



# Conditions for *BT Managed DNS Service*

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**AGREEMENT** made this                      day of                      2014

**BETWEEN**

BRITISH TELECOMMUNICATIONS plc whose registered office is at 81 Newgate Street, London, EC1A 7AJ registered in England No 1800000 ("BT")

**AND**

(the "Customer")

**WHEREAS**

BT agrees to provide the Managed DNS Service to the Customer under the Conditions herein.

# ***Conditions for BT Managed DNS Service***

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# Conditions for BT Managed DNS Service

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## 1. INTERPRETATION AND DEFINITIONS

- 1.1 The expression BT includes its respective successors and permitted assigns.
- (a) The headings in these Conditions are for convenience only and shall not affect its interpretation.
  - (b) Unless the contexts otherwise requires, singular shall include the plural and vice versa.
  - (c) A reference to 'including' shall be construed as 'including, but not limited to' or 'including, without limitation', as appropriate.
  - (d) Reference to a Clause is a reference to a clause in these Conditions.

In the event of a conflict between these Conditions and any other document incorporated or attached hereto the Conditions shall prevail unless the conflicting document specifically states that it overrides the relevant term in these Conditions. With respect to a conflict between any documents incorporated or attached hereto the following order of precedence shall apply: Order Form; the Service Schedule; and the Customer Requirements Form or Customer Requirements Capture Form.

1.2 In this Contract:

**"Applicant"** means the person nominated by the Customer to apply for the Domain Name on the Customers behalf.

**"Authorised User"** means anyone permitted by the Customer (or any person who can reasonably be assumed by BT to have permission) to use the Service under this Contract.

**"BT Group Company"** means a business entity which controls, is controlled by or is under common control of BT. A business entity shall be 'deemed' to control another business if it owns, directly or indirectly, in excess of twenty percent (20%) of the outstanding voting securities or capital stock of such a business entity or other comparable equity or ownership interest with respect to an entity other than a corporation.

**"Charges"** means the fees payable for Services under this Contract and as further defined in the service Schedule(s).

**"Conditions"** means the terms and conditions set out herein.

**"Contract"** means, as applicable, these Conditions, the Schedule(s), the Order Form and the Customer Requirements Form.

**"Customer"** means the person named on these Conditions or the Order Form. BT may accept instructions from another person who BT reasonably believes is acting with the Customers authority and knowledge.

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

**"Customer Requirements Form"** means the BT Managed DNS Service customer requirements form which identifies the Customer's contact details, service options and detailed service description.

**"Customer Website"** means the Customer's Website(s) on the world wide web.

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“**DNS**” means a domain name system, which is used to translate a domain name into an IP address.

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

“**Helpdesk**” means the helpdesk facility provided by BT to handle enquiries and administration for the Service.

“**ICANN**” means the Internet Corporation for Assigned Names and Numbers.

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

“**Internet Protocol**” (“**IP**”) means a network protocol enabling communication between network devices.

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

“**Minimum Period**” means the first 24 months of the Service beginning on the Registration Completion Date.

“**Normal Working Hours**” means the hours between 0830 and 1700 hours (London time) on a Working Day.

“**Registrant**” means the individual or organisation that registers a specific domain name who holds the right to use that specific domain name for a specified period of time and is bound by the terms and conditions of the domain name registration agreement with a particular registry.

“**Registration Completion Date**” means the date when BT confirms to the Customer that the Domain Name registration process is complete and the Domain Name is available for use.

“**Service(s)**” means the service identified in the relevant Order Form as described in the Service Schedule and Customer Requirements Form to this Contract.

“**Termination Date**” means the date on which the Contract is terminated in accordance with Clauses 14 or 15 of this Contract.

“**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 the Customer, published or otherwise made available by the Customer using the Service.

“**UDRP**” means ICANN’s Uniform Domain Name Dispute Resolution Policy.

“**URL**” means a uniform resource locator, which is the full address for the Customer Website.

“**Working Day**” means any day between Monday and Friday, excluding Public and Bank Holidays.

## 2. COMMENCEMENT OF CONTRACT

These Conditions shall apply with effect from the date that they are signed by the Customer and an authorised representative of BT (the “Commencement Date”). The Minimum Period shall commence from the Registration Completion Date.

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### **3. PROVISION OF THE SERVICE**

- 3.1 BT will provide the Customer with the Service on the terms of this Contract.
- 3.2 BT will use reasonable endeavours to provide the Service by a date agreed with the Customer but all dates are estimates only and BT has no liability for any failure to meet any date.
- 3.3 BT will provide the Service with the reasonable skill and care of a competent telecommunications service provider.
- 3.4 BT will use reasonable efforts to provide uninterrupted Service but from time to time faults may occur. BT will repair any faults as soon as reasonably possible but will not have any liability for any interruptions or downtime of the Service. BT will endeavour to post any planned outage or any non-availability of the Service on the BT Managed DNS Service website [www.bt.com/manageddns](http://www.bt.com/manageddns).

### **4. SECURITY**

- 4.1 The Customer will be required to select a user identity ("User ID") and a password, which, unless changed, will then be used by the Customer for all access to the Service including any online management. Passwords must be 8 characters long and contain one number. BT recommends that passwords should not contain dates, familiar names (car registration numbers or family names etc) or consecutive characters and should contain at least one lowercase character and one uppercase case.
- 4.2 The Customer is responsible for the security and proper use of all User IDs and passwords used in connection with the Service (including changing passwords from time to time) and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to unauthorised people. BT will not be liable for the unauthorised use or misuse of any User ID or password.
- 4.3 The Customer must immediately inform BT if there is any reason to believe that a User ID or password 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.
- 4.4 If a Customer forgets or loses a password or User ID the Customer must use the Help/Support Enquiry option on the BT Managed DNS Service website [www.bt.com/manageddns](http://www.bt.com/manageddns) and satisfy such security checks as BT may operate.
- 4.5 BT reserves the right to suspend User ID and password access to the Service if at any time BT considers that there is or is likely to be a breach of security or misuse of the Service.
- 4.6 BT reserves the right at its sole discretion to require the Customer to change any or all of the passwords used by the Customer in connection with the Service.
- 4.7 The Customer must immediately inform BT of any changes to the information the Customer supplied when registering for the Service.

### **5. USE OF THE SERVICE**

- 5.1 It is the Customer's responsibility to obtain and keep in force any licence necessary for the Customer to use the Service in any country in which it is provided.
- 5.2 The Customer shall only access the Service as permitted by BT and shall not attempt at any time to circumvent any aspect of the system security.

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- 5.3 The Service is provided solely for the Customer's own use and the Customer shall not be permitted to resell or attempt to resell the Service (or any part or facility of it) to any third party.
- 5.4 The Service is protected by copyright, trademark and other intellectual property rights, as applicable. The Customer must not, and must not permit, anyone else to, copy, store, adapt, modify, transmit or distribute the Service.
- 5.5 The Customer must ensure that it complies 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.
- 5.6 The Customer must not use or attempt to use or to register a Domain Name or URL that infringes any legal right afforded to any person, including but not limited to any infringement of trade mark or trade name, and BT shall have no liability for any action taken against the Customer related to any infringement of any such legal right
- 5.7 The Service must not be used:
- (a) 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;
  - (b) in any way that cause annoyance, inconvenience or needless anxiety;
  - (c) 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;
  - (d) other than in accordance with the acceptable use policies of any connected networks and the Internet Standards, or
  - (e) otherwise in a way that causes BT loss or damage.
- 5.8 The Customer is responsible for the acts and omissions of all employees, Registrants or Authorised Users in connection with the Service and is liable for any failure by any employee, Registrants or Authorised User to perform or observe the terms and conditions of this Contract.
- 5.9 If the Customer or anyone else, with or without the Customer's knowledge or approval uses the Service in contravention of Clauses 5.1 to 5.8 BT may treat the contravention as a material breach of this Contract, which cannot be remedied for the purposes of Clause 15.

## **6. CUSTOMER OBLIGATIONS**

- 6.1 As part of the registration application process, the Customer must supply the following information:
- Customer/Registrant name and postal address (or if different, that of the Domain Name holder);
  - The Domain Name being registered;
  - The name, postal address, e-mail address, voice telephone number, and where available, fax number of the Applicant for the Domain Name.
- 6.2 The Customer is solely responsible for ensuring that all information provided to BT is complete and accurate and kept up to date at all times. BT is not liable for any

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cancellation or refusal to renew or provide a Domain Name due to any failure to provide such information.

- 6.3 The Customer understands that wilfully providing inaccurate information or failure to update information promptly online via the Service will constitute a material breach under this Contract for the purposes of Clause 15 and BT will be entitled to terminate the Customer Domain Name registration and terminate this Contract.
- 6.4 Failure of the Customer to respond within 5 Working Days to a request from BT regarding the accuracy of any contact details associated with the Customer's registration will constitute a material breach under this Contract. For the purposes of Clause 15 BT will be entitled to terminate any relevant Domain Name registration and terminate this Contract upon such failure.
- 6.5 If when registering a Domain Name, a Customer provides information about any third party, it is the Customer's sole responsibility to ensure i) that they have notified the third party of the disclosure and use of that third party information and ii) they have obtained the express consent of that third party to the disclosure and use of that information and BT shall be entitled to infer that such consent has been obtained by the provision of such information in the registration application procedure.
- 6.6 The Customer agrees and acknowledges that the information supplied in accordance with Clause 6.1 above will be made publicly available on the WHOIS database ("WHOIS") which is available via the Internet. WHOIS provides the public information regarding Internet Domain Name registration services and is regularly updated by internet registrars. The Customer consents to the information provided under Clause 6.1 above being accessible via the Internet. WHOIS can be accessed via a number of companies such as Nominet on URL [www.nominet.org.uk](http://www.nominet.org.uk) for .uk or Internic on URL [www.internic.net](http://www.internic.net) for .com, .org, .net, .biz, .info. **The Customer agrees that it will not proceed with or participate in the online registration process unless it agrees with the disclosure of this information it offers as part of the online registration process.**
- 6.7 Registration of the Domain Name and its ongoing use shall be subject to the relevant naming or registration authority's terms and conditions of use and the Customer hereby agrees to comply with any such terms and conditions. The Customer waives any and all rights to make any claim against BT in respect of the decision of a naming authority that refuses to register a Domain Name and, without limitation agrees that any charge paid by it to BT under the terms of this Contract is non-refundable.

## 7. BT'S OBLIGATIONS

- 7.1 In addition to the information the Customer provides as part of the registration process, BT, as Domain Name registrar will maintain records relating to the Domain Name registration as follows:
- the creation date of the registration,
  - submission date and time of the registration to the appropriate authorities;
  - any electronic or paper communication relating to the registration; and
  - records of payment dates.

## 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.

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### **9. INTELLECTUAL PROPERTY RIGHTS**

The Customer is responsible for obtaining any and all necessary intellectual property right clearances and/or consents in respect of its use of the Service, including any clearance or consent in respect of its proposed Domain Name.

### **10. CHARGES AND REGISTRATION FEES**

10.1 The Customer agrees to pay the registration fees for the Service as published from time to time at [www.bt.com/manageddns](http://www.bt.com/manageddns).

10.2 BT will charge the Customer a registration fee for each Domain Name registered, renewed or transferred. All charges for the Service during the Minimum Period are detailed in the BT Managed DNS Service website [www.bt.com/manageddns](http://www.bt.com/manageddns). Registration of each chargeable Domain Name is subject to the Minimum Period, or as otherwise specified on the BT Managed DNS Service website [www.bt.com/manageddns](http://www.bt.com/manageddns), which is payable in arrears in accordance with this Clause 10, beginning on the date that the Domain Name is first registered by BT or transferred to BT and renewable annually thereafter or any other time as may be specified by BT.

10.3 In the event that the Customer terminates the chargeable Domain Name registration or transfers the Domain Name to another Domain Name registrar within the Minimum Period, the Customer acknowledges that the registration fee is not refundable.

10.4 All charges will be invoiced and paid in pounds sterling unless otherwise stated. Value Added Tax will be charged at the UK rate and is payable by the Customer and will be detailed within BT's invoices as appropriate.

10.5 The Customer must pay all Charges for the Services within thirty (30) days of the date of BT's invoice. BT may, in its discretion, add interest charges, from the due date, to any past due amounts at a per annum rate of 7 percentage points above the base lending rate of the European Central Bank, compounded daily.

10.6 Unless otherwise agreed in writing, lack of Customer references on the invoice shall not constitute a valid reason by the Customer to withhold payment due under the invoice. The Customer shall make payment in accordance with the details shown on the invoice and where the Customer makes an aggregated payment in respect of more than one invoice, the Customer shall submit a remittance slip to show amounts paid in relation to individual invoices.

### **11. LIMITATION OF LIABILITY**

11.1 BT accepts unlimited liability for death or personal injury resulting from its negligence and Clauses 11.2 and 11.3 do not apply to such liability.

11.2 Except as stated in Clause 11.1 BT is not liable to the Customer, either in contract, tort (including negligence) or otherwise for direct or indirect loss of profits, business or anticipated savings, nor for any indirect or consequential loss or damage or for any destruction of data.

11.3 BT's liability to the Customer in contract, tort (including negligence) or otherwise in relation to this Contract is limited to £25,000 for any one incident or series of related incidents and £100,000 for all incidents within the term of this Contract.

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



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11.5 Each provision of this Contract, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

### **12. INDEMNITY**

The Customer must indemnify BT against any claims or legal proceedings that any third party threatens or makes against BT due to:

- (a) the way that the Service is used; or
- (b) The registration of the Domain Name or the manner in which it is used, either directly or indirectly infringes the legal rights of any third party.

The limitations of liability contained within Clause 11 do not apply to this Clause 12.

### **13. MATTERS BEYOND EITHER PARTY'S REASONABLE CONTROL**

13.1 If either party is unable to perform any obligation under this Contract because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (whether or not involving employees of either party) or acts of local or central government or other competent authorities, or events beyond the reasonable control of that party's suppliers, that party will have no liability to the other for that failure to perform.

13.2 Where applicable, if BT is prevented by restrictions of a legal or regulatory nature from supplying the Service, BT shall have no liability to the Customer for the failure to supply the Service.

13.3 If any event set out in Clause 13.1 or 13.2 continue for more than 3 months either party may serve notice on the other terminating this Contract.

### **14. TERMINATION OF THIS CONTRACT BY NOTICE**

14.1 Either party may terminate this Contract or the Domain Names registered under the Service on 30 days notice to the other.

14.2 If the Customer terminates this Contract or the Service during the Minimum Period the Customer acknowledges that there will be no refund of any registration fees paid to BT.

14.3 Where the Customer terminates this Contract or the Service during the Minimum Period the Customer accepts and acknowledges that BT will be entitled to charge, and Customer will pay, all reasonable costs incurred by BT in the provision of the Service, less any costs which BT can reasonably mitigate against.

### **15. BREACHES OF THIS CONTRACT**

15.1 Either party may terminate this Contract or the Service immediately on notice, if the other:

- (a) Commits a material breach of this Contract, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do so; or
- (b) Commits a material breach of this Contract which cannot be remedied; or
- (c) Is repeatedly in breach of this Contract; or

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- (d) 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 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.

15.2 If BT is entitled to terminate this Contract under Clause 15.1, BT may, on giving prior notice where practicable, suspend the Service without prejudice to such rights. Where BT terminates the Contract in accordance with Clause 15.1, Clause 14.3 will apply.

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

### 16. DISPUTE RESOLUTION

ICANN's Uniform Domain Name Dispute Resolution Policy (the "UDRP") as amended from time to time applies to all .com, .net .org, .biz, .info, .name registrations or renewals. The terms of the UDRP are available at [www.icann.org](http://www.icann.org). The Nominet Dispute Resolution Service (DRS) as amended from time to time applies to all .co.uk and .org.uk registrations. The terms of the DRS are available at <http://www.nominet.org.uk/disputes/>

### 17. CHANGES TO THIS CONTRACT

All Domain Name registrations may be subject to suspension, cancellation, transfer or modification pursuant to the terms of any rules or policies applicable to the Domain Name registration including but not limited to a) the UDRP; b) any ICANN adopted policy; and c) any registry administrator procedures or otherwise in accordance with this Contract.

### 18. EXPORT CONTROL

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

### 19. TRANSFER OF RIGHTS AND OBLIGATIONS

Neither party may transfer any of their rights or obligations under this Contract, without the prior written consent of the other, except that BT may assign or transfer any of its rights or obligations to a BT Group Company without consent.

### 20. ENTIRE AGREEMENT

20.1 This Contract contains the whole agreement between the parties and supersedes all previous written or oral agreements relating to its subject matter other than fraudulent misrepresentation.

20.2 The parties acknowledge and agree that:

- (a) They have not been induced to enter into this Contract by any representation, warranty or other assurance not expressly incorporated into it; and

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- (b) In connection with this Contract their only rights and remedies in relation to any representation, warranty or other assurance are for breach of this Contract and that all other rights and remedies are excluded, except in the case of fraud.
  
- 20.3 A person who is not party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract, but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

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### **21. NOTICES**

Notices given under this Contract may be delivered on-line or by e-mail. Additionally, BT may give notice to the Customer under this Contract via the [www.bt.com/manageddns](http://www.bt.com/manageddns) website; notices will be deemed effective on the date of publication, or otherwise as notified to the Customer by BT. A notice from either party which is sent by e-mail to the others e-mail address will be deemed effective 3 days after the date it is sent.

### **22. DATA PROTECTION CONSENT**

Both parties warrant that they will duly observe all their obligations under the Data Protection Act 1998 which arise in connection with this Contract. In particular, where BT processes personal data on behalf of the Customer, it will:

- 22.1 act on and comply with instructions of the Customer (as the data controller) as such instructions are given and varied by the Customer from time to time; and
- 22.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

### **23. SEVERABILITY**

If any provision of this 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 Contract had been executed with the invalid, illegal or unenforceable provision omitted.

### **24. LAW**

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