

2020

BT Wi-fi Voucher Contract

British Telecommunications Plc ⁽¹⁾ and
The Secretary of State for Education ⁽²⁾

CONTENTS

Clause	Page
1. DEFINITIONS AND INTERPRETATION	1
2. COMMENCEMENT OF THIS SECOND CONTRACT	1
3. DURATION.....	1
4. RECORD KEEPING AND REPORTING.....	2
5. CHARGES AND DEPOSITS.....	2
6. LIMITATION OF LIABILITY.....	3
7. ENDING THIS SECOND CONTRACT.....	3
8. CONSEQUENCES OF TERMINATION.....	4
9. CHANGES TO THIS SECOND CONTRACT.....	4
10. ANTI-BRIBERY AND CORRUPTION AND MODERN SLAVERY, CHILD LABOUR AND INHUMANE TREATMENT	5
11. TRANSFER OF RIGHTS AND OBLIGATIONS	6
12. ENTIRE AGREEMENT	7
13. NOTICES.....	7
14. SEVERABILITY.....	7
15. LAW AND JURISDICTION.....	7
SCHEDULE 1	9

DATE

PARTIES

- (1) British Telecommunications Plc (No. 1800000) whose registered office is at 81 Newgate Street, London, EC1A 7AJ 5AF ("**BT**").
- (2) The Secretary Of State For Education of Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT ("**Customer**").

BACKGROUND

- (A) BT and the Customer entered into a contract ("the First Contract") on 12 June 2020 under which BT agreed to provide 10,000 Vouchers to the Customer to provide End Users with unlimited usage to BT's public Wi-Fi via its premium hotspots and consumer and business hubs.
- (B) This further contract ("the Second Contract") sets out the terms upon which additional Vouchers can be made available by BT to the Customer for use by End Users.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Second Contract, the defined terms used in the First Contract shall, unless the context otherwise requires, bear the same meaning as set out in the First Contract. In this Second Contract, "Additional Vouchers" means such additional Vouchers in excess of the original number of REDACTED which are provided by BT to the Customer for use by End Users up to a maximum of REDACTED Additional Vouchers.
- 1.2 Under the terms of this Second Contract, BT shall provide Additional Vouchers to the Customer which the Customer may then distribute, via Responsible Bodies, to End Users to access the internet. The Customer acknowledges that some of the End Users to whom it may pass on the Voucher may be under the age of 18 and BT cannot contract with such End Users. As such, the Customer acknowledges and accepts, to the extent set out in this Second Contract, that it shall bear responsibility for the distribution, allocation and re-allocation of the Vouchers in accordance with Paragraph 3.3 of the Service Schedule in Schedule 1 of the First Contract.
- 1.3 The Parties agree that all references to Vouchers in the First Contract shall be deemed to include the Additional Vouchers and that all of the provisions of the First Contract relating to Vouchers including the provision of the Service, shall, unless otherwise stated in this Second Contract, apply also to such Additional Vouchers as if they were set out in full in this Second Contract.

2. COMMENCEMENT OF THIS SECOND CONTRACT

- 2.1 This Second Contract begins on the date upon which the second Party to sign, signs this Second Contract (the "**Second Contract Effective Date**").

3. DURATION

- 3.1 This Second Contract will commence on the Second Contract Effective Date and will continue, unless terminated earlier in accordance with Clause 7, for the Term.
- 3.2 The Vouchers will be subject to a minimum 6-month term.
- 3.3 Representatives of the Parties will meet on or before 30 November 2020 to discuss and agree:
 - 3.3.1 an extension of the First Contract and this Second Contract beyond 31 December 2020 (to end no later than 31 August 2021) (the "**Extended Term**") if required; and

3.3.2 any changes required to the Charges Schedule which shall be implemented in accordance with Clause 9 of this Second Contract.

3.4 In the event that the Parties cannot agree to the changes to this Second Contract in accordance with Clause 3.3 above, the First Contract and this Second Contract shall automatically terminate on 31 December 2020.

4. RECORD KEEPING AND REPORTING

4.1 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Second Contract can be fully realised.

4.2 Each Party shall ensure that its relevant representative shall make all reasonable efforts to attend any progress meetings reasonably requested by the Customer for the purpose of reviewing BT's performance under this Contract. If the representative is not able to attend a meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the meeting. The agenda for each meeting shall be set by the Customer and communicated to BT in advance of that meeting.

4.3 BT must maintain and provide the following reports to the Customer at the frequency referred to:

Report	Frequency	Format
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED

4.4 BT must allow any Auditor access to its premises to verify all contract accounts and records of all matters relating to this Second Contract and, subject always to Clause **Error! Reference source not found.** and the confidentiality provisions, and terms relating to Confidential Information under the terms of this Second Contract, provide copies of any documents reasonably requested by the Auditor or the Customer for an Audit.

4.5 The Customer shall provide BT on a fortnightly basis with the number of Vouchers that the Customer has distributed to the Responsible Bodies in the two weeks immediately preceding the date on which the Customer provides the information.

4.6 REDACTED

4.7 Nothing in Clauses 4.4 or 4.6 shall oblige BT to disclose information that will reveal BT's profit margins and/or overheads in relation to this Second Contract or any other contract BT may have with customers or third parties.

5. CHARGES AND DEPOSITS

5.1 The charges for the Additional Vouchers for the Service will be calculated in accordance with the Charges Schedule set forth in Schedule 1 to this Second Contract ("Schedule 1"). Unless otherwise stated, charging will begin on the Operational Service Date. Charges for use of the Service will be calculated in accordance with the details recorded by, or on behalf of us which will be reported to you in accordance with Clause 4.3.

5.2 All charges will be invoiced and paid in pounds sterling unless otherwise stated in Schedule 1. Value Added Tax or any other applicable in country sales, use tax or like charge in a country where the Service is provided, which is payable by the Customer will be added to our invoices as appropriate.

- 5.3 The Customer will pay the charges within thirty (30) days of receipt of our valid, undisputed invoice. If we do not receive payment of an undisputed invoice by the due date, then we may either charge you (at our option) an automatic late payment charge of REDACTED.
- 5.4 The Customer shall be entitled to withhold payment of any genuinely disputed element of an invoice. In the event that the Customer in good faith disputes the correctness of an invoice or the basis upon which it has been calculated, it shall notify BT in writing ("**Dispute Notice**") and:
- 5.4.1 the Customer shall pay any undisputed amount of the invoice in accordance with this Clause 5; and
- 5.4.2 the Parties shall in good faith attempt to resolve the disputed amount within fifteen (15) Business Days of the Dispute Notice being issued by the Customer and, failing resolution within that time, unless otherwise agreed in writing between the Parties, either Party may pursue any course of action open to it.
- 5.5 If one of the Parties has breached Clause 10 then the non-breaching party may withhold any payments due to it under this Second Contract.

6. LIMITATION OF LIABILITY

- 6.1 Unfortunately, we cannot guarantee that the Service and/or the Wi-Fi Service (as applicable) we provide will never be faulty.
- 6.2 We do not guarantee that the Wi-Fi Service will be compatible with all hardware and software which the End User uses.
- 6.3 We shall not be liable for suspending the Service and/or the Wi-Fi Service in accordance with Clause 3.5 of the First Contract.
- 6.4 Neither you nor we exclude or restrict your or our liability for death or personal injury caused by your and our own negligence or the negligence of our employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation or to any extent not permitted by law.
- 6.5 Unless otherwise expressly stated in this Second Contract neither party shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for:
- 6.5.1 any direct or indirect loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, use, business, wasted expenditure, business interruption, goodwill;
- 6.5.2 any other direct or indirect, special, or consequential loss which may arise in relation to the Contract whether or not you or us were advised in advance of the possibility of such loss or damage; or
- 6.5.3 any loss, destruction or corruption of data, provided that this Clause 6.5.3 shall not operate to limit or exclude liability under Clause 13 of the First Contract.
- 6.6 Except as described in Clauses 6.4 and **Error! Reference source not found.**, neither Party will pay REDACTED in compensation (even if that Party been negligent) in any 12-month period unless this Second Contract says otherwise.
- 6.7 Each part of this clause operates separately. If any part of this clause is held by a Court to be unreasonable or inapplicable the rest of the clause shall continue to apply.

7. ENDING THIS SECOND CONTRACT

- 7.1 Either Party may terminate this Second Contract:

- 7.1.1 immediately on notice if the other Party commits a material breach of this Second Contract, which is capable of remedy, and fails to remedy the breach within 30 days of a written notice to do so; or
 - 7.1.2 immediately on notice if the other party commits a material breach of this Second Contract which cannot be remedied; or
 - 7.1.3 on reasonable notice if the other Party is repeatedly in breach of this Second Contract and fails to remedy the breach within a reasonable time of a written notice to do so; or
 - 7.1.4 immediately on notice if the other Party is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation, or a receiver or administrator is appointed over their assets, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the other Party; or
 - 7.1.5 upon 30 days' written notice if it can be proven that the other Party has breached Clause 10.
- 7.2 If we are entitled to terminate this Second Contract under Clause 7.1, we may, on giving prior notice where practicable, suspend the Service and/or Wi-Fi Service without prejudice to such rights.
- 7.3 The Customer may terminate this Second Contract immediately on notice where BT has suspended the Protect Service for a period of longer than twenty (20) Business Days.
- 7.4 If either Party delays in acting upon a breach of this Second Contract that delay will not be regarded as a waiver of that breach. If either Party waives a breach of this Second Contract that waiver is limited to that breach.

8. CONSEQUENCES OF TERMINATION

- 8.1 Following any termination of BT's engagement or upon expiry of this Second Contract, however it arises, each Party must promptly delete or return data, to the other Party, where that other Party is controller of that data, except where required to retain copies by law.
- 8.2 Subject to Clause 8.1 and save as expressly provided elsewhere in this Second Contract, neither Party will have any further obligation to the other under this Second Contract following its termination.
- 8.3 The termination of this Second Contract, howsoever arising, is without prejudice to the rights, duties and liability of either BT or the Customer accrued prior to termination. The provisions which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.
- 8.4 Where the Customer has terminated this Second Contract in accordance with the provisions of Clause 7.3, BT shall reimburse to the Customer a sum equivalent to the proportion of the Charges paid by the Customer to BT relative to the remaining period of the Term as at the date of termination.

9. CHANGES TO THIS SECOND CONTRACT

- 9.1 Either Party can request a variation to this Second Contract. Neither Party can change the terms of this Second Contract without written and signed agreement from the other Party.
- 9.2 BT must provide an Impact Assessment either:
- 9.2.1 with the Variation Form, where BT requests the variation; or

- 9.2.2 within the reasonable time limits included in a Variation Form requested by the Customer.
- 9.3 If the variation to this Second Contract cannot be agreed or resolved by the Parties, BT or the Customer can either:
 - 9.3.1 agree that the Second Contract continues without the variation;
 - 9.3.2 terminate this Second Contract, unless BT has already provided part or all of the Services, or where BT can show evidence of substantial work being carried out to provide them; or
 - 9.3.3 refer the dispute to be resolved using Clause 15 of the First Contract.
- 9.4 The Customer is not required to accept a variation request made by BT. BT is required to accept a variation request made by the Customer, except where implementing the variation requested:
 - 9.4.1 would cause BT to be in breach of Applicable Law; or
 - 9.4.2 is not technically possible.
- 9.5 If there is a General Change in Law, both Parties must bear the risk of the change on their business and BT is not entitled to ask for an increase to the charges.
- 9.6 If there is a Specific Change in Law or one is likely to happen during the Term, BT must give the Customer notice of the likely effects of the changes as soon as reasonably practical. BT must also say if it thinks any variation is needed either to the Services, charges or this Second Contract and provide evidence:
 - 9.6.1 that BT has kept costs as low as possible, including its subcontractor costs; and
 - 9.6.2 of how it has affected BT's costs.
- 9.7 Any change in the charges or relief from BT's obligations because of a Specific Change in Law must be implemented using Clauses 9.1 to 9.6.

10. ANTI-BRIBERY AND CORRUPTION AND MODERN SLAVERY, CHILD LABOUR AND INHUMANE TREATMENT

- 10.1 In connection with any actions or activities associated with this Second Contract, neither Party shall commit a Prohibited Act or engage in any unlawful trade practices or any other practices that are in violation of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act of 2010, or any other law that prohibits bribery or similar activity. Each Party shall ensure that neither it nor its affiliates, subcontractors and agents: either directly or indirectly, seek, receive, accept, give, offer, agree or promise to give any money, facilitation payment, or other thing of value from or to anyone (including but not limited to government or corporate officials or agents) as an improper inducement or reward for or otherwise on account of favorable action or forbearance from action or the exercise of influence; or fail to establish appropriate safeguards to protect against such prohibited actions.
- 10.2 Each Party shall, upon request from the other Party, provide evidence of the steps being taken to avoid Prohibited Acts, including the establishment of policies, practices, and/or business controls with respect to these laws. To the extent permitted by the relevant authority, each party shall promptly inform the other party if it becomes aware of any breach of Clause 10.1 or of any official investigation regarding alleged breaches of the above laws that are related in any way to this Contract, including specifying the:
 - 10.2.1 Prohibited Act;

- 10.2.2 identity of the party who it thinks has committed the Prohibited Act (where it is both possible and lawful to do so); and
- 10.2.3 action it has decided to take.

MODERN SLAVERY, CHILD LABOUR AND INHUMANE TREATMENT

10.3 BT:

- 10.3.1 shall not use, or allow its subcontractors to use, forced, bonded or involuntary prison labour;
- 10.3.2 shall not require any BT staff or subcontractor staff to lodge deposits or identity papers with the employer or deny BT staff freedom to leave their employer after reasonable notice;
- 10.3.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 10.3.4 warrants that to the best of its knowledge it is not currently under official investigation, or official inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world;
- 10.3.5 shall make reasonable enquiries to ensure that its officers, employees and subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 10.3.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and shall include in its contracts with its subcontractors anti-slavery and human trafficking provisions;
- 10.3.7 shall implement due diligence procedures to ensure, as far as is reasonably possible, that there is no slavery or human trafficking by its subsidiaries or subcontractors;
- 10.3.8 has an up-to-date modern slavery statement in force. This is available at: www.bt.com/modernslavery;
- 10.3.9 shall not use, or allow its employees or subcontractors to use, physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or subcontractors;
- 10.3.10 shall not use, or allow its subcontractors to use, child or slave labour; and
- 10.3.11 shall report the discovery of any slavery or trafficking by it or its subcontractors to the Customer and Modern Slavery Helpline¹.

11. TRANSFER OF RIGHTS AND OBLIGATIONS

- 11.1 Neither Party may transfer any of its rights or obligations under this Second Contract, without the written consent of the other, except that:
 - 11.1.1 we may transfer our rights or obligations (or both) to a BT Group Company without consent; and
 - 11.1.2 the Customer can assign, novate or transfer this Second Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the

¹ The "Modern Slavery Helpline" refers to the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

Customer. When the Customer uses its rights under this Clause 11.1.2, BT must enter into a novation agreement in the form that the Customer specifies.

12. ENTIRE AGREEMENT

- 12.1 This Second Contract, together with the First Contract, contains the whole agreement between the Parties and supersedes all previous written or oral agreements relating to its subject matter.
- 12.2 The Parties acknowledge and agree that:
- 12.2.1 they have not been induced to enter into this Second Contract by any representation, warranty or other assurance not expressly incorporated into it; and
 - 12.2.2 in connection with this Second Contract their only rights and remedies in relation to any representation, warranty or other assurance are for breach of this Second Contract and that all other rights and remedies are excluded.
- 12.3 The provisions of Clauses 12.1 and 12.2 shall not affect the Parties' rights or remedies in relation to any fraud or fraudulent misrepresentation.
- 12.4 A person who is not party to this Second Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Second Contract, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

13. NOTICES

- 13.1 Unless otherwise stated in this Second Contract, notices given under this Second Contract must be in writing and considered effective on the Business Day of delivery as long as they're delivered before 5:00pm on a Business Day and delivered to the following addresses:
- 13.1.1 to us at the address shown on the invoice or any address which we provide to you for this purpose;
 - 13.1.2 to you at the address to which you ask us to send invoices.
- 13.2 You must inform us immediately if there is any change to any of the contact information you provided to us.
- 13.3 This Clause 13 does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

14. SEVERABILITY

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

15. LAW AND JURISDICTION

- 15.1 This Second Contract is governed by the law of England and Wales and both Parties submit to the exclusive jurisdiction of the English courts.

This Agreement has been entered into on the date stated at the beginning of it.

Signed by [insert name] for and on behalf of the
Customer

.....

Date

.....

Signed by [insert name] for and on behalf of BT

.....

Date

.....

SCHEDULE 1

CHARGES

1. Any Additional Vouchers required during the Term, which exceed the first REDACTED Vouchers, will be chargeable as a one-off fee per activated Voucher as follows:

Charge Period	One-off fee per Additional Voucher
REDACTED	REDACTED
REDACTED	REDACTED

2. The Customer is under no obligation to:
 - 2.1 use any or all of the Additional Vouchers;
 - 2.2 extend the Term; or
 - 2.3 purchase any additional Vouchers.
3. All Vouchers issued during the Term will expire on 31st December 2020.
4. The minimum term extension is REDACTED.
5. The minimum additional volume of Vouchers that can be ordered is REDACTED.
6. Any Additional Vouchers required during the Term, which exceed the maximum set out in Clause 1.1 of this Second Contract, will be chargeable at a rate to be agreed by the Parties in writing in accordance with Clause 3.3.2 of this Second Contract.
7. Any Additional Vouchers required following the Term will be chargeable at a rate to be agreed by the Parties in writing in accordance with Clause 3.3.2 of this Second Contract.
8. Invoicing will be presented monthly and payable accordance with Clause 5 of this Second Contract.