this Agreement or any part of it; (a) any loss of profits, business contracts, anticipated savings, goodwill, or revenue; and/or (b) any loss or corruption or destruction of data; and/or (c) any special, indirect or consequential loss or damage whatsoever; and/or (d) any loss arising from the transmission of viruses, whether or not that Party was advised in advance of the possibility of such loss or damage.

11.3 If a Party is in breach of any obligations under the Agreement to the other Party or if any other liability is arising (including liability for negligence or breach of statutory duty) then, subject to Sections 11.1 and 11.2, such Party's liability to the other Party shall be limited to €1,000,000 for any one event or series of connected events and to €2,000,000 for all events (connected or unconnected) in any period of twelve (12) consecutive months.

11.4 BT shall implement reasonable precautions to prevent any unauthorised access by third parties to any part of the telecommunications network used to provide Service to Customer, but BT shall not be liable for any loss or damage sustained by Customer in the event of any unauthorised access in spite of BT's reasonable precautions.

11.5 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 authorise 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.

11.6 This Agreement 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.

11.7 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.

11.8 BT does not accept liability to Customer for the acts or omissions of other telecommunication operators.

11.9 Neither party shall interfere with or cause damage to the equipment, network or systems of the other party and where either party acts in breach of this provision, directly causing loss or any other liability to the other party, the breaching party shall be liable for the cost of any such proven loss, subject to the provisions of this Agreement and the limits and exclusions of liability as set out in this Clause 11.

11.10 In the event BT is unable to provide the Service (or part thereof) due to changes to applicable law or regulation, BT shall have no liability to Customer for failure to supply the Service and shall be entitled to terminate this Agreement on written notice to Customer. For the avoidance of doubt Customer shall also have the right to terminate this Agreement and shall not be liable for payment of Termination Charges.

11.11 Customer accepts that BT is under no obligation to edit, review or modify Customer Information or Third Party Information and that BT does not examine the use to which the Service is put. However, BT reserves the right to suspend access to any Customer Information or Third Party Information following notice to Customer if BT reasonably believes that there may be a breach of either this Agreement, the law or any third party right.

11.12 BT excludes all liability of any kind in respect of Customer Information, Third Party Information and any other material on the Internet which can be accessed using the Service. BT is not responsible in any way for any goods (including software) or services provided by third parties advertised, sold or otherwise made available by means of the Service or on the Internet.

11.13 BT is not liable to Customer either in contract, tort (including negligence) or otherwise for the acts or omissions of other providers of telecommunications or Internet services (including domain name registration authorities) or for faults in or failures of their equipment.

11.14 BT is not liable to Customer for any loss, liability, claim, legal proceeding or damage which Customer suffers as a result of the failure to supply the Service because of an emergency, for



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

reasons of health and safety or for operational maintenance or improvements which are directly linked to the ongoing availability of the Service.

12. COMPLIANCE WITH LAWS Both Parties agree to comply with all applicable laws and regulations in any country where Service is provided.

13. NOTICES Notices given under this Agreement must be in writing and may be delivered by hand or by courier, or sent by registered post to the office addresses of BT (to the attention of Chief Counsel) and Customer shown on this Agreement. 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 Working Hours, in which case it shall be deemed given on the next Normal Working Day); or five (5) days after the date of posting.

14 ASSIGNMENT AND SUBCONTRACTING

14.1 Either Party reserves the right to assign all or part of the Agreement at any time to any Affiliate which can sufficiently execute the obligations under the Agreement, 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.

14.2 This Agreement will be binding on, and inure to the benefit of, the Parties and their successors and permitted assigns.

14.3 BT may subcontract the performance of any of its obligations under this Agreement, but without relieving BT from any of its obligations to Customer. Customer agrees and understands that it may need to interact directly with a subcontractor for ordering, provisioning or maintaining the subcontracted Service.

14.4 **Service in the United States:** Customer agrees that on signature of this Agreement, any part of this Agreement which BT deems relates to provision of the Service in the United States of America is assigned to BT Americas (BTA). Notwithstanding this, any claims or disputes relating to this Agreement, including any part of the Service assigned under this Section 14.4 must be made against BT.

15. GOVERNING LAW AND JURISDICTION The validity, interpretation and performance of this Agreement will be governed by the laws of Ireland, excluding the United Nations Convention on Contracts for the International Sale of Goods. The Parties submit to the exclusive jurisdiction of the courts in Ireland.

16. ENTIRE AGREEMENT This Agreement 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 Agreement shall not be modified, amended or supplemented except in writing and signed by authorised representatives of all Parties or except as otherwise provided herein.

17. ORDER OF PRECEDENCE In the event of a conflict, the order of precedence within the Agreement shall be first to the Order Form, second to the Service Levels Schedule, third to the Service Schedule and fourth to the General Terms and Conditions. Headings and bold type are for convenience only and do not affect the interpretation of this Agreement.

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

19. NO WAIVER Except as otherwise specifically provided in this Agreement, no failure to exercise, or delay in exercising, any right, power or privilege set forth in this Agreement will operate as a waiver of any right, power or privilege.

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



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

21. SURVIVAL OF OBLIGATIONS The Parties' rights and obligations, which, by their nature would continue beyond the termination, cancellation or expiration of this Agreement shall survive termination, cancellation or expiration hereof.

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

23. DATA

23.1 Data

'Customer Data' means any data provided or made available by the Customer to BT under or in accordance with this Agreement. The following terms have the meanings given in the Data Protection Directive (95/46/EC): 'personal data', 'processing', 'data subject', 'data controller' and 'data processor'.

23.2 Customer Data

Notwithstanding any other provision in this Agreement, the Customer agrees that, for BT to provide the Services and/or Products, Customer Data may be: (a) held on a variety of systems, networks and facilities worldwide including systems and databases used by BT help desks, service desks and/or network management centres used for providing the Service and/or the Products and/or used for billing, sales, technical, commercial and/or procurement purposes; (b) located, hosted, managed, accessed or transferred worldwide; and (c) provided or transferred by BT to any Affiliate, subcontractor or supplier worldwide to the extent necessary to allow that Affiliate, subcontractor or supplier to perform its obligations in respect of the Service and/or the Products.

23.3 Customer Personal Data

- (a) The Customer shall notify to BT what personal data, if any, is included in the Customer Data ('Customer Personal Data') and the Customer will provide BT with reasonable written instructions in accordance with clause 13 as to the manner and purpose of the processing by BT to the extent strictly required for the provision of the Services. Any such instructions shall require an amendment in accordance with the Agreement.
- (b) The Customer will be the data controller and BT will be the data processor in relation to any processing of Customer Personal Data.
- (c) Each Party shall comply with any data protection laws applicable to it in its processing of Customer Personal Data under or by virtue of this Agreement.
- (d) BT will only process Customer Personal Data to the extent necessary to provide the Services and/or Products in accordance with this Agreement and will: (i) implement and maintain measures, in accordance with its security policies as amended from time to time, to protect Customer Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access; and (ii) transfer Customer Personal Data outside of the EEA, including to Affiliates, subcontractors or suppliers where required to provide the Services.
- (e) The Customer shall provide sufficient notice and obtain sufficient consent and authorisation, under any applicable laws, from any relevant data subject to permit the processing of any Customer Personal Data by BT, its respective Affiliates, subcontractors or suppliers as provided for in this Agreement.
- (f) The Customer agrees that BT, to the extent permitted by law, will not be liable for any complaint, claim or action brought by a data subject arising from any action or omission by BT to the extent that such action or omission: (i) resulted from any failure by the Customer to comply with this Clause 23.3; or resulted from BT complying with any instructions of Customer or acting on behalf of the Customer in accordance with those instructions, and the Customer shall indemnify, hold harmless and defend BT from and against any such claims or actions brought against BT.



Co-location Service (without Internet) Schedule

The terms and conditions in this Service Schedule apply to the provision of the Service to the Customer, pursuant to the Agreement.

1. MINIMUM TERM

- 1.1 The Minimum Term shall be as defined in the Definitions. For the avoidance of doubt, should the Customer be renewing an existing contract for the Services, a new Operational Service Date will be provided to the Customer.
- 1.2 Following expiration of the Minimum Term shall continue in full force and effect until terminated by either Party, in accordance with the General Terms and Conditions of the Agreement.

2. SERVICE OVERVIEW

The Service provided by BT comprises the standard equipment and support services detailed in this Service Schedule.

- 2.1 The Customer is responsible for providing suitable computer hardware, software and telecommunications equipment and services necessary to access and use the Service.
- 2.2 Where BT indicates to the Customer that the Back End is to be connected to a telecommunications network or circuit run by BT or a third party, it is the Customer's responsibility to arrange for such connection to be made, to pay any connection charge and to comply with any conditions relating to connection. Service under this Contract does not include Back End connectivity.
 - 2.2.1 The Customer must not add to, modify or in any way interfere with BT Equipment, nor allow anyone else (other than someone authorised by BT) for whom the Customer is responsible, to do so. The Customer will be liable to BT for any loss of or damage to 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.

2.3 Security

- 2.3.1 The Customer is responsible for the security and proper use of all User ID's (where applicable) passwords and security checkwords allocated by BT which are used in connection with the Service (including changing such passwords and security checkwords on a regular basis) and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to unauthorised people.
 - 2.3.2 The Customer must immediately inform BT if there is any reason to believe that a User ID, password, or checkword allocated by BT 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.
 - 2.3.3 BT reserves the right to suspend a User ID, password or checkword access to the Service if at any time BT has reason to believe that there is, or is likely to be, a breach of security or misuse of the Service and BT will notify the Customer as soon as possible after it has done so.
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- 2.3.4 BT reserves the right (at its sole discretion) to require the Customer to change any or all of the checkwords or passwords allocated by BT and used by the Customer in connection with the Service.
- 2.3.5 The Customer must, as soon as reasonably practicable, inform BT of any changes to the information that the Customer supplied when ordering the Service.
- 2.3.6 Where applicable, the Customer must not change, or attempt to change, a User ID. If a Customer forgets, loses or wishes to change a password or User ID allocated by BT, the Customer must contact BT and satisfy such security checks as BT may operate.

2.4 Use of the Service

- 2.4.1 It is the Customer's responsibility to obtain and keep in force any licence or other permission or consent necessary for the Customer to use the Service in any country in which it is provided.
 - 2.4.2 The Service is provided solely for the Customer's own use and the Customer will not assign or resell or attempt to assign or resell the Service (or any part or facility of it) to any third party.
 - 2.4.3 The Customer is solely responsible for any obligation or liability arising out of transactions of any kind entered into between the Customer and any third party accessing or acting in reliance on the Service, Customer Information, or Third Party Information. BT will not be a party to or in any way responsible for any transaction between the Customer and any third party.
 - 2.4.4 The Customer is responsible for the creation, maintenance and design of all Customer Information.
 - 2.4.5 The Customer must ensure that the Customer Information and any Third Party Information does not include any information or material, any part of which, or the accessing of which, or use of which would be a criminal offence or otherwise unlawful. In particular the Customer is responsible for obtaining all necessary licenses and consents (including, but not limited to, those from owners of copyrights or performing rights).
 - 2.4.6 The Customer must comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities, relevant licences and any other codes of practice which apply to the Customer and which relate to the provision of Customer Information or Third Party Information.
 - 2.4.7 The Service must not be used:
 - (a) in any 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 any way that does not comply with instructions given by BT under this section or any other public telecommunications
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

operator or other competent authority, in the country where the Service is provided;

- (c) to send, knowingly receive, upload, download, use or re-use any information or material which is offensive, abusive, indecent, defamatory, obscene or menacing, or in breach of confidence, copyright, privacy or any other rights;
- (d) in any way that cause annoyance, inconvenience or needless anxiety;
- (e) to send or provide unsolicited advertising or promotional material, or to knowingly receive responses to any unsolicited advertising or promotional material sent or provided using the Service by any third party;
- (f) other than in accordance with the acceptable use policies of any connected networks and the Internet standards, or
- (g) otherwise in a way that causes BT loss or damage.

2.4.8 The Customer must not use a domain name or URL that infringes the rights of any person in a corresponding trade mark or trade name.

2.4.9 The Customer must indemnify BT against any loss, liability, claim, legal proceeding or damage arising out of a breach of a term of this Service Schedule by the Customer.

2.4.10 The Customer is responsible for the acts and omissions of all employees or Authorised Users in connection with the Service and is liable for any failure by any employee or Authorised User to perform or observe the terms and conditions of this Service Schedule, including any instructions issued under this paragraph 2.4.

2.4.11 If the Customer, or any other user of the Service or the system to which the Service is connected, with or without the Customer's knowledge or approval, uses the Service in contravention of paragraphs 2.4.1 – 2.4.7 inclusive, then BT may suspend or terminate (at BT's option) the relevant Service Schedule and/or the MSA with immediate effect.

2.4.12 The Customer irrevocably and unconditionally agrees to indemnify and keep indemnified and to hold BT, members of the BT Group and its officers, directors and employees harmless against claims, losses damages, costs, expenses and liability (including arising from any breach of confidence or in connection with any infringement of intellectual property rights) arising from or in connection with:

- (a) any Customer Information, Third Party Information or other content or communication sent, provided or stored in connection with the Service;
 - (b) the installation, maintenance or use of any software or other material installed by or on behalf of the Customer;
 - (c) the use of the Service in a manner inconsistent with the terms of this Service Schedule or the Agreement; and
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- (d) where applicable, any injury or damage to the BT Equipment used for the provision of this Service or other equipment belonging to BT or a third party which is located on the same site as or connected (directly or indirectly) to the BT Equipment which is not caused by BT.

2.5 Connection of the Equipment to the Service

- 2.5.1 The Customer must ensure that any equipment connected to or used with the Service must be connected and used in accordance with any applicable instructions, safety and security procedures.
- 2.5.2 The Customer must ensure that 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.
- 2.5.3 The Customer must ensure that any activities carried out by Remote Hands function is under strict and clear instructions by the Customer.
- 2.5.4 Subject to the terms of this Contract, the Customer is licensed to place the Customer Equipment at the BT Data Centre. This Contract creates no right of exclusive possession or any relationship of landlord and tenant.
- 2.5.5 The Customer warrants that the Customer has all necessary rights, title, consent and approvals to place the Customer's Equipment at the BT Data Centre and that the provision of the Service to the Customer's Equipment by BT will not infringe any third party rights, including without limitations any intellectual property rights.
- 2.5.6 Network access is presented to the Customer in a 10/100/1000 full duplex Ethernet configuration.

2.6 Access and Site Regulations

- 2.6.1 BT will provide the Customer and Approved Maintainers with access to the BT Data Centre subject to the production of valid identification and the provisions of paragraphs 2.3 and 5 of this Service Schedule.
- 2.6.2 The Customer and anyone acting on the Customer's behalf (including Approved Maintainers) will observe the BT Data Centre regulations as set out in the Customer Handbook.
- 2.6.3 BT and the Customer will meet each others reasonable requirements for the safety of people on the Site.

2.7 Insurance

- 2.7.1 The Customer shall effect and maintain insurance throughout the duration of the Contract, in respect of:-
 - (a) the Customer Equipment in an amount equivalent to its full replacement value for all risk; and
 - (b) public and product liability insurance for not less than €2,000,000 per incident.
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

2.7.2 The Customer shall provide BT on request, certificates of insurance to evidence that the insurance referred to herein are in full force and effect.

2.7.3 If the Customer fails to provide satisfactory evidence of insurance, BT shall be entitled to require the Customer to amend its insurance or to purchase, at the Customer's expense, insurance to meet the Customer's obligations under paragraph 2.7.1.

2.8 Internet

The Customer acknowledges that the Internet is independent of the Service and BT and use of the Internet is solely at the Customer's risk and subject to all applicable laws. BT has no responsibility for any information, software, services or other materials obtained by the Customer using the Internet.

2.9 Domain Name

2.9.1 The Customer warrants that it is the owner of, or that it is duly authorised by the owner of, any trade mark or name that it wishes to use as its Domain Name and use as part of its URL.

2.9.2 BT reserves the right to require the Customer to select a replacement Domain Name or URL and may either refuse to provide or may suspend Service if, in BT's opinion, there are reasonable grounds for BT to believe that the Domain Name or URL is, or is likely to be, offensive, abusive, defamatory, obscene, in breach of the provisions of paragraph 2.4.8 or otherwise unlawful.

3. SERVICE

The standard Service provided by BT comprises:

- Space and Power Provision and Internet Connectivity (where applicable), as specified in paragraph 4 below;
- Physical Security Services, as specified in paragraph 5 below;
- Controlled Environment, as specified in paragraph 6 below;
- Remote Hands facility, as specified in paragraph 7 below;
- Service Management, as specified in paragraph 8 below;
- Customer responsibilities as specified in paragraph 9.

4. SPACE AND POWER PROVISION

4.1 BT will as standard provide rack(s) for housing the Customer's Equipment as set out in the Order Form

4.2 Each rack will be provided with lockable front and rear doors with keys or combinations being held by BT.

4.3 Electrical supplies to the customer footprint will be fed from two dedicated power distribution boards serving the cabinet. In turn, dual supplies of 230V AC 50Hz are presented beneath the cabinet as 32 Amp torpedo sockets from which 2 x 12 gang power strips (IEC kettle type) are fed. These supplies are configured as redundant components of the power distribution service and as such the Service Level Agreement relates to the availability of one or other of the supplies and not both.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

A standard bundle of 2kW of power is provided per dual feed with a single feed typically providing 1kW. Only in the event of a failure of one of the supplies should the other be expected to support the 2kW for the duration of the outage.

BT reserves the right to review from time to time the kW price as documented or bundled within the co-location services in the Order Form and adjust (increase or decrease) the price per kW accordingly in light of changing market conditions in the electricity supply market. For clarity, such review and price adjustments may only be implemented where electricity costs adjust by 5% from the market rate as per the date of this Agreement.

In the event of BT agreeing to supply additional electrical power per cabinet the following should be noted:

(a) Every additional kW or part thereof above the maximum power allowance will be charged at the current prevailing rate per kW or as may be bundled within the service fees as detailed in the Order Form.

The electrical feeds to the rack are backed up by the use of standby generators and rotary powered UPS (uninterruptible power supply).

- 4.4 BT reserves the right to remove any rack, from service for reasons of security implications, fire hazards or breach of the terms and conditions. Where practicable notice will be given but, in emergency cases, racks or equipment therein may be removed by BT without notice. Where such reasons are directly attributed to the the Customer, BT shall charge the Customer all related costs.
- 4.5 BT reserves the right to ensure that the customer at all times locates both the rack and equipment therein to industry best practices as it relates to power and cooling efficiencies. This includes but is not limited to such things as location of racks and equipment within the racks, the direction in which equipment is located , the use of blanking plates, the use and location of cable management solutions, and cabling and any other action in line with industry best practice. In addition following reasonable notice and discussion on any such issue and it's proposed remedy, BT retain the right to apply any remedy as it sees fit and pass on any cost to the customer

4.7 Internet Connectivity

Not Used
4.8 Service

Not Used

4.9 Contracted Rate of Traffic

Not Used

5. PHYSICAL SECURITY

- 5.1 The racks will be housed at the BT Data Centre. Building and premises perimeter security will be effected using landscaping, gates and vehicle barriers.
 - 5.2 Subject to section 2.3 of this Service Schedule, physical access will be granted 24 hours a day, 365 days a year subject to pre-booking with a minimum of 4 hours
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

notice to BT. Booking must be registered by telephone or by email (as per the instructions detailed in the Customer Handbook), logging a visit request and obtaining a ticket/docket number.

- 5.3 During the customer installation phase of a duration of no more than 2 months from the OSD, the Customer will be granted unlimited access to the BT Data Centre. Further to this, a period equivalent to 12 hours per Month will be allocated for maintenance access at no additional charge. Each visit will count as a minimum three hour period with actual time at the BT Data Centre being rounded up to the next whole hour. Additional visits may be subject to an additional charge at the prevailing rate to be advised to the Customer on a case by case basis.
- 5.4 Upon arrival, Co-location Customer visitors will be checked in against the required logs and may (particularly for an initial visit) be asked to provide identification in the form of a valid identity card. Visitors will be checked against a Customer/BT authorised list before entry is permitted. It is the responsibility of the Customer to advise BT of any additions or other changes to the authorised list. The Customer accepts responsibility to provide BT as soon as possible with any changes to the list of authorised personnel on the approved list. Irregular visitors will also be asked to produce letters of authority before proceeding onto the BT Data Centre site.
- 5.5 The Customer acknowledges that BT is reasonably entitled to treat instructions regarding the Service from any individual identified to BT in accordance with this paragraph 5 as bona fide authorised requests for and on behalf of the Customer.
- 5.6 Once checked in, a BT representative reserves the right to escort the visitor to the rack, open the door to the appropriate cabinets and then remain in close proximity to observe that the correct building security standards are observed. After completion of the work the visitor will be signed out by building security.
- 5.7 Should the Customer wish to remove any Equipment from the BT Data Centre, the Customer must complete and sign an Acknowledgement of Equipment Removal Document which will be provided to the Customer by BT.

6. CONTROLLED ENVIRONMENT

Forced under floor air cooling will be supplied through strategically placed vented tiles throughout the data hall. Cooled air will, as standard, be supplied to the front of the rack. Average data hall return air temperature is measured at Ingress points above the air conditioning units and will be 24 degrees Centigrade within a tolerance of plus or minus 2 degrees Centigrade.

Humidity will be maintained at 50% within a tolerance of plus or minus 10%.

7. REMOTE HANDS

- 7.1 The Customer may request BT to carry out Remote Hands tasks. Such tasks are limited to those identified in paragraph 7.2 below and BT takes no responsibility for any loss, liability, claim, legal proceeding or damage which the Customer suffers as a result of following the Customer's instructions to carry out Remote Hands tasks.
- 7.2 A 24 hour Remote Hands facility is available to perform the following basic system tasks;
- checking lamp status;
 - power cycling;
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- button pushing; and
- Removal/insertion of cords/cables/ leads (with a recognised connection plug/socket).

In addition to the above, a Remote Hands Option Pack is available subject to an additional charge, and on additional terms and conditions, which offers the following;

- insertion and removal of media, e.g. CD's and tapes (max 1 instance per day);
- Receipt and storage of hosting equipment on behalf of the Customer from couriers with advanced notification (max 1 instance per week).

Remote Hands does not include unpacking and installation of servers/equipment.

7.3 Two hours per rack per Month will be allocated for Remote Hands tasks, up to a maximum of 20 hours in any Month. Each request for Remote Hands assistance will count as a minimum of 30 minutes. Additional support may be subject to an additional charge at the prevailing rate to be agreed with Customer on a case by case basis.

7.4 A Remote Hands request must be registered using the contact details set out in the Customer Handbook, quoting the relevant checkword if applicable. The call request will be logged and BT will use reasonable endeavours to call back to assist within 2 hours.

BT reserves the right to require the Customer to confirm (prior to the request being registered) the details of the Remote Hands request in writing.

7.5 For tasks not covered by Remote Hands or the Remote Hands Operational Pack, a 'Special Workpack' can be provided as an additional 2 hours of engineering time subject to an additional charge. The timing of the work to be carried out will be negotiated and subject to the engineering resource available.

8. SERVICE MANAGEMENT

8.1 Service Desk

8.1.1 BT shall establish and shall operate a single fault reporting Service Desk (for which the contact details shall be contained in the Customer Handbook). This will operate 24 hours per day, 7 days per week for the purpose of the reporting of all Customer faults and the issuing of trouble tickets and logging of Remote Hands requests.

8.1.2 The Service Desk forms the single point of contact for the reporting of faults by the Customer. Requests for changes must be submitted to the BT project office as described in Section 8.7 (Change Management) or the Service Desk if the project office is unavailable. Contact details are described in the Customer Handbook.

8.1.3 Only Customer Named Contacts are allowed to contact the Service Desk.

8.2 Service Time

8.2.1 The Service is scheduled to be available within the Service Window.

8.2.2 Where significant changes are planned BT will provide a minimum of 28 days notice when it is reasonably practicable to do so.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

8.2.3 Emergency maintenance, updates, and other procedures will be scheduled by BT on a case-by-case basis.

8.2.4 Planned maintenance activity is not considered to be part of the scheduled service time and is excluded from any availability measures.

8.2.5 Planned Work or maintenance activities to generic Datacentre infrastructure, network and other generic components (including but not limited to network maintenance, replacement of faulty components, or testing of the uninterruptible power supply), which may cause a disruption to the service of multiple customers, is typically carried out outside Normal Working Hours.

8.2.6 Emergency maintenance activities which require downtime outside the above hours need to be agreed on a case by case basis and rely on the availability of relevant engineers.

8.2.7 Nothing in this section should be construed as a guarantee that BT will always comply with the notice periods set out above. The Customer acknowledges that BT is obliged only to provide as much prior notice of any Service-affecting maintenance as is reasonably practicable under the circumstances.

8.3 Service Implementation

8.3.1 Service Implementation is the period in which the Service is delivered according to the Customer requirements as captured by and agreed with BT. The service delivery period commences with the first communication between the project manager and the Customer and expires upon the commencement of the Operational Service Date.

8.3.2 The Service and Service Levels become fully applicable on the Operational Service Date.

8.3.3 Changes, configurations, refinements, absence or delay of required information or data to deliver the Service or other activities that impact the scope or delivery time of the Service as agreed by the Customer and BT in this Agreement, have the following consequences:

- (i) Any additional costs are subject to a time & materials fee depending on items such as additional effort, usage of infrastructure, systems, hardware, software, involvement of third parties and loss of revenue to BT because of postponement of the Operational Service Date caused by change requests of the Customer.
- (ii) Agreed delivery times for the service will need to be reassessed and agreed.

8.3.4 Change activities as mentioned in paragraph 8.3.3 above will be dealt with by the delivery team directly. Changes, configuration and install refinements that need to be carried out after the Operational Service Date are dealt with according to the change management procedure.

8.3.5 Following the Operational Service Date, BT will provide the Customer with a Customer Handbook containing contact details of relevant BT personnel and or departments, escalation paths, and other relevant information.

8.4 SERVICE SUPPORTING PROCEDURES

This will apply during Normal Working Hours.



8.4.1 Proactive Service Management

- 8.4.1 Pro-active management is the process of actively managing service elements in order to prevent or minimize the impact of faults on the business process.
- 8.4.2 Monitoring of key performance indicators. BT will monitor key performance indicators, as set out in the Service Level Agreement.
- 8.4.3 When thresholds are exceeded on the specific service key performance indicators, a ticket will be raised through the Incident Management process.
- 8.4.4 When trends are identified that can cause future Incidents a request for change can be initiated via the Change Management process.

8.5 Incident Management

- 8.5.1 Incident Management is the process of recording, classification and resolution of Incidents and the subsequent monitoring and reporting on the progress of the Incident resolution.
- 8.5.2 The Customer Service Desk will receive and record Incident reports from the Customer during the Service Window.
- 8.5.3 If the Customer reports an Incident, BT will use structured questioning in relation to the Service to determine cause and severity of the Incident.
- 8.5.4 If BT detects an Incident, BT will perform tests to determine cause and severity of the Incident.
- 8.5.5 If the Incident is found to be under the scope of the Service provided, BT will start the resolution during Normal Working Hours unless BT has allocated a Priority Level 1 to the Incident, in which case the resolution will be started during the Service Window.
- 8.5.6 Work that is not under the scope of the Services provided and / or is caused by the fact that the Customer is not adhering to what is stated in Section 9, will be subject to Customer's further instructions and agreement to additional charges.
- 8.5.7 Incident resolution and update times are specified in the Service Level Agreement.
- 8.5.8 Following Incident resolution BT will contact Customer to agree that the Incident has been resolved. This will be deemed to be the end of the Incident and the trouble ticket will be closed unless the Customer advises BT that the Incident is still not resolved. In the event that the Customer advises BT that the Incident is not resolved, BT reserves the right to reassess the priority level assigned to the Incident.

8.6 Problem Management

- 8.6.1 A Problem Manager can be assigned to own the Problem. The Problem Manager will be responsible for finding a structural resolution that prevents similar Incidents in the future.
 - 8.6.2 If a resolution is found this will be implemented following the Change Management process.
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

8.7 Change Management

- 8.7.1 The Change Management process becomes applicable on the Operational Service Date.
- 8.7.2 Only Customer Named Contacts can submit a Request for Change (RFC) via a Request for Change form, which should be sent by email to the BT Customer Service Desk, as specified in the Customer Handbook.
- 8.7.3 To clarify certain change requests, BT's operations teams may need to contact the change initiator directly at contact details as filled out in this change form.
- 8.7.4 If BT initiates an RFC, it will ask the Customer Named Contact for approval. In case of highly urgent or emergency changes, such as problems that require immediate action to avoid a priority one impact on the Service, BT shall be entitled to carry out the change directly if Customer Named Contact cannot be reached.
- 8.7.5 RFC's will be implemented during Normal Working Hours. Where Implementation of changes outside Normal Working Hours is stipulated by the Customer, the implementation will be subject to charges on the basis of time and a half of the applicable rate.
- 8.7.6 Depending on the size and scope of an RFC, BT may require that the RFC is referred to the account management team on a proposal basis. The proposal will specify the impact and implementation time of the RFC and will be quoted according to the applicable tariff. The BT account management team shall agree all relevant Charges and implementation terms with the Customer and Implementation shall begin on agreement of commercial terms.
- 8.7.7 Changes initiated by the Customer shall be subject always to BT resource availability.

8.8 Reporting

- 8.8.1 Reports may be provided to the customer upon request. Reports will only be provided when relevant data can be reported on. Reports will furthermore only contain report items that are relevant to the Service and its components. This can be arranged in mutual agreement with the customer and BT. For P1 faults an initial report will be provided to the customer within one business day on Incident resolution.
- 8.8.2 Bespoke or customized reports can be requested as a chargeable option.
- 8.8.3 For faults other than P1 Faults, the Customer can receive on request (and where available) a Monthly Incident report within 10 Normal Working Days after the reporting period containing the outstanding and closed Incidents with the following information:
- Reference number
 - Date and time first reported
 - Name of person reporting the Incident
 - Description
 - Status
 - Customer reference number
 - Measurement against target service level
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

8.8.4 Customer can receive on request (and where available) a monthly RFC report within 10 Normal Working Days after the reporting period containing completed and outstanding Requests For Changes with the following information:

- Name of person submitting the RFC
- Description of the RFC
- Impact
- Status
- Customer reference number
- Measurement against target service level

8.8.5 Reports are not conclusive in the identification of performance or Service related issues.

9. CUSTOMER RESPONSIBILITIES

9.1 Notification of Deliveries and Collections

The Customer will notify BT of all deliveries and collections to the BT Data Centre using the advance notification forms which must be received 48 hours in advance. The notification forms are available from BT upon request. The notification forms, when completed by the customer per delivery or collection, must be sent by email to the address shown on the form to arrive 48 hours in advance. Equipment will not be allowed through security if no advance notification has been received. Items delivered will be logged in by BT security personnel and moved to a secure storage area where it will be held for 14 days after which charges may apply.

9.2 Equipment Racking

9.2.1 The Customer must observe manufacturers and BT's safety and mounting/racking practices for servers at all times. The Customer shall ensure that racks will not exceed a total equipment floor loading of 700 kilograms.

9.2.2 The Customer shall be entitled to increase the number of racks on 20 Working Days notice to BT, subject to:-

- (i) availability of equipment, labour, floor space, and power and cooling;
- (ii) BT's entitlement to amend terms and conditions if required; and
- (iii) the Customer agreeing to pay the relevant charges as specified by BT.

9.2.3 The Customer must clearly label all Customer Equipment, racking, shelving and components to assist the Remote Hands service in navigating to the appropriate item of kit requiring attention. The Customer must also provide BT with an on-site paper record of rack layouts and numbering for maintenance purposes. The Customer accepts that BT shall not be liable for any Incidents in relation to the Remote Hands service where such incidents are directly or indirectly a result of the Customer's failure to comply with its obligations in this paragraph 9.2.3.

9.3 Customer Equipment

9.3.1 The Customer is responsible for the provision, installation, and maintenance of the Customer's Equipment.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- 9.3.2 The Customer is responsible for ensuring that the Customer's Equipment, including any additions, is compatible with the BT Equipment.
- 9.3.3 BT reserves the right to make an additional charge for any necessary installation work for wiring within the Site by a BT approved wiring contractor. This includes cabling between the Customer racks and from the Customer's Equipment to the appropriate network terminating point.
- 9.3.4 The Customer is also responsible for initiating requests to BT for cable tray connections between any non-contiguous racks. The Customer acknowledges that BT will schedule all under-floor cabling work outside of Working Hours for operational and safety reasons.
- 9.3.5 The Customer is responsible for testing and maintenance of the Customer Equipment to ensure:
- (i) that it meets the manufacturer's specification, if any;
 - (ii) that the installation has been correctly carried out; and
 - (iii) that the Customer Equipment is functioning correctly, including, where appropriate, testing in conjunction with other equipment including remotely located equipment connected to the Customer Equipment by means of a telecommunication system.
- 9.3.6 The Customer will provide a list of the Customer Equipment at the BT Data Centre when requested from time to time by BT.
- 9.3.7 The Customer is responsible for all de-installation and re-installation work that needs to be carried out in respect of the Customer's Equipment. Where a fault in any item of the Customer Equipment is to be corrected by repair and the repair cannot be effected at the Site the Customer may send the item to the manufacturer or supplier for repair. The Customer must give BT 24 hours notice that an item is to be sent to the manufacturer or supplier for repair. The Customer acknowledges that BT shall not be liable for any delay on the part of the manufacturer or supplier in effecting the repair.
- 9.3.8 On expiration or termination of this Service Schedule, the Customer shall be solely liable for the removal of the Customer Equipment from the BT Data Centre. Such removal must occur within thirty (30) days of the date of termination or expiration, whichever occurs first. In the event that the Customer fails to remove the Customer Equipment from the BT Data Centre within this period, BT reserves the right to charge for, and the Customer shall pay for, the storage of the Customer Equipment at the BT Data Centre on a daily basis for a further thirty (30) calendar days. In the event that the Customer fails to collect the Customer Equipment within such sixty (60) day period, the Customer agrees that title to the Customer Equipment shall pass to BT and BT may treat the Customer Equipment as BT Equipment.

9.4 Physical Security

- 9.4.1 The Customer shall provide BT with a list of all authorised personnel and Approved Maintainers who shall be entitled to enter the BT Data Centre, subject to paragraphs 2.6 above. The Customer will promptly inform BT in writing of any changes to the list of authorised personnel and Approved Maintainers, as set out in the Customer Handbook.
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

9.4.2 The Customer must ensure that those people approved to have access to the BT Data Centre, are suitably competent to carry out the necessary tasks and that they are responsible for their own safety whilst on the BT Data Centre site.

9.4.3 Where the Customer or its authorised personnel enters the BT Data Centre, it is the Customer's responsibility to ensure that the Customer racks(s) are (where applicable) securely locked before the Customer or its authorised personnel leaves the BT Data Centre.

9.5 Remote Hands

The Customer must not give any instructions to the Remote Hands for activities outside those listed in Section 7.2 of this Service Schedule.

9.6 Service Management

The Customer will provide a nominated contact with BT for all matters relating to the provision of the Service. The Customer will also provide contact details for any appointed agents whom BT may need to communicate with in relation to the Service.

9.7 Internet Connectivity

Not used

9.8 General Responsibilities:

9.8.1 The Customer must inform BT in a timely manner about any changes or plans in its IT infrastructure that might affect the delivered Services;

9.8.2 The Customer must inform BT in a timely manner about any changes in use of the Service;

9.8.3 The Customer must provide all relevant information about its IT infrastructure that is not managed by BT, but has connections with or could influence the Service;

9.8.4 Where the Customer has transferred the authority to perform tasks and responsibility to BT, the Customer will surrender the authority to perform those tasks unless specifically agreed otherwise;

9.8.5 The Customer must transfer all the necessary administrator passwords and authorisation levels to BT, and ensure that BT is the only party that has those passwords and authorisation levels.

9.8.6 The Service that BT provides to the Customer is sized according to customer requirements and Customer supplied information on current or expected usage. The sizing includes the design, build and in life management and monitoring and all other services related aspects. In case of increased usage that exceed the Service capacity, including platform, infrastructure and other Service related aspects, service levels and Service Addendum elements will no longer be guaranteed by BT, until these are upgraded to accommodate the usage in accordance with a RFC and change control form agreed between the Parties.

9.8.7 The Customer must adhere to the applicable terms and conditions and end user licence agreements of software and hardware used in the Service as set by the involved distributor, supplier, manufacturers or developers and provide BT with correct and accurate information with regards to the usage of the software & hardware among which the amount of users, e-mailboxes, workstations, etc as



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

applicable. BT will pass on any claims, damages, penalties and associated costs from vendors, suppliers, manufacturers or other legally involved parties following the abuse, misuse or incorrect information of used software and hardware.

9.8.8 BT cannot be held liable for any direct or indirect damages (including without limitation, lost or corrupted data, lost profits or savings, loss of business, business disruption or other economic loss) arising out of security breaches, incorrectly supplied customer information including third party or non-BT software/hardware designs, malfunctioning or improperly working or improperly used or incompatible software, hardware and or hardware components.

9.8.9 Software licenses, usage rights & support, and hardware, hardware support and components can be supplied by or through BT. For these components, when supplied by BT, generic software and hardware support and specific terms and conditions with regards to usage, restrictions, support, warranty, liability, obligations and contract terms and termination as set by the respective software and hardware distributors or suppliers and or manufacturers or developers apply.

10. NO LEASE OR LICENCE

10.1 This Agreement is a services agreement and is not intended to and will not constitute a lease or licence of any real or personal property.

10.2 The Customer agrees and acknowledges that the Customer has not been granted any interest in the BT Data Centre or any other BT premises.

10.3 The Customer agrees and acknowledges that this Agreement does not confer any right to exclusive occupation in the Site.

10.4 The Customer agrees and acknowledges that the Customer has no rights as a tenant or otherwise under any Landlord and Tenant laws or regulations.

SERVICE LEVELS SCHEDULE

1 AVAILABILITY

1.1 Availability applies to the Functional Service Component(s) that constitute the entire Service as determined in the Order Form, the associated Service Schedule,

1.2 . Availability is measured by counting Downtime for each reported Qualifying Fault for the affected Functional Service Component(s) and limited to the involved underlying Service Elements. The Availability and the qualification into a Service Category are determined by the Service design, configuration, the used elements and their interdependence.

Service Category	Monthly Performance Target
Cat A+	99.99%
Cat A	99.95%
Cat B	99.9%
Cat C	99.5%
Cat D	99.00%

1.3 The following Functional Service Component(s) are distinguished:

Functional Service Components	Service Category
Electrical Power	A+



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

Controlled Environment	A

2 MEASUREMENT OF DOWNTIME

2.1 The measurement of Downtime commences when a Qualifying Fault is identified in accordance with the BT incident management process as outlined to the Customer by BT. Downtime ends when the fault is cleared by BT as per the incident management process.

BT will inform the Customer when the fault is cleared, and will close the trouble ticket when either:

- (i) such clearance is confirmed by the Customer within 20 minutes; or
- (ii) BT has attempted and failed to contact the Customer or BT has attempted to report the fault as cleared and the Customer fails to respond within 20 minutes.

If, within 20 minutes of being informed, the Customer confirms that the fault is not cleared, the trouble ticket will remain open, and Downtime will be adjusted accordingly.

2.2 In respect of a Qualifying Fault that occurs as a result of a fault on BT Equipment or service, Downtime will be measured during the Service Window.

2.3 Where a fault is reported and BT is unable to confirm that a fault exists after performing the relevant tests, BT will notify the Customer at the earliest opportunity and this will not contribute to Downtime.

2.4 BT will keep a record of total Downtime per separately identifiable Functional Service Component for each Month.

For the purposes of calculating the Service Credits, any period of Downtime due to Qualifying Faults which are directly or indirectly caused by one or more of the following shall be deducted from the Downtime calculated in section 2;

- a) the Customer requesting BT to test the Service although no fault has been detected and/or reported;
 - b) the Service being modified or altered in any way either at the Customer's request or by the Customer;
 - c) any period of Planned Work or maintenance;
 - d) a failure or fault not attributable to the Service, including but not limited to faults attributable to the Customer Equipment, including hardware, software or network;
 - e) failure due to any configurations or installations, upgrades or patches performed by the Customer, or by BT under instruction of the Customer, and not specifically advised or recommended by BT;
 - f) changes or alterations made other than by BT (or its authorized agents) to the Service or to BT Equipment, connections, routing plan, applications or test equipment, or the mapping of applications.
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Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- 2.5 The Customer may claim Service Credits for Downtime on a monthly basis as further described in paragraph 3 of this Schedule.

3 SERVICE CREDITS FOR DOWNTIME

- 3.1 Upon receipt of a validated claim, BT will give the Customer Service Credits as set forth in the table below per failing Functional Service Component up to a maximum of one Month's charges of the affected Functional Service Component(s).
- 3.2 The Service Credit will be 1/30th of the monthly Service charges as set out in the Order Form for each started hour of Downtime above the Service Credit Start Point, recorded in a given Month above the Service Credit Start Point.

Different Service Credits Start Points (measured in each case from agreed moment of outage, as determined by the subsequent incident management process) apply to each Category as shown in the table below. The service category for the Functional Service Components is specified in paragraph 1.3.

Service Category	Monthly availability: Service Credit Start Point before Trigger Event	Service Credits per started hour of downtime after SCSP before a trigger Event
Cat A+	5 mins	1/30th of monthly FSC charges
Cat A	20 mins	1/30th of monthly FSC charges
Cat B	45 mins	1/30th of monthly FSC charges
Cat C	4 hours	1/30th of monthly FSC charges
Cat D	7 hours	1/30th of monthly FSC charges

- 3.3 Application of Service Credits
- 3.3.1 Service Credits will not be paid out if the Qualifying Fault is not reported in accordance with BT's fault reporting procedures outlined in paragraph 7 of this Schedule.
- 3.3.2 Where any single Qualifying Fault arises from one or more Service Elements failures that affect(s) more than one main involved Functional Service Component, Service Credits will be applied to any Functional Service Component directly affected by the Qualifying Fault.

4 BT INTERNAL INCIDENT ESCALATION

- 4.1 All incidents are escalated to the appropriate level as indicated in the table below:

Level	P1	P2	P3	Role
1 st Level	Immediate	2 hours	6 hours	Service Desk Team Lead
2 nd Level	30 mins	3 hours	9 hours	Head of Tech Support Operations
3 rd Level	45 mins	4	12 hours	Head of Data Centre Operations



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

		hours		
4 th Level	2 hours	n/a	n/a	Head of IT, BT Ireland

4.2 Levels of Priority

Level of Priority	Description
P 1	All services unavailable on a single platform – Total loss of service to environment Service unavailable to a multitude of platforms Suspected security breach/incident
P 2	Any platform service unavailable – Partial loss of service to environment Loss of platform / network resilience Significant degradation of service / performance Customer requested reboot Backup failure
P 3	Minor degradation of system performance Service restored with workaround awaiting permanent fix. Single User Faults
P 4	Consultation against possible faults Documentation error Customer issue with no impact to service. Testing & Monitoring possible fault

The target response and resolution times during the Service Window are shown below::

Priority	Response	Resolution
1	15 min	1hr
2	30 min	4 hrs
3	60 min	12 hrs
4	Asap	Asap

BT will use reasonable endeavours to meet these times, but these are not guaranteed and BT has no liability for failure to meet these targets

4.3 Keeping the customer informed

The BT objective of increasing the customer satisfaction levels, the customer (ticket originator) will be actively informed of the status of the incident and its progress to resolution. The Incident priority level governs the schedule of customer updates:-

Times	Priority 1	Priority 2	Priority 3	Priority 4
Target Update	30min	2 hours	8 hours	24 hours

An initial incident report for a Priority 1 incident will be provided to the customer within 24 hours of the resolution of the incident.

Note: Response and resolution targets for all incidents other than Priority 1 will apply during Normal Working Hours. Priority 1 shall apply during Service Window.



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

- 4.4 Priority 1 response, resolution and updates, Remote Hands Services, Service Desk, alerting and monitoring all to be provided during Service Window. All other management services are performed during Normal Working Hours.

5 REMOTE HANDS

BT will respond to a Remote Hands request within 2 (two) hours of the Customer's request during the Service Window.

6 GENERAL EXCLUSIONS

- 6.1 The Service Credits are limited to a maximum of the monthly Charges for affected Functional Service Components and subject to the provision relating to persistent breach as set out in Clause 8 herein, are the Customer's sole right and remedy for BT's failure to meet the Service Level Agreement.

- 6.2 Only measurements carried out by BT as per the incident management process shall be used in the calculation of all the Service Credits offered in this Schedule unless the Customer can evidence that such measurements are incorrect.

- 6.3 BT shall not be liable for any failure to meet the Service Levels specified in this Schedule where the Customer has not complied with the General Terms and Conditions or if the fault has not been reported in accordance with BT's fault reporting procedures.

- 6.4 The Service Levels shall not apply if the Customer does not provide or delays providing information or access, as requested, to BT or its agents and suppliers or if the Customer denies permission for BT or its agents and suppliers to carry out necessary repairs to the Service.

- 6.5 In case of a failure whereby the failure might be caused or is caused by a Customer application or equipment, BT will transfer the issue back to the Customer. If BT performs any repair activities in case of a failure and BT discovers that the failure is due to (mal)functioning of the Customer equipment or applications, the Customer will be charged by BT for the repair activities if costs for these repair activities are made by BT.

- 6.6 These Service Levels do not apply during any trial period of the Service.

- 6.7 These Service Levels will not apply in the case of Force Majeure, in accordance with Clause 7 of the Agreement.

- 6.8 These Service Levels will not apply during suspension of service in accordance with the General Terms and Conditions.

- 6.9 BT cannot guarantee to meet a Service Level during any period of Planned Work or emergency. Downtime due to Planned Work or emergency will be excluded from any Service Credits calculations, except in cases where BT has exceeded a combined total of 3 (three) unrelated Planned Works or emergency events in any 6 months resulting in disruption of the contracted Service and there has approval from the Customer. For reasons of clarity BT will endeavor to inform the Customer of any Planned Work seventy-two (72) hours in advance, and of any emergency event 1 (one) hour in advance wherever possible.

6.9.1 For a period limited to 3 months from the third Planned or emergency event as described in section 6.9 above, each subsequent outage as described above will be counted against the overall Service Levels. This will result in a P1 outage being recorded, measured and subject to penalties as consistent with P1 metrics which could be used as a



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013

breach of the overall SLA. BT will endeavour wherever possible to limit any outages either planned or forced to not more than 8 hours of duration. At all times total service disruption will be avoided where technically and operationally possible with due consideration given to the customer's core business hours as it pertains to their global clients. In such cases BT will endeavour to accommodate any Planned Work or emergency works so as to minimise the impact to the customer wherever possible.

7 PAYMENT OF SERVICE CREDITS

7.1 In order to qualify for the Service Credit and, before any Service Credit can be applied, the Customer must make a claim to BT within 30 days following the report being made available by BT in respect of the Month in which poor performance occurred, using the address provided below and providing full details of the reason for the claim,

7.2 Service Credits will normally be made by deduction from the Customer's invoice within two billing cycles upon a claim being received and validated.

7.3 Claims should be made:
by post to:

BT Data Centre
Unit4029,
Citywest Business Campus
NaasRd
Dublin
Ireland

or by email to:

citywestservicedesk@bt.com



Co-location (without Internet) Agreement

Doc Ref: 16.1 July 2013