



# GDPR Clause

## 1 A note on “you”

- 1.1 You' and 'your' in the Data Protection clause below mean the Customer.
- 1.2 Phrases that refer to 'we', 'our', 'us', 'each of us', 'each of our', 'both of us', 'we each', 'we will each', 'we will both', 'whichever of us', 'one of us', 'neither of us', 'either of us', 'either of our', 'either one of us' and 'we both' mean one or both of BT and the Customer, whichever makes sense in the context of the sentence.

## 2 Data Protection

- 2.1 The following terms each have the meaning given to it in the GDPR: “Binding Corporate Rules”, “Controller”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “Processing”, “Processor” and “Supervisory Authority”.
- 2.2 Whether or not any other provision in the Contract may say something different, for BT to provide a Service, Personal Data may be:
  - 2.2.1 used, managed, accessed, transferred or held on a variety of systems, networks and facilities (including databases) worldwide; or
  - 2.2.2 transferred by BT worldwide to the extent necessary to allow BT to fulfil its obligations under the Contract and you appoint BT to perform each transfer in order to provide the Services provided that BT will where necessary implement appropriate transfer mechanisms permitted by Data Protection Legislation, including:
    - (a) BT Group's Binding Corporate Rules (for transfers among BT's Affiliates and transfers from you to BT); and
    - (b) agreements incorporating the relevant standard data protection clauses adopted by the European Commission or the UK Secretary of State
- 2.3 BT will be either Controller, Processor or both under the Contract depending on the type of Personal Data Processed and the purpose of the Processing.
- 2.4 If BT acts as a Controller:
  - 2.4.1 BT may collect, Process, use or share Personal Data with BT Affiliates and Sub-Processors, within or outside the country of origin in order to do any or all of the following:
    - (a) administer, track and fulfil Orders for the Service;
    - (b) implement the Service;
    - (c) manage and protect the security and resilience of any BT Equipment, the BT Network and the Services;
    - (d) manage, track and resolve Incidents with the Service as may be set out in the Contract;
    - (e) administer access to online portals relating to the Service;
    - (f) compile, dispatch and manage the payment of invoices;
    - (g) manage the Contract and resolve any disputes relating to it;
    - (h) respond to general queries relating to the Service or Contract; or
    - (i) comply with Applicable Law;
  - 2.4.2 BT will Process the Personal Data in accordance with applicable Data Protection Legislation and as set out in the BT Privacy Policy and, where applicable, BT Group's Binding Corporate Rules; and
  - 2.4.3 BT may, from time to time, contact the Customer Contact, or other network, IT or procurement manager involved in the procurement or management of the Service, to provide additional information concerning the Service or other similar services.
- 2.5 If BT acts as a Processor:
  - 2.5.1 the subject-matter, duration, nature and purpose of the Processing, the type of Customer Personal Data and categories of Data Subjects will be set out in the applicable Annex that can be found online at [www.bt.com/terms](http://www.bt.com/terms);
  - 2.5.2 in order to perform its obligations under the Contract, BT will:



- (a) Process the Customer Personal Data on your behalf in accordance with your documented instructions as set out in Clause 2.5.11, except where:
  - (i) Applicable Law requires BT to Process the Customer Personal Data otherwise, in which case, BT will notify you of that requirement before Processing, unless to do so would be contrary to that Applicable Law on important grounds of public interest;
  - (ii) in BT's reasonable opinion an additional instruction or a change to the instructions provided by you in accordance with Clause 2.5.11 infringes the Data Protection Legislation and BT will inform you of its opinion without undue delay and will not be required to comply with that instruction;
- (b) to protect the Customer Personal Data against a Personal Data Breach, implement technical and organisational security measures, including those that may be set out in the Contract, that are appropriate to the risk represented by BT's Processing and the nature of the Customer Personal Data being Processed;
- (c) provide Notice to you without undue delay after becoming aware of a Personal Data Breach affecting the Customer Personal Data;
- (d) only use the Sub-Processors approved by you by entering into the Contract or in accordance with Clause 2.5.9; and
- (e) assist you in your compliance with the Data Protection Legislation, taking into account the nature of the Processing of the Customer Personal Data and the information available to BT, relating to:
  - (i) its obligation to respond to lawful requests from a Data Subject, to the extent practicable;
  - (ii) the security of the Processing of the Customer Personal Data;
  - (iii) notification of a Personal Data Breach affecting the Customer Personal Data to the Supervisory Authority or the Data Subjects; and
  - (iv) a data protection impact assessment as may be required by Data Protection Legislation and prior consultation with the Supervisory Authority,

and you will reimburse BT's reasonable costs for this assistance except for the assistance set out in Clause 2.5.2(e)(iii) where a Personal Data Breach affecting the Customer Personal Data occurred as a direct result of a breach of BT's obligations set out in Clause 2.5.2(b);

- 2.5.3 unless Applicable Law requires BT to store a copy of the Customer Personal Data, upon expiry or termination of the Contract and at your option, BT will delete or return the Customer Personal Data within a reasonable time period and you will reimburse BT's reasonable costs for this deletion or return of the Customer Personal Data;
- 2.5.4 BT will make available to you the information demonstrating BT's compliance with its obligations set out in Clause 2.5, and, subject to 30 days' Notice from you, allow for and reasonably cooperate with you (or a third party auditor appointed by you) to audit this compliance at reasonable intervals (but not more than once per year), so long as:
  - (a) the audit will:
    - (i) not disrupt BT's business;
    - (ii) be conducted during Business Days;
    - (iii) not interfere with the interests of BT's other customers;
    - (iv) not cause BT to breach its confidentiality obligations with its other customers, suppliers or any other organisation; and
    - (v) not exceed a period of two successive Business Days;
  - (b) you (or your third party auditor) will comply with BT's relevant security policies and appropriate confidentiality obligations; and
  - (c) you will reimburse BT's reasonable costs associated with the audit and, where BT conducts an audit of its Sub-Processors to demonstrate BT's compliance with its obligations set out in Clause 2.5, those of its Sub-Processors.
- 2.5.5 BT may demonstrate its compliance with its obligations set out in Clause 2.5 by adhering to an approved code of conduct, by obtaining an approved certification or by providing you with an audit report issued by an independent third party auditor (provided that you will comply with appropriate confidentiality obligations and not use this audit report for any other purpose);
- 2.5.6 BT will not disclose Customer Personal Data to a third party unless required for the performance of the Service, permitted under the Contract or otherwise required by Applicable Law;
- 2.5.7 BT will ensure that persons authorised by BT to Process the Customer Personal Data will be bound by a duty of confidentiality.



- 2.5.8 BT may use Sub-Processors in accordance with the provision, if there is one, in the Contract that sets out BT's right to subcontract the performance of any of its obligations under the Contract and will ensure that data protection obligations in respect of Processing Customer Personal Data equivalent to those set out in Clause 2.5 of this Data Protection Clause will be imposed on any Sub-Processors;
- 2.5.9 BT will inform you of proposed changes to BT's Sub-Processors from time to time by either:
- (a) providing you with online notice of the intended changes at [www.bt.com/terms](http://www.bt.com/terms) and you will have 30 days starting from the first Business Day of the calendar month following the date of the online notice to object to the change; or,
  - (b) giving you Notice and you will have 30 days starting from the date of the Notice to object to the change, and
- if you do not object in accordance with Clauses 2.5.9(a) or 2.5.9(b), you will be deemed to have authorised the use of the new Sub-Processors;
- 2.5.10 you may object to the use of a new Sub-Processor by giving Notice documenting material concerns that the Sub-Processor will not be able to comply with the Data Protection Legislation, and if such Notice is received within the time required by Clause 2.5.9, we will both address your objection in accordance with the process set out in the provision, if there is one, in the Contract that sets out how you and BT will deal with disputes, and BT may use the relevant Sub-Processor to provide the Service until the objection is resolved;
- 2.5.11 the Contract, including this Data Protection Clause, contains your complete instructions to BT for the Processing of Customer Personal Data and any additional instructions or changes to the instructions will be incorporated into this Contract:
- (a) in accordance with the provision in the Contract that sets out how you may request a change to the Contract to take account of any resulting change in the Charges or the Service; and if there is no such provision,
  - (b) by agreement between the parties taking into account any resulting change in the Charges or the Service;
- 2.5.12 you will comply with applicable Data Protection Legislation and will fulfil all the requirements necessary for the provision of the Service by BT, including providing any notifications and obtaining any regulatory approvals or consents required when sharing Personal Data with BT; and
- 2.5.13 you will only disclose to BT the Personal Data that BT requires to perform the Service.
- 2.6 If permitted by Applicable Law:
- 2.6.1 a party in breach of the Data Protection Legislation or this Data Protection Clause will be liable to the other for any losses, costs and liabilities (including those arising from Claims) incurred or suffered by the other party where those losses, costs and liabilities are caused by, or in connection with, that breach including where the parties are jointly and severally liable; and
- 2.6.2 where the parties are jointly and severally liable for a Claim caused by Processing neither party will make any payment or any offer of payment to any Data Subject (including third parties acting on behalf of any Data Subject) in response to any Claim caused by or relating to the Processing of Personal Data, without the prior written agreement of the other party.
- 2.7 Where each party acts as a Controller in relation to the Processing of Personal Data under the Contract, the parties will not act as joint Controllers (as defined by Data Protection Legislation) in relation to such Processing.
- 2.8 If BT proposes amendments to the Contract (in accordance with the provision, if there is one, in the Contract that sets out how the parties may amend the Contract), to reflect changes to BT's security measures, policies and processes to enable BT to comply with the Data Protection Legislation, you will act reasonably and in good faith.

### 3 General

- 3.1 The Contract will be amended as set out in this Data Protection Clause and will be deemed to have been amended on and from the 25 May 2018 and further amended on 7 August 2020 to remove reference to the EU-US Privacy Shield.
- 3.2 If there is a conflict between any of the documents in your Contract and this Data Protection Clause, this Data Protection Clause takes precedence.
- 3.3 This Data Protection Clause is in addition to the terms in the Contract and will be read as one document together with the Contract and the Contract will continue in full force and effect except as amended by this Data Protection Clause.

### 4 Defined Terms

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The definitions set out below apply for the interpretation of this Data Protection Clause only:

"Affiliate" means any entity that directly or indirectly controls or is controlled by either one of us, or is jointly controlled with either you or BT;

"Applicable Law" means the laws of England and Wales and any laws and regulations, as may be amended from time to time, that apply to the provision or receipt of a Service, including:

(a) anti-corruption laws set out in the Bribery Act 2010 and the Foreign Corrupt Practices Act of 1977 of the United States of America; and

(b) all applicable export laws and regulations, including those of the United States of America;

"BT Group" means BT Group plc and its Affiliates;

"BT Equipment" means any equipment and any related Software that BT owns or that is licensed to BT and that BT uses to provide the Services;

"BT Network" means the communications network owned or leased by BT and used to provide a Service;

"BT Privacy Policy" means the policy that BT has implemented and may update from time to time on how it Processes Personal Data and that is set out at: <http://www.bt.com/privacy-policy/>

"Business Day" means any day generally seen locally in the place where a Service is provided as a working day and excluding national, public and bank holidays. If one of us is supposed to do something on a day that is not a Business Day, then they will need to do it on the next Business Day;

"Charges" mean the fees and charges that you pay in relation to a Service;

"Claim" means any legal claims, actions or proceedings against one of us, whether threatened or actual, whether by a third party or the other party to the Contract;

"Contract" means the agreement between you and BT for Services;

"Customer" means the party with whom BT contracts to provide the Service;

"Customer Contact" means any individuals authorised to act on your behalf for Service management matters;

"Customer Personal Data" means only the proportion of Personal Data where you are the Controller and that BT needs to Process on your behalf as a Processor in providing the Services to you under the Contract;

"Data Protection Clause" means these provisions that amend your Contract;

"Data Protection Legislation" means collectively (i) any applicable laws of the European Union, (ii) any applicable local laws relating to the Processing of Personal Data and the protection of an individual's privacy, (iii) the GDPR, and (iv) any binding guidance or code of practice issued by a Supervisory Authority;

"GDPR" means the General Data Protection Regulation (EU) 2016/679 ("**EU GDPR**") and any amendment or replacement to it, (including any corresponding or equivalent national law or regulation that implements the GDPR) and the UK GDPR, as applicable to the processing;

"Incident" means an unplanned interruption to, or a reduction in the quality of, the Service or particular element of the Service.'

"Notice" means any notice to be given by one of us to the other in accordance with the provision, if there is one, in your Contract that sets out how notice will be given by either one of us under the Contract;

"Open Source Software" means software BT has distributed to you that is licensed under a separate open source licence;

"Order" means any order or part of an Order you give to BT that is accepted by BT for one or more Services;

"Purchased Equipment" means any equipment, including any Software, that BT sells or licenses to you;

"Service" and "Services" means any service or services that BT provides under the Contract. If relevant, it includes a service for a particular Site, or a part or component of a Service and may also include content that BT has provided to you as well as Purchased Equipment;

"Site" means any place identified in your Contract from or to which BT provides a Service;

"Software" means any software in object code format only, and related documentation (whether on tangible or intangible media) that BT provides to you as part of a Service. It includes any embedded software, but it excludes Open Source Software;

"Sub-Processor" means a BT Affiliate or BT's supplier or subcontractor that BT engages to Process Customer Personal Data for the purposes of the Contract; and

"UK GDPR" means the GDPR as applicable as part of UK domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended), as amended or replaced.