THIS Contract IS MADE ON 08/03/2024

BETWEEN:

BRITISH TELECOMMUNICATIONS plc whose registered office is at BT Centre, 81 Newgate Street, London EC1A 7AJ and registered number is 1800000 ("BT") through its division Openreach

AND

NLC Durrington Freehold Limited whose registered office is at Skylon Court, Rotherwas, Hertfordshire, HR2 6JC and registered number is 11787220 ("the Developer")

Site Details

Site Name & Address (including post code and/or OS map reference)	10 Greenland Road, Worthing, BN13 2RR
Site Start Date	20/09/2021
First Service Date	20/06/2022
NSI Reference	WG/00C
Infrastructure technology (e.g. Fibre or copper)	**Fibre To The Premise (FTTP)**

Party Representatives

The primary representatives for this Contract each party are:

	Operational Contact	**Escalation Path**
Developer	As named on the Site Registration Form	
BT	As named on the Site Registration Form	As defined in the Developer escalation process on the BT Website

Signed on behalf of **British Telecommunications plc**

Signature:

Position: Infrastructure Solutions Customer Service

Date: 08/03/2024

Signed on behalf of NLC Durrington Freehold Ltd

Signature: Neil Appadu 

Position: Project Manager

Date: 18/01/2022

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NOW, THEREFORE, in consideration of mutual covenants set forth herein and for other good and valuable consideration, including the payment of £1.00 by BT to the Developer, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1 INTERPRETATION

1.1 In this Contract:

"Adequate Country or Sector" means (i) a country within the European Economic Area ("**EEA**"), (ii) the United Kingdom or (iii) a country, territory or sector within a country which has been subject to a finding, and continues to be subject to a finding for the duration of this Purchase Agreement, of an adequate level of protection by the European Commission ("**EC**"), excluding the United States of America.

"Affiliates" means, in relation to a Party, any company, partnership or other entity which from time to time:
(a) owns (directly or indirectly) at least twenty (20) per cent of the voting stock of another entity; or
(b) has the power (directly or indirectly) to appoint the majority of the board of directors or power (directly or indirectly) to control the general management of another entity.

"Applicable Law" means any, laws, regulations, regulatory guidance, permissions, bylaws, obligations, enactments, statutory duties, or rules (including NRSWA Legislation and any mandatory and legally required industry codes, policies, codes of conduct and binding statements of principle incorporated and contained in such rules) applicable to the existence or operation of the Contract and any other requirements of any Authority that relate in any way to the Contract, including:
(a) as modified, re-enacted or consolidated from time to time whether before or after the date of the relevant Contract; and
(b) any applicable subordinate legislation made from time to time.

"Authority" means any regulatory, governmental and/or judicial authority (including any public prosecution service) or any self-regulatory organisation, securities exchange, securities association or agency charged with enforcing the Applicable Laws and/or any Regulatory Matters from time to time. For the avoidance of doubt, the term Authority includes any replacement or successor of an Authority.

"Auditing Parties" means BT and/or any (i) other parties appointed by BT and/or (ii) regulatory authorities (including a Supervisory Authority).

"Brownfield" means a location where there is existing BT Network infrastructure or a location where there is an existing building or structure which will be demolished, replaced, repurposed, converted, refurbished or otherwise altered or amended;

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

"BT Group" means British Telecommunications plc and its Affiliates from time to time;

"BT Group Company" means a company or corporation within the BT Group;

"BT Equipment" means equipment (including any software) placed by BT at the Site to provide BT's communications products to its customers documented on the plans attached to the Specification and the approximate position of which is shown on such plans;

"BT Exchange" means an exchange from which BT connects the Site to the BT Network;

"BT Network" means BT's Public Electronic Communications Network;

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"BT Website" means the website located at URL https://www.openreach.co.uk/orpg/home/index.do or such other website or URL as BT may notify the Developer from time to time;

"BT Works" means the provision of Specifications and Materials for the Site, inspection of the Developer Works and installation of BT equipment in or at the Premises;

"Conditions" means the terms set out in this document excluding the Schedules

"Contract" means the Conditions, the Schedules, the relevant sections of the Openreach Price List, the Site Registration Form, and the Wayleave Agreement(s);

"Controller Model Clauses" means the standard contractual clauses for the transfer of personal data to Controllers established in third countries, (and the Developer as data importer agrees to option (h) (i), under the heading "II Obligations of the data importer"), as adopted by the EC by its Decision C(2004) 5271 of 27 December 2004 and set out in its relevant website (as amended or replaced from time to time): https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004D0915 and completed in such a manner as BT may reasonably specify.

"Corporate Marks" means the registered or unregistered trademarks and Infrastructure Service marks, house marks and marks of ownership, trading names, brand names, domain names, distinctive colour schemes, devices, styles, emblems and other manifestations associated with BT and/or the Developer and in the case of BT including the logotype comprising the letters BT and the piper device and/or the letters BT and the connected world device and/or any elements of these marks;

"Data Protection Legislation" means collectively (i) the GDPR; (ii) national law implementing the ePrivacy Directive; (iii) any other applicable national privacy laws; (iv) any successor or replacement laws; and (v) any binding guidance or code of practice issued by a Supervisory Authority;

"Data Subject" has the meaning ascribed to it in the GDPR;

"Developer" means the person who enters into this Contract with BT and is a person who is developing a Site;

"Developer Works" means all relevant civils infrastructure at the Site for the installation of the BT Equipment, including draw rope, cable, tube, ducts and chambers, using Materials provided by BT;

"Developer Portal" means the website provided by BT and available for Developers at Developer Portal;

"Developer's Site Requirements" means the Developer's safety, security and method of access rules and policies in relation to the Site which shall be communicated to BT from time to time in writing.

"Developer's Handbook" means the appropriate product description document and business process document containing information about the relevant Infrastructure Service the details of which are available on or via the BT Website and as set out in Schedule 1;

"Emergency" means a serious situation or occurrence that happens unexpectedly and demands immediate action;

"Excess Construction Charges" means the charges referred to in the Openreach Price List and Schedule 1;

"First Actual Occupancy Date" means the date on which the homeowner(s), end customer(s) or occupant(s) first occupies a Premises at the Site;

"First Occupancy Date" means the first proposed date on which the homeowner(s), end customer(s) or occupant(s) will occupy any one Premises at the Site;

"Force Majeure" means a matter beyond a party's reasonable control including, but not limited to, act of God, lightning, flood, exceptionally severe weather, subsidence, fire, explosion, war, civil disorder, national or local emergency, statutory obligation, industrial disputes (including industrial disputes involving that party's own employees provided that such party has taken all reasonable steps to prevent and or resolve such industrial disputes from arising), acts or omissions of local or of central government or of other competent authorities or of persons for whom a party is not responsible or any other cause whether similar or dissimilar outside its reasonable control;

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"FTTC" means BT's Generic Ethernet Access service which BT provides to communications providers using Fibre to the Cabinet technology;

"FTTP" means BT's Generic Ethernet Access service which BT provides to communications providers using Fibre to the Premises technology;

"GDPR" means the General Data Protection Regulation (EU) 2016/679, and any amendment or replacement to it (including any corresponding or equivalent national law or regulation which implements the GDPR).

"Greenfield" means a location where no BT Network has previously been deployed or a location which has no existing development or building;

"Group Company" means any direct or indirect subsidiary or any direct or indirect holding company or any such subsidiary of any such holding company or any such holding company of such subsidiary, "subsidiary" and "holding company" having the meanings defined in Section 1159 of the Companies Act 2006 as amended;

"Handover Date" means the date on which BT provides the Developer with a Quality Certificate for the Developer Works;

"Infrastructure Service" means the provision of the Developer Works and the BT Works, as applicable;

"Intellectual Property Rights" means any patent, petty patent, copyright, design right, community design right, database right, semiconductor topography right, registered design, rights in know-how, or any similar right in any part of the world and shall include any application for the registration of any patents or registered designs or similar rights capable of registration in any part of the world;

"Materials" means the materials provided to the Developer by BT for the Developer Works as set out in the Bill of Materials provided by BT;

"Normal Working Hours" means from 0800 to 1800, Monday to Friday excluding UK bank and public holidays;

"NTE" means the BT Network terminating equipment at a Premises, excluding any ethernet cable which may be provided;

"NTP" means the BT network termination point at a Premises;

"Ofcom" means the Office of Communications or its competent successor body or authority;

"ONT" means the optical network termination equipment;

"Openreach Price List" means the document containing a list of BT's charges and terms that apply to the Infrastructure Service and which can be seen at Openreach Price List (or any other on-line address that BT may advise the Developer);

"Other Regulated Jurisdiction" means any jurisdiction outside the EEA which has generally applicable legislation regulating Personal Data in a similar manner to the GDPR.

"Permitted Transfer Mechanism" means any transfer mechanism permitted by applicable Data Protection Legislation to enable the Transfer of Personal Data to a Recipient in a non-Adequate Country or Sector, such as by entering into Controller Model Clauses or Processor Model Clauses for a Transfer from within the EEA to a Recipient in a non-Adequate Country or Sector outside the EEA, or the EU-US Privacy Shield program (adopted by the EC's Decision (EU) 2016/1250 of 12 July 2016) for a Transfer of Personal Data to the United States of America, or by relying on Binding Corporate Rules in the form approved by the applicable EU Supervisory Authorities

"Personal Data Breach" has the meaning ascribed to it in the GDPR;

"Personal Data" has the meaning ascribed to it in the GDPR;

"Policies Portal" means the online repository for the Policies accessible at:

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https://groupextranet.bt.com/selling2bt/articles/side/policies_portal.html or any other URL that may be notified to the Developer from time to time;

"Process" or **"Processed"** or **"Processing"** or **"Processor"** has the meaning ascribed to it in the GDPR;

"Processing Details" means details of the Processing of the Personal Data under this Contract and related information as agreed by the Parties and incorporated into Annex A.

"Processor Model Clauses" means the standard contractual clauses for the Transfer of Personal Data to Processors established in third countries, as adopted by the EC by its Decision C(2010) 593 of 5 February 2010 and set out in its relevant website (as amended or replaced from time to time): http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1401799946706&uri=CELEX:32010D0087 and completed in such a manner as BT may reasonably specify;

"Premises" means any residential dwelling (whether a single flat, single house or other type of single dwelling) or a single commercial, office, retail or educational building on the Site;

"Quality Certificate" means the certificate given to the Developer by BT when the Developer has completed the whole or, if applicable, the relevant part of the Developer Works at the Site;

"Recipient" has the meaning ascribed to it in the GDPR;

"Regulatory Matter" means all relevant regulations, laws, rules, orders, guidelines, notifications, determinations, directions, decisions and the like given by any Authority, and any formal or informal undertakings, governing the conduct of BT's electronic communications business;

"Securities Requirement" means any obligation imposed on the Developer in relation to security of Personal Data under: (i) Data Protection Legislation; and (ii) this Contract, including, but not limited to, BT's Security Requirements (as available on the Policies Portal).

"Service on Demand" is the sum payable by BT for provisioning of the Infrastructure Service at residential sites and as further set out on the Developer Portal;

"Schedules" means the schedules as appended to this document;

"Site(s)" means a place which may be either Brownfield or Greenfield and at which the Developer shall install and BT shall provide the Infrastructure Service;

"Site Layout Plans" means the agreed scale and format site layout plans provided by the Developer in respect to the Site and as further defined in the Openreach New Sites Application Form, as referred to in paragraph 3.4 of Schedule 1;

"Site Registration" means the process by which the Developer requests and BT agrees to register the Site for inclusion in this Contract as set out in Schedule 1;

"Site Registration Form" means the form submitted by the Developer and accepted by BT and used by the parties to confirm the provision of BT Network to the Site in accordance with Schedule 1;

"Site Start Date" means the date on which the Developer will commence development of the Site, including the Developer Works (which is typically the date on which the foundations for any works on the Site commence);

"Specification" means the plans, drawings and specifications set out in the following documents:

(a) Plans and drawings setting out BT's design of its network infrastructure for the applicable Site(s), including, but not limited to, duct routes, joint boxes, man holes and site boundary point to be provided in accordance with paragraph 3.4 of Schedule 1;
(b) CN Diagrams (i.e. cable network diagram) provided by BT for the applicable Site(s);
(c) the latest versions of the Developers' Guides are available on the Developer Portal throughout the time the Developer carries out the Work; and
(d) Bill of BT Materials provided by BT;

"Sub-Processor" means any third party that the Developer engages to Process Personal Data for the purposes of this Contract;

"Supervisory Authority" means any competent authority responsible for supervising compliance with applicable Data Protection Legislation;

"Transfer" or **"Transferred"** means the provision of access to and/or the transfer of Personal Data by or to a Recipient;

"Universal Service Obligation" or "USO" means the obligation on BT to provide services as prescribed by Ofcom;

"Wayleave Agreement" means wayleave agreement in Schedule 2 (England and Wales or Scotland); and

"Working Day" means any day other than Saturdays, Sundays, public or bank holidays in the United Kingdom.

1.2 Any reference in this Contract to any provision of a statute shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

1.3 The headings in this Contract are for convenience only and shall not affect its interpretation.

1.4 Words importing singular include plural and vice versa.

1.5 The terms "party" or "the parties" shall mean BT and/or the Developer.

1.6 Any words which follow the terms "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.7 If there is a conflict between the Conditions, the Schedules and/or the Developers' Handbook, the order of precedence shall be as follows:

(a) the Conditions;
(b) Schedules 1, 2, and 3;
(c) the relevant sections of the Openreach Price List;
(d) the Site Registration Form; and
(e) the elements of the Developers' Handbook that are incorporated by reference into this Contract.

2. COMMENCEMENT AND TERMINATION

2.1 This Contract begins on the date it has been agreed by both BT and the Developer and shall continue thereafter until terminated in accordance with this Contract.

2.2 Either party may terminate this Contract immediately upon serving written notice on the other party where the other party:

(a) is in material breach of the terms of this Contract and such breach has a material adverse impact on the party serving notice (and, unless provided otherwise, where the breach is capable of remedy, the party has not remedied the breach within a reasonable time of receiving notice requiring the breach to be remedied);
(b) persistently breaches terms of this Contract and such persistent breaches have a material adverse impact on the party serving notice;
(c) ceases or threatens to cease to carry on business;
(d) is, or is deemed to be, unable to pay its debts as they fall due or is insolvent, suspends making payments on any debts or announces an intention to do so, commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness by reason of actual or anticipated financial difficulties, has a moratorium declared in respect of any of its indebtedness, ceases or threatens to cease to carry on business, applies for an interim order under Section 252 of the Insolvency Act 1986, has appointed in respect of it or any of its assets a liquidator, trustee in bankruptcy, judicial custodian, supervisor, compulsory manager, receiver, administrative receiver, administrator or similar officer (in each case whether out of court or otherwise), takes or suffers any similar action in any jurisdiction or any step is taken (including, without limitation, the making of

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an application or the giving of any notice) by it in respect of any of these circumstances; or

(e) as provided for in clause 14.7 below

2.4 Termination or expiry of this Contract shall not be deemed a waiver of a breach of any term or condition of this Contract and shall be without prejudice to a party's rights, liabilities or obligations that have accrued prior to such termination or expiry.

2.5 Each of the parties' rights to terminate or suspend performance is without prejudice to any other rights or remedies available to either party.

3. RESPONSIBILITIES OF THE PARTIES

GENERAL

3.1 The parties will use the processes set out in the Schedules, and the Developers Handbook.

BT'S RESPONSIBILITIES

3.2 BT shall:

(a) provide the Developer with the Infrastructure Service on the terms of this Contract;

(b) exercise the reasonable skill and care of a competent communications provider in providing the Infrastructure Service and if required, in determining how best to provide the Infrastructure Service to the Site;

(c) grant the Developer a non-exclusive non-transferable right to use the Infrastructure Service for the sole purpose of enabling the Developer Works up to the Handover Date; and

(d) use its reasonable endeavours to connect its communications services via the Infrastructure Service by the First Occupancy Date such that a homeowner, end customer or occupant may place an order for services from a UK communications provider but all dates are estimates and BT has no liability for failure to meet any date. The provision of BT's communications service products is outside the scope of this Contract and provided to the UK communications providers only.

3.3 In carrying out the BT Works, BT shall:

(a) carry out a health and safety risk assessment solely in respect to the BT Works and issue to the Developer a Site specific method statement for the carrying out by BT of the BT Works at the Site prior to commencing the BT Works including that any Developer Works have been completed to the agreed standard. If BT identifies any potential health and safety issues which are part of the Developer Works, BT will notify the Developer and the Developer must repair or otherwise remedy the problem before BT will commence the BT Works;

(b) ensure that each of its employees, agents or subcontractors intending to carry out the BT Works on the Site attend the health and safety induction for the Site and put all necessary health and safety precautions in place before commencing any works in accordance with any reasonable Developer's Site Requirements;

(c) comply with any reasonable requirements and/or instructions of the Developer with regard to BT's methods of carrying out any of the BT Works;

(d) avoid obstruction to or interference with works being undertaken by other contractors on the Site and/or other users of the Site and avoid damage to the Site or any structures thereon or drains or other services thereunder and make good any such damage to the Developer's reasonable satisfaction;

(e) comply with such reasonable requirements with regard to security and method of access to the Site as the Developer shall notify to BT in writing from time to time;

(f) ensure that the Site is kept in a clean and tidy condition whilst carrying out the BT Works and upon their completion, remove and dispose of all rubbish and waste in connection with the BT Works in accordance with any reasonable Developer's Site Requirements and all relevant laws and regulations relating to the handling, transportation, storage and disposal of waste and/or hazardous waste in connection with this Contract.

DEVELOPER'S RESPONSIBILITIES

3.4 It is the Developer's responsibility to:

(a) install the relevant BT Materials in accordance with the Specification which will form the BT infrastructure at the Site;

(b) exercise its reasonable skill and care;
(c) prepare the Premises and provide a suitable place, conditions, connection points and electricity for BT Equipment at the Premises in accordance with BT's reasonable instructions, if any;
(d) comply with any reasonable instructions from BT on or relating to the Developer Works;
(e) provide BT with accurate address information for the Site no later than 10 working days before the first occupancy date. If there are any changes to the address details for the Site, the Developer will provide the updates to BT and acknowledges that any error in the address information or delay in provision of such information may delay the provision of the Service by BT; and
(f) install the relevant "self install" apparatus at each Premises, if applicable and as set out in paragraph 7.9 of Schedule 1.

If, in order to perform an obligation under this Contract including the BT Works and any inspections, it is necessary for BT to obtain access to the Premises, the Developer shall provide BT with reasonable access.

3.5 The Developer shall complete, to the standard set out in the Developers' Handbook, the Developer Works in a proper and workman-like manner in accordance with the Specification, ensuring that all Developer Works, including ducting, chambers and any associated requirements, have been finished to the appropriate standards.

4. INSURANCE

4.1 Both parties shall at their own cost have and keep in place, insurance which covers its obligations in this Contract up to the point BT issue a Quality Certificate to the Developer or if terminated before a Quality Certificate is issued, up to the point this Contract is terminated. The insurance must include the following:

(a) Employer's Liability insurance in accordance with the Employer's Liability (Compulsory Insurance) Act 1969;
(b) Public Liability insurance to cover loss of or damage to property or the death of or personal injury to any person arising from an act or omission by either party or its employees, agents or subcontractors in relation to the performance of this Contract.

4.2 The insurance in clause 4.1 (b) must have a maximum limit on the cover it provides of at least £5 million for each and every claim with no cap on the number of claims that can be made.

4.3 Each party must provide evidence of the insurance cover if so requested by the other.

5 MATERIALS AND BT EQUIPMENT

5.1 BT will at its own cost provide the Developer with the Materials for the Developer Works in accordance with the Specifications. It is the responsibility of the Developer to ensure that they have given BT sufficient time to provide any Materials and the Developer should, where possible, give BT 20 working days' notice of any upcoming request for Materials to be received on the Site. BT will provide the Materials in phases for larger developments.

5.2 All Materials provided by BT belong to BT and remain BT's property at all times.

5.3 If the Developer identifies any defects in the Materials the Developer must tell BT's Representative (or any alternative contact provided by BT's Representative) within 20 (twenty) Working Days of receiving them. The Materials provided by BT shall be of good quality, comply with all relevant legislation, British Standards and codes of practice and/or equivalent EU approval.

5.4 The Developer must keep the Materials secure and in good condition and is liable for any loss or damage to the Materials until a Quality Certificate is issued by BT. The Developer must store them appropriately and to the satisfaction of BT's Representative, acting reasonably. They must be clearly identifiable as the property of BT and, where possible, the Developer must store them away from other materials so that they can be easily identified by BT's Representative.

5.5 The Developer must only use the Materials for the Developer Works.

5.6 The Developer must ensure that neither the Developer nor anyone who works for the Developer or on the Developer's behalf, provides the Materials as security for any debt. The Developer must tell BT immediately if anyone threatens to, tries to or does take the Materials as security for a debt owed. The Developer must make it clear to anyone who does this, that the Materials are owned by BT.

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5.7 On completion of the Site, BT may collect any Materials (at BT's cost) which the Developer does not use to carry out the Developer Works. The Developer will dispose of the Materials or take them to another of the Developer's development sites at the Developer's own cost and in accordance with the process set out in the Developers' Guide.

5.8 The Developer must comply (and ensure anyone who works for the Developer or on the Developer's behalf complies) with the reasonable instructions of BT and all relevant laws and regulations relating to the handling, transportation, storage and disposal of waste and/or hazardous waste in connection with the Developer Works.

5.9 Subject to the limitation in clause 14, the Developer indemnifies BT against all losses, costs, damages, expenses, liabilities and claims caused to and made against BT which would not have been caused or made had the Developer complied with the Developer's obligations in relation to the disposal of the Materials and any waste generated in connection with this Contract.

6. CONNECTION OF EQUIPMENT TO THE INFRASTRUCTURE SERVICE

6.1 Unless agreed otherwise in writing by BT, the Developer must not connect any equipment to the Infrastructure Service or the BT Equipment.

6.2 BT will not be liable for failure to meet any Infrastructure Service level or other obligations under this Contract to the extent that the failure is caused by equipment found to be connected otherwise than in accordance with this clause 6.

7. ACCESS, SAFETY & COMPLIANCE, AND SITE REGULATIONS

ACCESS

7.1 If the Developer requires BT to work outside its Normal Working Hours, then the Developer must pay the additional charges set out in the Openreach Price List.

7.2 If in order to perform an obligation under this Contract it is necessary for BT to obtain access to the Site or the Premises, the Developer shall take reasonable steps to ensure that the Developer provides BT with access to the Site or the Premises during Normal Working Hours provided that such person abides by any reasonable site specific access requirements notified to them by the Developer.

SAFETY & COMPLIANCE

7.3 BT will observe the Developer's reasonable Site(s) safety and security requirements made known and brought to the attention of the BT personnel at the Site. BT will not be liable for any breach of this Contract which arises as a result of conflict between the Site regulations and these Conditions.

7.4 The Developer will take reasonable steps to provide a suitable and safe working environment for BT at the Developer's Site(s). The Developer will indemnify BT against all loss, damages, costs and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against BT where the Developer is in breach of this clause.

7.5 BT shall have no liability to the Developer in respect of any decorator's work or any making good, whatsoever, except to the extent that property damage is caused by BT's negligence.

REGULATIONS

7.6 The Developer will keep a progress report in relation to the Developer Works which will be available for BT to inspect during Normal Working Hours.

7.7 Each party shall comply with all laws and regulations which are relevant to their respective works under this Contract.

7.8 Each party is responsible for protecting the health and safety of the people involved in carrying out their respective works required by this Contract. This means that each party must take all reasonable steps to protect people from harm in respect to their respective works identified in this Contract.

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7.9 The Developer shall comply with all reasonable health and safety instructions relating to the Developer Works given to the Developer by or on behalf of BT and BT shall comply with all reasonable health and safety instructions relating to the BT Works given to BT by or on behalf of the Developer.

7.10 In addition to the general health and safety requirements above each party must take special note and carry out appropriate checks for the presence of:

(a) electricity cables, gas and water pipes, other electronic communications infrastructure and other services;
(b) the flammable, explosive and asphyxiating gases that build up in underground networks; and
(c) high pressure pipelines

and take appropriate action if found.

7.11 In respect to the carrying out of the Developer Works, the Developer must comply with the New Road and Street Works Act 1991 as if the Developer were the "Undertaker" referred to in the Act. This includes any codes of practice and regulations which relate to that Act including the specification entitled "Specification for the Reinstatement of Openings in the Highway".

7.12 Subject to the limitation in clause 14, the Developer indemnifies BT against all loss, damage, injury, costs and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against BT caused by the Developer's breach of this clause 7.

7.13 Subject to the limitation in clause 14, BT indemnifies the Developer against all loss, damage, injury, costs and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against the Developer caused by BT's breach of this clause 7.

8. USE OF THE INFRASTRUCTURE SERVICE AND/OR BT EQUIPMENT

8.1 The infrastructure for BT's electronic communications network and any services provided by BT to its customers, including anything incorporated or comprised in the Developer Works, is BT's property at all times and is for the sole use of BT through its division Openreach.

8.2 If BT notifies the Developer or if the Developer is aware that it or any third party has used the Infrastructure Service or BT Equipment in breach of clause 8.1 then the Developer will take all reasonable steps to co-operate with BT and disconnect any connected services and/or equipment immediately. If the Developer or any third party continues to use the Infrastructure Service in breach, it will be disconnected by BT.

8.3 The Developer shall indemnify BT against all loss, damages, costs, liabilities and expenses arising or incurred in respect of any actions, claims or legal proceedings which are brought or threatened against BT by a third party if the Infrastructure Service or BT Equipment is used in breach of clauses 8.1 and 8.2 above.

9. WARRANTY

9.1 From the date of the Quality Certificate, the Developer warrants that provision of the Developer Works will be:

(a) free from defects (including defects which arise after provision of the Quality Certificate for a Premises as a result of work undertaken by the Developer on the Site);
(b) conform with all specifications, standards, regulations, drawings and instructions; and
(c) free from defects in design (where the design has been undertaken by the Developer).

9.2 The warranty set out in clause 9.1 above shall apply to any defects which appear during the guarantee specified in any code of practice, regulation, instrument or specification that may be issued or approved, or any amendments thereto issued or approved from time to time, in accordance with:

(a) in England and Wales, section 71, of the New Roads and Street Works Act 1991;
(b) in Scotland, section 130, of the New Roads and Street Works Act 1991; and
(c) in Northern Ireland, section 31 of The Street Works (Northern Ireland) Order 1995.

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9.3 The Developer shall warrant the structures of jointing chambers for a period of ten (10) years and all installed duct for a period of five (5) years. This shall be independent of any associated New Roads and Street Works guarantee period. Where no other warranty or guarantee period exists or is stated, then a warranty period of two (2) years shall apply.

9.4 Defects in the work which arise from faulty or incorrect materials, workmanship or performance standards shall be resolved at the Developer's own expense (by replacement, repair or reconstruction, at the option of BT) in a timescale designated by BT.

9.5 The Developer shall maintain accurate and comprehensive records of all re-work required or undertaken which will be provided to BT on reasonable request.

10 INTELLECTUAL PROPERTY RIGHTS AND BT CORPORATE MARKS

10.1 The Specifications contain content which is the copyright and confidential information of BT or its licensors. The Developer must keep confidential all information which is confidential in nature or marked or stated as confidential. The Developer may only use such information for the purpose of and strictly in accordance with this Contract.

10.2 The Developer may make copies of the Specifications strictly as necessary to carry out the Developer Works. The Developer may supply copies to the Developer's subcontractors and professional advisors who need to use such copies for those purposes but only if such subcontractors and advisors are bound by equivalent confidentiality and copyright provisions. The Developer must reproduce all BT copyright and confidentiality markings clearly on such copies. The Developer must not modify or adapt the Specifications or allow anyone else to do so without BT's prior written consent.

11 CONFIDENTIALITY

11.1 The parties agree to keep in confidence any information (whether written or oral) of a confidential nature obtained under or in connection with this Contract or the Infrastructure Service. The parties agree not, without the written consent of the other party, to disclose that information to any person other than:

(a) their employees or professional advisers;
(b) in the case of BT, the employees of a BT Group Company or its or their suppliers; and
(c) in the case of the Developer, the employees of a Developer Group Company or its or their sub-contractors or Developers or resellers.

Any disclosure in (a) to (c) above can only be made in order for the party to fulfil its obligations under this Contract or in relation to this Contract.

11.2 The parties agree not to, without the written consent of the other party, use information of a confidential nature referred to in clause 11.1 above, for the commercial advantage of their retail businesses.

11.3 Clause 11.1 will not apply to:

(a) any information which has been published other than through a breach of this Contract;
(b) information lawfully in the possession of the recipient before the disclosure under this Contract took place;
(c) information obtained from a third party who is free to disclose it; and
(d) information which a party is required by law to disclose or by any order, authority or court of competent jurisdiction provided that prior to such disclosure the party required to disclose the information shall consult with the other as to the proposed form, nature and purpose of the disclosure.

11.4 This clause 11 will remain in effect for 5 years after the termination of this Contract.

12. MARKETING AND MISREPRESENTATION

12.1 The parties undertake that in relation to their obligations under this Contract they will not:

(a) represent themselves as each other; or
(b) misrepresent their relationship with each other; or
(c) misrepresent the nature and/or effect of their contracts; or
(d) assert that they have any authority to provide or promote any products or services on behalf of each other.

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13. CHARGES, PAYMENTS AND DEPOSITS

CHARGES

13.1 The Developer shall pay the Developer Contribution Charge, if any, as set out of the Site Registration Form.

13.2 The Developer may be liable to pay additional charges for Time Related Charges, Abortive Visit Charges and any supplementary charges (i.e. per visit charges). The circumstances when these charges will apply are set out or referred to on the Developer Portal and include:

(a) Supplementary work to carry out work outside Normal Working Hours;
(b) Additional hours necessary to provide amendment to Specifications in accordance with paragraph 5.2 of Schedule 1 including any on-site visits which may be required;
(c) Repairing faults or additional work which is required to bring the network infrastructure to the relevant standard as set out in the Specification;
(d) The provision of plant location maps and searches;
(e) Any replacement Materials required by the Developer except where the Developer has identified and notified BT of a defect in the original Materials provided by BT in accordance clause 5 of this Contract; and
(f) Site visits where the Developer has requested a Quality Certificate but BT has identified issues with the Developer Works in accordance with paragraph 7.8 of Schedule 1.

13.3 The charges may change from time to time and the charges which shall apply are those which are shown on the Openreach Price List.

13.4 The Developer must pay the charges within 30 calendar days of the month end in which the invoice is received from BT. All charges exclude Value Added Tax which is payable at the applicable rate.

PAYMENTS

13.5 BT will make payments to the Developer in certain circumstances. A per Premises "Service on Demand" and "self install" payment may be payable to the Developer.

13.6 If a Developer is eligible for a Service on Demand payment, the Developer must claim any payments owed to the Developer by BT within 12 months of the date of the Quality Certificate issued by raising an invoice with BT and on receipt of a valid invoice, BT will raise the requisite Purchase Order. For Developer Works comprising:

(a) fewer than 25 Premises, the Developer will claim any payment using one invoice; and
(b) 25 Premises or more, the Developer may claim any payment in either

i. batches of 25 or more Premises or
ii. (ii) the entire Site(s);

as agreed by the parties before commencement of the Developer Works. If the Developer does not make a claim for a Service on Demand payment within 12 months of the date of the Quality Certificate then their right to make any claim lapses and any claim for payment will be invalid.

13.7 The Developer must, where applicable, ensure that each invoice is a valid VAT invoice for the purposes of the Value Added Tax Act 1994 (or any similar or replacement legislation).

13.8 If the Developer is raising an invoice in relation to a batch of Premises as part of the Developer's development, the Developer must ensure that each invoice includes only those Premises which have been successfully inspected by BT and a Quality Certificate issued.

13.9 The invoice must specify:

a) the appropriate Purchase Order and contract number, where applicable;
b) the Openreach NSI reference number;

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c) a full description of the Work to which the invoice relates (as set out in the Purchase Order);
d) the portion of the Work for which payment is being claimed including, if applicable, the number of plots and the unit cost per plot. Line items should be presented in the same order and format as the Purchase Order to which they relate;
e) an identifying number;
f) the relevant period and, if different, date of issue;
g) Total charge exclusive of VAT and the rate of VAT;
h) Any discount including rate of discount; and
i) Total VAT payable.

13.10 The Developer must raise a separate invoice for each Purchase Order reference number. BT or BT's accounts payable service provider may reject any invoice if it is for multiple purchase order reference numbers or otherwise does not comply with this clause 13.

13.11 The Developer must supply BT Accounts Payable with all the Developer's relevant information associated with HMRC's CIS scheme (Construction Industry Scheme) including the Developer's Unique Tax Reference (UTR) details.

13.12 Subject to clause 13.8, BT will pay the invoiced amounts properly due to the Developer within 42 working days of the date of receipt of the Developer's invoice by BT.

13.13 Subject to clause 13.14 below, all amounts due under this Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

13.14 BT shall be entitled to set-off any amounts due in relation to the Developer Contribution Charge or any additional charges arising in connection with this Contract (including charges for replacement Materials) against any amounts due to the Developer in connection with this Contract (including Service on Demand payments).

13.15 This clause 13 shall continue in force after the termination or expiry of this Contract.

14. LIMITATION OF LIABILITY

14.1 Neither party excludes or restricts its liability for death or personal injury caused by its own negligence or that of its employees, subcontractors or agents acting in the course of their employment or agency or for fraud or to any extent not permitted by law.

14.2 Subject to express terms and conditions of this Contract to the contrary, neither party shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any direct loss which may arise out of or in relation to this Contract (whether or not the party concerned was advised in advance of the possibility of such loss or damage) for:

(a) time;
(b) wasted expenditure;
(c) anticipated savings;
(d) opportunity;
(e) data;
(f) revenue;
(g) profit.

14.3 Neither party shall be liable to the other in contract, tort (including negligence), breach of statutory duty, by reason of misrepresentation or otherwise for indirect or consequential loss whatsoever.

14.4 Subject to express terms and conditions of this Contract to the contrary (and excluding liability for breach by the Developer of its obligations under clause 22 which shall not be limited) and subject to clause 14.5 in relation to property damage liability arising out of or in relation to this Contract, and excluding any amounts to be paid under clause 14.7 and 14.10 below, either party's liability to the other in contract, tort (including negligence), breach of statutory duty or otherwise for direct loss or damage howsoever arising is limited, for the Site, to:

(a) 1 – 10 Premises, £25,000;

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(b) 11 - 50 Premises, £100,000;
(c) 51 - 150 Premises, £300,000; or
(d) 151 or more Premises, £1 million.

14.5 Any liability arising out of this clause which is for property damage is limited to £1 million for any one event or series of connected events and £2 million for all events (connected or unconnected) in the 12 calendar months immediately preceding either the relevant event (single or unconnected) or in the case of a series of connected events, the first event.

14.6 Clauses 14.2 to 14.5 shall not apply to the extent that any losses have been incurred by BT as a result of the Developer's abandonment of the Contract or the Developer's wilful misconduct, wilful default, wilful breach of a fundamental term of this Contract or repudiatory breach of this Contract.

14.7 Notwithstanding anything to the contrary, if BT:
(a) is entitled to terminate the Contract under clause 2.2; or
(b) believes (for any reason) that the Developer has an intention to cancel or abandoned the Contract or no longer perform any of its obligations under the Contract;

and BT has notified the Developer of BT's intention to seek to terminate this Contract under this Clause 14.7, where written confirmation of a contrary intention is not provided by Developer along with evidence (to BT's reasonable satisfaction) of the Developer's continued performance of the Contract within ten (10) calendar days of BT's notice, then BT shall have the right to immediately terminate this Contract and upon BT's election to terminate this Contract under this clause, BT shall have the right at BT's sole discretion to elect to either:

(i) require the Developer to pay BT an amount equal to an estimate by BT of the reasonable cost for BT to complete the Developer Works either by BT or its subcontractors (such amount shall be quoted to the Developer and shall be paid by the Developer in accordance with clause 14.8 below); or

(ii) require the Developer to pay BT any reasonable costs incurred under this Contract, including but not limited to, costs associated with planning, off-site works and any other costs associated with termination of this Contract (such amount shall be invoiced to the Developer and shall be paid by the Developer in accordance with clause 14.8 below).

14.8 BT shall raise an invoice for sums due under clause 14.7 above and the invoice shall be paid by the Developer within 30 days of receipt of the invoice.

14.9 Following completion of the Developer Works by BT or its subcontractors under clause 14.7 above, BT shall issue a final statement and the Developer shall either (a) pay any additional amounts required to reflect the actual cost to complete the Developer Works (excluding any costs arising due to the fault of BT or its subcontractors) or (b) be refunded any amounts that the Developer had paid which are above the actual cost to complete the Developer Works (excluding any costs arising due to the fault of BT or its subcontractors.

14.10 In the event that that BT believes (for any reason) that the Developer has an intention to cancel or abandoned the Contract or no longer perform any of its obligations under the Contract and there is third party infrastructure present at a Site capable of permitting the installation of BT's electronic communications network, and BT has notified the Developer of BT's intention to invoke this Clause 14.10, where written confirmation of the Developer's intention to continue performance is not provided by Developer along with evidence (to BT's reasonable satisfaction) of the Developer's continued performance of the Contract within ten (10) calendar days of BT's notice, then instead of termination under Clause 14.7, BT may (in its sole and absolute discretion) elect to require the Developer to indemnify BT for all reasonable costs associated with BT entering into agreements with such third party infrastructure owner/s in order that BT can access the third party infrastructure to provide BT's electronic communications to the Site and the Developer shall indemnify BT for all associated costs for each Site starting from the date of BT's election and continuing for a period of 10 years following the later of (a) First Actual Occupancy Date or (b) such date after the First Actual Occupancy Date upon which the third party infrastructure is made available to the Site.

14.11 For the avoidance of doubt, BT's rights under clauses 14.7 and 14.10 above are in addition to and do not exclude or limit any other rights or remedies provided under this contract or at law.

14.12 Each provision excluding or limiting liability operates separately. If any provision (or part thereof) is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

14.13 This clause 14 shall continue in force after the termination or expiry of this Contract.

15. MATTERS BEYOND THE REASONABLE CONTROL OF EITHER PARTY

Neither party shall be liable to the other party for any delay in carrying out its obligations under this Contract caused by an event beyond its reasonable control. Any timescale related to carrying out an obligation affected by an event beyond its reasonable control shall be reasonably extended to take account of the duration of an event beyond its reasonable control.

16. CONDUCT OF INDEMNIFIED EVENTS

16.1 The indemnified party must notify the indemnifying party of any related claims or legal proceedings and use its reasonable endeavours to do so within 14 days of receipt and if it fails to do so, any additional cost reasonably incurred as a consequence of that failure may be deducted from the indemnified sum.

16.2 The indemnifying party may assume conduct of the claim providing it notifies the indemnified party of such intention within 5 days of receipt of the notification in clause 16.1. The indemnified party may re-assume conduct of the claim at any time if it reasonably believes a failure to do so would be prejudicial to its interests.

16.3 The party assuming conduct of the claim must:

(a) actively consult with the other party regarding the conduct of any action and take their views into account; and
(b) make no admissions relating to any claims or legal proceedings without the consent of the other party, which shall not be unreasonably withheld; and
(c) not agree any settlement of such claims or legal proceedings nor make any payment on account of them without the consent of the other party, which shall not be unreasonably withheld.

17. ESCALATION AND DISPUTE RESOLUTION

17.1 The parties nominated representatives and the people to whom a dispute must be escalated at the first and second levels are set out in the Site Registration Form, as amended from time to time by the parties in writing.

17.2 If any dispute arises between BT and the Developer or its representatives, the parties will use their reasonable endeavours to settle the dispute through the nominated first level representatives of both the Developer and BT. If such dispute has not been resolved within 28 days of the matter being raised, it may be escalated to the second level, by notice in writing to the other party;

17.3 If a dispute is not resolved within 14 days of the matter being raised to the second level (as set out in the procedures set out in clause 17.2 above) then either party shall have the option of:

(a) referral of the dispute to a mediator in accordance with clause 17.4; or
(b) referral of the dispute for early neutral evaluation; or
(c) referral of a technical dispute to a relevant technical expert; or
(d) pursuing any other dispute resolution option which the parties agree is appropriate.

17.4 The first level representative of the Developer is as indicated as the point of contact on the Site Registration Form and the second level representative is the additional contact as provided on the Site Registration form. The Developer shall notify BT as to any changes in the relevant representative (such as replacement of the representative or changes in contact details) for dispute resolution and BT will inform the Developer of the relevant escalation contacts which may be updated from time to time.

17.5 If the dispute is referred to a mediator:

(a) the mediator will be appointed by agreement of the parties. If the parties fail to agree within 3 calendar days of a proposal by one party, the mediator will be appointed by the Centre for Dispute Resolution (CEDR);

(b) all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the parties in any further proceedings; and

(c) if the parties reach agreement on the resolution of the dispute, the agreement will be put in writing and once signed by the parties will be binding on them. Any such agreement will constitute confidential information for the purposes of the confidentiality provisions in this Contract.

17.6 If the parties are not prepared to agree to the dispute being referred to a mediator or fail to reach agreement within two months of the mediator being appointed, then either party may exercise any remedy that it has under this Contract or in law.

18. CHANGES TO THIS CONTRACT

18.1 Either party may request a change to this Contract at any time by written notice to the other party.

18.2 Changes to the Developers' Guide will be notified to the Developer via the BT Website at www.openreach.co.uk/propertydevelopments. Changes will be identified by BT as either mandatory or optional and the date from which they come into effect. Changes which are likely to be mandatory include changes appropriate to statutory, legal or other compliance matters. Unless there is a statutory, legal or other compliance obligation to do so or with the written agreement of the parties, changes to the Developers' Guide will not apply retrospectively.

19. TRANSFER OF RIGHTS AND OBLIGATIONS

Neither party may transfer any of their rights or obligations under this Contract, without the written consent of the other, such consent not to be unreasonably withheld or delayed, except that:

(a) the Developer may transfer its rights and obligations by way of novation to an eligible Developer Group Company subject to credit vetting by BT and the signing of a novation agreement in such form as BT shall reasonably require; and

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

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.

20.2 The parties acknowledge and agree that:

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

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

20.3 Nothing contained in clauses 20.1 and 20.2 above shall affect the rights or remedies of the parties in respect of any fraudulent misrepresentation.

20.4 A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

20.5 If there is any inconsistency between this Contract and any other document, agreement or understanding between BT and the Developer which relates to the subject matter of this Contract, the terms of this Contract shall prevail.

21. WAYLEAVE AGREEMENT

21.1 The Parties agree and acknowledge that:

(a) a Wayleave Agreement is hereby granted by the Developer, as freeholder and occupier of the relevant Site(s), for each Premises at the Site as set out in Schedule 2 (England and Wales or Scotland); and

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(b) the Developer must tell BT prior to entering into this Contract if third party consent is required at the relevant Site(s) and/or across property belonging to someone else and unless otherwise indicated and notified in the Site Registration Form, the Developer represents and warrants that (1) no third party consent is required and that (2) the Developer holds the relevant freehold interest in the Site. If third party consent is required then the Developer will make all reasonable efforts to provide the relevant contact information of any third party at commencement of this Contract, in order to provide the Site with infrastructure and access for BT's electronic communications network. If a required third party consent has not been notified to BT in accordance with this clause 21.1, then the Developer shall obtain the relevant consent on behalf of BT at the Developer's own cost. BT may also elect in its absolute discretion to obtain the consent on its own behalf and the Developer shall indemnify BT against the reasonable costs (including legal and professional fees) incurred in obtaining such third party consent. Where such consent has not been obtained (or cannot be reasonably obtained by BT) within BT's required time-frame then the Developer shall indemnify BT against any losses (including wasted expenditure, loss of revenue or profit and costs associated with removing or relocating apparatus) arising as a result the lack of the required third party consent.

22. DATA PRIVACY

Scope

22.1 This clause 22 will apply to Personal Data that is provided by BT to the Developer or otherwise acquired or generated by the Developer in relation to this Contract.

22.2 For the purposes of this clause 22, any reference to "BT" shall also be construed as a reference to any BT Group Company (as the context requires).

Role of the Parties

22.3 Subject to clause 22.4, BT will the Controller and the Developer will be the Processor in respect of all Personal Data as described in the Processing Details.

Developer as Controller

22.4 The Developer may process Personal Data limited to business contact details of BT's personnel (employees, agents and subcontractors) as Controller. The Developer will be responsible for compliance with its obligations under Data Protection Legislation, including without limitation ensuring a legal basis for Processing of such Personal Data.

Developer as Processor

22.5 Without prejudice to the remainder of this clause 22 (clause 22.4 notwithstanding), Paragraphs **Error! Reference s ource not found.** to **Error! Reference source not found.** (inclusive) apply when the Developer is Processing Personal Data on behalf of BT.

Developer Obligations

22.6 The Developer, and any persons acting under the authority of the Developer, including any Developer Affiliates and third party Sub-Processors, will, at its own expense, unless prohibited by Article 28.3(a) of the GDPR or any other Applicable Law:

(a) Process Personal Data for the purposes described in the Processing Details;

(b) comply with all Data Protection Legislation and not perform its obligations under this Contract in such a way as to cause BT to breach any of its obligations under Data Protection Legislation;

(c) only Process Personal Data in accordance with BT's documented written instructions as set out in this Contract;

(d) not amend the contents of the Personal Data nor disclose the Personal Data to any third party except as permitted by this Contract or with BT's prior written consent;

(e) immediately inform BT in writing if, in the Developer's opinion, BT's instructions infringe Data Protection Legislation;

(f) ensure that all Developer's personnel (employees, agents and subcontractors) who Process Personal Data will be bound by a duty of confidentiality; and

(g) assist BT to enable it to comply with its obligations under Articles 32 to 36 (inclusive) of the GDPR.

Security

22.7 The Developer will at its own expense implement and keep updated appropriate technical and organisational measures to protect the Personal Data from a Personal Data Breach. Such measures will take into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Such measures will include, as appropriate:

(a) the pseudonymisation and encryption of Personal Data;

(b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

(c) the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident;

(d) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing; and

(e) any other measures required by this Contract including the Security Requirements.

Data Breach

22.8 The Developer will, at its own expense:

(a) notify BT of a Personal Data Breach and/or suspected material Personal Data Breach(es) without undue delay of it becoming aware of such Personal Data Breach;

(b) within forth-eight (48) hours (or twenty-four (24) hours where the Privacy and Electronic Communications Regulations 2003 applies) of becoming aware of such Personal Data Breach, investigate the Personal Data Breach and provide BT with: (a) a detailed description of it; (b) all further reasonable information and assistance necessary to enable BT to notify the Supervisory Authority or communicate the Personal Data Breach to Data Subjects as required by Data Protection Legislation; and, in any event, as a minimum, (c) all information and assistance as required by Articles 28(3)(f), 33 and 34 of the GDPR;

(c) promptly take appropriate actions to identify and mitigate the effects of such Personal Data Breach and to prevent the recurrence of it, notify BT of those actions and take any further actions that BT may reasonably require; and

(d) not engage or communicate with any third party (including a Supervisory Authority) in relation to any Personal Data Breach without BT's prior written approval, unless required by Data Protection Legislation.

Data Subject Rights

22.9 The Developer will, promptly notify and assist BT, at its own expense, if it becomes aware of any request from:

(a) a Data Subject;

(b) a Supervisory Authority; or

(c) any other third party,

in connection with the Processing of the Personal Data or either Party's compliance with the Data Protection Legislation in connection with this Contract ("**Request**").

22.10 If the Developer does receive a Request, it will:

(a) provide BT with a copy of the relevant Personal Data in a commonly used and machine-readable format or other format as reasonably requested by the Data Subject, within a reasonable timescale or as set out in the Request or as required by BT;

(b) not comply with and/or respond to the Request without BT's written approval, unless required to do so by the Supervisory Authority (or any other competent authority) or by Applicable Law; and

(c) not make any offer or payment to any Data Subject in response to any complaint or any claim for compensation in connection with the Processing without BT's prior written agreement, unless required to do so by the Supervisory Authority (or any other competent authority) or by Applicable Law.

Record Keeping

22.11 The Developer will at its own expense maintain all records required by Data Protection Legislation (including Article 30(2) of the GDPR), keep the Processing Details up to date, and provide them to BT on request.

Deletion

22.12 The Developer will not retain Personal Data for longer than is necessary to properly perform this Contract (unless required by Applicable Law) and, on expiry of this Contract for whatever reason, securely destroy or immediately return to BT all Personal Data (at BT's option) and certify by means of written notice that no copies have been made or retained by the Developer or any third party acting on its behalf.

Sub-Processors

22.13 Any Sub-Processors that the Developer proposes to use must be agreed with BT and the Developer agrees on behalf of itself and any Sub-Processors to the disclosure of any information required by BT (including but not limited to the notification of an intended change of sub-processor) pursuant to Article 28 GDPR. The Developer will:

(a) enter into a written contract with the Sub-Processor which contains equivalent provisions and obligations as those set out in this Contract; and

(b) remain fully liable to BT for the performance of those obligations by each Sub-Processor.

22.14 If the Developer wants to either change its Sub-Processor or change the Sub-Processor Processing activity, it will:

(a) obtain BT's prior written authorisation by sending an email to dataprivacy@openreach.co.uk at least 30 days before the intended change;

(b) provide an updated copy of the Processing Details; and

(c) if BT (acting reasonably) does not give its authorisation to the Developer to use any such Sub-Processor, the Developer will not use that Sub-Processor and will, within a reasonable time period, seek BT's prior written authorisation to engage a replacement Sub-Processor, at no additional cost to BT.

Transfers

22.15 The Developer will not Transfer Personal Data from:

(a) a country within the EEA to a Recipient in a non-Adequate Country or Sector except where the Transfer is subject to a Permitted Transfer Mechanism; nor

(b) an Other Regulated Jurisdiction to a Recipient in a non-Adequate Country or Sector except when the Developer has implemented a Permitted Transfer Mechanism, or an alternative Permitted Transfer Mechanism as directed by BT if that proposed is not sufficient under the Data Protection Legislation of that Other Regulated Jurisdiction.

22.16 The parties agree that where Processor Model Clauses or Controller Model Clauses apply to a Transfer between BT and the Developer, they are incorporated into this Contract by reference.

22.17 In each case under clause 22.15, the Developer will:

(a) remain fully responsible and liable to BT for the Transfer, use and security of Personal Data Transferred to a Recipient; and

(b) ensure the Permitted Transfer Mechanism relied upon is detailed in the Processing Details and can be evidenced to BT at any time upon request.

22.18 If any Permitted Transfer Mechanisms used by or on behalf of the Developer are no longer valid under Data Protection Legislation, or any Supervisory Authority requires Transfers of Personal Data under any such Permitted Transfer Mechanism to be suspended, then the Developer will immediately notify BT in writing. At BT's instruction and option, the Developer will:

(a) procure that it and/or the relevant Recipient of the Personal Data will promptly take such steps (including putting an alternative Permitted Transfer Mechanism in place) as requested by BT to ensure that the Processing of Personal Data by it and/or the relevant Recipient continues to comply with the (then applicable) Data Protection Legislation; or

(b) promptly cease the relevant Transfers of Personal Data and, at BT's option, delete or return the Personal Data to BT.

Audit

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22.19 Without prejudice to any other right of audit that BT may have:

(a) within the timeframe reasonably required by BT, the Developer will make available to BT all information necessary to demonstrate compliance with its obligations under this clause;

(b) upon BT giving thirty (30) days' notice (or twenty-four (24) hours in the case of a Personal Data Breach or a breach of the Developer's obligations under this clause), the Developer will allow the Auditing Parties to conduct an audit (including inspections) to enable the Auditing Parties to verify such compliance;

(c) such audit may require access to the Developer's and Developer's Sub-Processors' premises, facilities, equipment, information and records, and the Developer will contribute to such audit as may be reasonably required by BT;

i. such audits:

a. will be conducted no more than once per year except in the case of a Personal Data Breach or a breach of the Developer's obligations under this clause 22; and

b. will not give BT access to any data relating to the Developer's other customers;

ii. the reasonable cost and expense of any audit under this clause will be borne by BT, unless the audit identifies that the Developer failed to comply with its obligations under this **Error! Reference source not found.** 22, in which case the Developer will be responsible for the cost and expense of the audit (including professional fees and/or any Auditing Party's fees and expenses); and

iii. the Developer will remedy, at its own expense, any non-compliance with this clause 22 identified by any Auditing Party within the timeframe reasonably required by BT.

Indemnity

22.20 Any breach of this clause 22 by the Developer which might cause, or has caused, BT to breach Data Protection Legislation will be deemed to be a material breach of this Contract and, without prejudice to BT's other rights and remedies, the Developer will indemnify BT from and against any costs, payments, losses, damages, proceedings, claims, expenses, fines or demands incurred or suffered by BT which arise as a result of such breach.

Disclosure

22.21 If required to do so by a competent regulatory authority (including a Supervisory Authority), the Developer acknowledges and agrees that BT may disclose this Contract to such regulatory authority and that such disclosure will not constitute a breach of confidence.

23. NOTICES FOR THIS CONTRACT

23.1 Notices relating to this Contract must be in writing and must be sent to the relevant party's registered office address or any alternative address or email address which the Developer notifies to BT.

23.2 A notice is duly served:

(a) if delivered by hand, at the time of delivery;
(b) if sent by first class post, three Working Days after the date of posting;
(c) if sent by email, at the time of transmission;

provided that any notice relating to contract termination, suspension or breach must be delivered by hand or first class post.

24. WAIVER

No failure to exercise nor any delay in exercising any right, power or remedy precludes any other or further exercise of that right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

25. SEVERABILITY

If any Court of competent jurisdiction holds any provision of this Contract invalid, illegal or unenforceable for any reason, 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

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26. SURVIVAL

The following provisions of this Contract shall survive the termination or expiry of this Contract and shall continue in effect along with such other provisions of this Contract which expressly or by implication are intended to survive termination: Clauses 5.8, 5.9, 7.4, 7.5, 7.12, 7.13, 8.1, 8.3, 10, 11, 14, 16, 21, 22 and Schedules 2 and 3.

27. LAW

The law of England and Wales governs this Contract and Wayleave and both parties submit to the exclusive jurisdiction of the English Courts.

ANNEX A
(PROCESSING DETAILS)

1 DETAILS OF THE PROCESSING

The details of the Processing for the purposes of this Contract are set out in this **Error! Reference source not found.**.

2 SUBJECT MATTER OF THE PROCESSING OF PERSONAL DATA

The Developer will Process Personal Data of Data Subjects in order to perform its obligations under this Contract.

3 DURATION OF THE PROCESSING OF PERSONAL DATA

The Developer will Process Personal Data for the duration of this Contract, and thereafter, as long as the Developer is required to Process the Personal Data by Applicable Law. Where Personal Data is not required to be Processed during the duration of this Contract, then the timescale for erasure of such Personal Data shall be no more than that reasonably required by the Developer in order to fulfil its obligations in relation to this Contract.

4 NATURE AND PURPOSE OF THE PROCESSING OF PERSONAL DATA

4.1 The nature and purpose of the Processing of Personal Data is to perform this Contract, as listed below to:

4.1.1 perform the Developer's obligation;

4.1.2 contact the relevant third party for access, arranging and confirming appointments;

4.1.3 arranging third party permissions, including wayleaves, in relation to installing, situating, and accessing physical assets and other related rights under the Communications Act 2003;

4.1.4 manage and resolve disputes in relation to this Contract;

4.1.5 respond to general queries relating to this Contract;

4.1.6 retain sufficient information to comply with the terms of the any guarantee or warranty period; and

4.1.7 comply with Applicable Law.

5 TYPES OF PERSONAL DATA

5.1 The types of Personal Data Processed by the Developer for the purposes of this Contract are as listed below:

5.1.1 title;

5.1.2 name;

5.1.3 job title;

5.1.4 address;

5.1.5 telephone number related to the Service;

5.1.6 contact telephone number;

5.1.7 email address; and

5.1.8 special categories of personal data.

6 CATEGORIES OF DATA SUBJECTS

6.1 The categories of Personal Data are, as listed below:

6.1.1 BT and the Developer's staff (including employees, advisors, temporary workers and contractors); and

6.1.2 staff (including employees, advisors, temporary workers and contractors) of third parties in connection with this Contract.

7 OBLIGATIONS AND RIGHTS OF THE PARTIES

The rights and obligations of the parties are detailed in this Contract.

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Schedule 1
Service, Site(s) Registration & Connectivity

1. GENERAL AND INTRODUCTION

1.1 This Schedule 1 sets out work to be completed by BT and/or the Developer before commencement of any relevant civils infrastructure build and relates to the agreement by the parties of the technology to be provided to the Site and the key roles and responsibilities of the parties in the relevant civils infrastructure requirements.

1.2 The infrastructure for BT's electronic communications network and any services provided by BT to its customers, including anything incorporated or comprised in the Developer Works, is BT's property at all times and is for the sole use of BT through its division Openreach.

1.3 BT is responsible for the installation of a communications system in the infrastructure that will meet the operational requirements of its customers, the UK communication providers, and their end user customers including any retail and non-retail occupiers of the Site in the provision of communications services.

2. TECHNOLOGY SPECIFICATION(S)

2.1 The Infrastructure Service uses a copper and/or fibre network infrastructure architecture to provide connection between a point of handover to the BT Network on the Site boundary and either the NTE, NTP or ONT, as appropriate which will be delivered by means of BT's copper or fibre access network, as appropriate. The technology to be delivered is described in the Site Registration Form.

2.2 Except as expressly set out in this Contract, all elements of the network beyond the NTE, NTP and/or ONT at a Premises and the provision of any applicable products and/or service provided through the infrastructure are excluded from the scope of this Contract.

3. SITE REGISTRATIONS

3.1 The parties agree to the proposed solution for the Site in accordance with this Schedule 1 and the Site Registration Form.

PROCESS TO REGISTER A SITE(S)

3.2 3.2.1 If the Developer has registered the Site with BT:

(a) for copper infrastructure: no later than 8 weeks prior to the Site Start Date; or
(b) for fibre infrastructure: due to the potential complexity of planning and time required to build fibre infrastructure (including time required for third party applications and consents), no later than 8 weeks prior to the Site Start Date and a minimum of 6 (six) months from the Contract commencement date to First Occupancy Date.

BT will proceed with planning process and will discuss with the Developer any other activities that may be required as part of the implementation of the Site.

3.2.2 Any application for the Site where the Developer does not provide sufficient notice of the Site to BT may, at its sole discretion, determine that the Site cannot be served except with copper infrastructure only.

3.3 BT may require and the Developer will provide any additional Site information which BT may reasonably request in relation to providing copper and/or fibre infrastructure to the Site.

3.4 In addition, the parties may discuss any other requirements which involve:

(a) provision of temporary or permanent communications services at the Site, such as lift lines, show homes and lines to the Site office;
(b) siting of access roads, Section 278 of the Highways Act 1980 requirements, or potential repayments work at the Site; and
(c) inclusion of additional dwellings on each Site(s);

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such that BT is able to consider the potential infrastructure requirements associated with such works as part of the Site Layout Plans. The parties acknowledge that any information provided under this paragraph 3.4 is provided for information purposes only and may be subject to planning permissions.

4 CONNECTIVITY

4.1 For Sites which are included in BT's commercial roll-out of fibre infrastructure, and subject to paragraph 6.5 below, no Connectivity Assessment is required, which means that no Developer Contribution Charge will apply (as indicated on the Site Registration Form), and paragraphs 4.2 to 4.6 below shall not apply.

4.2 The Connectivity Assessment process is an automated assessment tool which is used by BT to review the commercial and technical viability of providing copper and/or fibre infrastructure to the Site using key performance criteria.

4.3 BT will provide a report on the commercial and technical viability of providing copper and/or fibre infrastructure to the Site and which the parties will use to establish the commercial and technical viability and limitations for the Site.

4.4 The Connectivity Assessment will provide the parties with key information about the Site including the technology to be delivered (copper and/or fibre), predicted speeds and any contribution costs which might apply.

4.5 For Sites which are not included in BT's commercial roll-out of fibre infrastructure but for which the provision of fibre infrastructure would be possible, a Developer Contribution Charge (as set out further in paragraph 6 below) may apply and if a Developer Contribution Charge applies this will be calculated by BT and set out on the Site Registration Form.

4.6 The Developer will either accept (in writing by returning the countersigned document to BT) or reject the offer on the Site Registration Form. If the Developer:

(a) rejects the proposal then the parties agree and accept that they have no further obligation, rights or responsibilities in relation to the Site and will cease all work in relation to the Site and no further charges or costs will apply; or
(b) accepts the proposal, then the parties will proceed with the build of the Site in accordance with the processes set out in the Conditions;
(c) rejects the proposal and requests the provision of copper infrastructure and BT may, at their sole discretion, agree to the provision of copper infrastructure.

Subject to any material changes in the scope or scheduling of the Site which are notified to BT by the Developer, the proposal is valid for 30 calendar days from the date of that Site Registration Form, unless otherwise agreed in writing by the parties.

5 PLANNING AND PROVISION OF SPECIFICATION

5.1 The parties will discuss the Specification for the Site no later than 8 weeks before the Site Start Date.

5.2 The Specification can only be changed on agreement of both parties in writing. If a party wishes to amend the Specification (in part or in whole), the requesting party will set out their request in writing to the other party and ask for the receiving party's consent, such consent not to be unreasonably withheld or delayed. The receiving party will consider the request and respond in writing within 10 Working Days of receipt of the request. If the request will, or is likely to:

(a) delay to the completion of any part of the development being undertaken at the Site; and/or
(b) delay to the sale of the whole or any part or parts of any property comprised in that development; and/or
(c) material additional cost and/or expense on the receiving party;

the parties agree to reach an appropriate settlement which progresses the Site to the reasonable satisfaction of both parties.

6 CONTRIBUTION MODEL

6.1 Any applicable Developer Contribution Charge is calculated based on the average cost to deploy fibre infrastructure including an averaged fibre spine cost. The cost is divided by the number of Premises before Openreach's commercial contribution is deducted.

6.4 Any Service on Demand payment is separate from and does not form any part of the Developer Contribution.

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6.5 It is the responsibility of the Developer to ensure that they have accurately identified the number of Premises at the Site as part of any Developer Contribution Charge calculations. The Developer shall, as soon as reasonably practicable, notify BT of any changes in the development and any differences in the number of Premises, First Occupancy Date or Site Start Date as a result of changes to the development may require a Connectivity Assessment and BT reserves the right to amend or to charge a Developer Contribution Charge in line with any changes notified to them or of which they become aware and the Developer shall be liable to pay the Developer Contribution Charge or the Developer Contribution Charge as amended, in accordance with clause 13.

7 COMPLETION OF WORKS ON A SITE

COMMENCEMENT OF WORKS

7.1 Unless agreed otherwise in writing by the parties, the Developer shall complete the Developer Works (or the relevant part if the Site is being constructed in batches) no later than 40 working days before the First Occupancy Date for the Site. On completion of the Developer Works and issue by BT of the Quality Certificate, BT will commence the BT Works to enable connection of the Site. It is the responsibility of the end user to order any electronic communications services from their nominated communications provider using BT's electronic communications network.

7.2 Where BT receives a demand from an electronic communications services provider to deliver service to an occupier of the Site before the Developer has completed the Developer Works and the Developer has failed to complete the Developer Works in accordance with paragraph 7.1, the Developer shall take all reasonable steps to carry out the work forming part of the Developer Works required in order to connect the line including implementing any temporary solution as reasonably directed by BT.

PROGRAMME OF WORKS ON A SITE

7.3 For the Site, the Developer will:

(a) provide BT with a monthly rolling programme/schedule of works (i.e. plot call off) which are going to be completed in the following two months;
(b) agree the number of Premises to be "self installed" by the Developer, such agreement not to be unreasonably withheld;
(c) give 15 working days' Notice to BT when a Premises is ready for cable installation.

7.4 Subject to paragraphs 7.1 and 7.3 and on provision of all necessary access by the Developer, BT aims to install and connect its electronic communications infrastructure, using the network infrastructure provided by the Developer as part of this Contract and as referred to in clause 3.2(d).

7.5 The parties have agreed that their respective obligations under this Contract initially relate to the number of Premises at the Site as set out in the Site Registration Form, but that the Developer has the option to increase the number of Premises within the scope of this Contract by issuing Notice thereof to BT provided that the Developer will notify BT as soon as practicable of any proposed changes to the number, priority, order of build or location of any Premises which will impact on the Specification and rollout timetable. Material changes to any of the above may require a re-plan by BT of the Site which may take up to 28 days to complete. If there is a change required to the Specification and/or the forecast or rollout timetable, both parties must consent to the changes such consent not to be unreasonably withheld.

INSPECTION OF INFRASTRUCTURE

7.6 BT will inspect the Developer Works when the Developer notifies BT that the Developer has completed the whole Site(s) or relevant part and on a date to be agreed with the Developer. The parties shall use their reasonable endeavours to agree an inspection after the Developer's notification to BT and no later than 10 working days before the First Occupancy Date. If the parties cannot agree a date for inspection, BT will attend the Site and provide a summary to the Developer. For the Developer Works comprising:

(a) fewer than 25 Premises (including apartments), BT will inspect the Developer Works on completion as advised to BT by the Developer; and
(b) 25 Premises (including apartments), or more, the Developer may request that BT will inspect the Developer Works in either:

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(i) batches of 25 Premises (including apartments) or
(ii) for the entire Site(s), as agreed by the parties before commencement of the Developer Works.

If the Site is being completed in batches, the Developer must ensure that BT has all necessary access to the Premises in order to deliver service and, if appropriate, that the road level lines and levels are formed.

7.7 The Developer shall request a Quality Certificate within 4 weeks of completion of either the whole of the Developer Works or the relevant batch of Premises.

7.8 Subject to paragraph 7.6, if:

(a) BT is satisfied that the Developer Works have been completed to the agreed quality as set out in the Specification, BT will provide the Developer with a Quality Certificate; or
(b) BT is not satisfied that the Developer Works have been completed to the agreed quality as set out in the Specification, BT will provide the Developer with a snagging list of issues on the Site (or relevant part of the Site). The Developer will use its reasonable endeavours to correct the issues on the snagging list within a reasonable time as agreed by the parties and, when the remedial work has been completed, request a site visit from BT. BT will charge the Developer for any subsequent visit(s) to inspect the Developer Works based on either Time Related Charges or Abortive Visit Charges in accordance with the Openreach Price List. The Developer acknowledges that any delay in the successful completion of the Developer Works:

(i) will delay the provision of a Quality Certificate;
(ii) may delay completion of the BT Works; and
(iii) may delay the connection of communications services to end user customers, including any retail and non-retail occupiers of the Site;

If the Developer fails to complete the snagging list of issues on the Site within a reasonable time, and such delay or failure to complete the work impacts on BT's ability to deliver its services, BT may amend the delivery date for services for a duration consistent with the period of any delay or failure and will complete any works reasonably necessary to finish the installation to the relevant standard and charge the Developer for the additional works undertaken.

SELF INSTALL - INTERNAL BT EQUIPMENT FOR FTTP

7.9 For the Site which is provided with fibre infrastructure, the Developer may, as agreed in advance by the parties in writing, "self install" the following:

(a) ONT;
(b) BBU; and
(c) Connectorised Cable;

at each Premises. A per Premises "self install" payment is payable to the Developer as set out on the Openreach Price List. A self install payment is payable on successful commissioning of a Premises by BT.

8 CHANGES TO SITE REGISTRATION, SPECIFICATION, AND REGISTER

GENERAL

8.1 If either party wishes to make changes to information shared under this Schedule 1 including Site Registration details, or Specification, which will have a material effect on the roll out of the Infrastructure Service to the Site by either party, the parties will the follow the change control requirements set out in this paragraph 8.

PROCESS TO REQUEST A CHANGE

8.2 Either party may request a change at any time by written notice to the other party or, if applicable, at the relevant review meeting.

8.3 The requesting party will set out the details of the request, scope of the changes and the reason for their request. The receiving party will review the request and will:

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(a) accept the proposed change;
(b) partially accept the proposed change subject to any additional requirements to be agreed with the requesting party, such consent not to be unreasonably withheld;
(c) reject the proposed change.

If the receiving party either partially accepts or rejects a proposed change then they will, as part of their response, provide any reasons for such partial acceptance or rejection.

8.4 Any change must be agreed by the parties in writing.

8.5 The receiving party will respond to any request for a change in a reasonable time. Consent to a request for change will not be unreasonably withheld or delayed.

8.6 If the parties cannot reach an agreement the provisions in clause 17 of the Conditions will apply.

9 EXCLUSIONS AND LIMITATIONS

PROVISION OF PERMANENT AND/OR TEMPORARY COMMUNICATIONS SERVICES

9.1 This Contract does not include the provision of products and/or services for the temporary or permanent provision of communications services (including but not limited to the provision of services to a temporary site office, show homes or service to lifts on the Site during construction). BT provides its communications services to its communications provider customers who are responsible for the provision of communications products and/or services to their end user customers, including the Developer.

9.2 If the Developer has placed any order(s) with their nominated communications provider then, in order to facilitate the provision of the services, the Developer may provide the relevant order references to BT.

9.3 The Developer shall keep BT informed of any temporary or permanent provision requirements as part of (and no later than) discussions on the Site Layout Plans and Specification

9.4 Materials provided under this Contract must not be used for any network in advance requirements agreed by BT for example the network in advance requirements will form part of the permanent infrastructure.

NO SALE OF BT EQUIPMENT

9.5 The sale of any network terminating equipment and associated internal equipment for installation and/or re-sale by the Developer is not included in this Contract.

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Schedule 2 Wayleave (England & Wales or Scotland)

Wayleave for WG/00C appended separately

Notice

- This is an agreement pursuant to Schedule 3A of the Communications Act 2003, otherwise known as the Electronic Communications Code ('the Code'). For more information about the Code, see http://www.legislation.gov.uk/ukpga/2017/30/pdfs/ukpga_20170030_en.pdf
- By signing this agreement, you allow us to place apparatus on your property and keep it there.
- We recommend you keep this agreement with your title deeds.

This agreement is between you,
the **Developer** with the relevant details as set out in the Site Registration Form;

and us, **British Telecommunications plc** whose registered office is 81 Newgate Street, London, EC1A 7AJ (Registered in England No 1800000).

The term 'us' includes anyone who takes over our business, and our contractors. The term 'you' also refers to any others who are bound by this agreement under the terms of the code.

Property the agreement relates to
The Property is as set out in the Site Registration Form, the relevant site plans or as identified through the relevant NSI number. ('**your property**')

Description of our apparatus
Consisting of any Electronic Communications Apparatus (as defined by Paragraph 5 of Part 1 of the Code) approved by You in accordance with this agreement.

('our apparatus') If there is a plan attached to this agreement, it shows the approximate position of our apparatus.

1 Our rights

We have the following rights ('our rights').

We may:

- install our apparatus on, under, or over your property;
- inspect our apparatus;
- repair or substitute our apparatus;
- remove our apparatus;
- upgrade our apparatus;
- share our apparatus;
- add further cables in existing duct.

We may come on to your property to do any of these things without giving you notice. However, we will try to contact you beforehand if possible. If we need to bring vehicles or heavy machinery onto your property, we will ask you first unless it is an emergency.

2 Our responsibilities and our limits on our liability

We will take reasonable care not to cause damage to your property, including:

- taking all reasonable precautions to avoid obstructions or interference with the use of the Property or any adjoining property;
- maintaining and keeping the Permitted Apparatus in good repair and condition and so as not to be a danger to you, your employees or property, or the tenants or occupiers of the Property;
- carrying out and completing our works and use and operate the Permitted Apparatus in accordance in all respects with all relevant legislation;
- maintaining insurance with a reputable insurance company against public liability and other third party liability in connection with any injury, death, loss or damage to any persons or property belonging to any third party arising out of the exercise by us, our employees, agents or any person under our control of the rights hereby granted, and will provide details of such insurance to you upon reasonable request;

We will use the reasonable skill and care of a competent communications provider in doing any of these things including the location of the apparatus.

If our negligence causes death or personal injury, we accept responsibility and there is no limit to our liability. We also accept responsibility for our fraud, fraudulent statements or any other liability that the law does not allow us to exclude or limit.

In relation to property damage, if we do damage your property, we will accept responsibility for damage to your property and at our option we will either (a) pay you up to £1,000,000.00 in total for all events occurring in a calendar year; or (b), or repair it to your reasonable satisfaction.

We will indemnify (compensate) you up to £5,000,000.00 if someone makes a claim against you because of us installing or keeping our apparatus on your property as long as:

- you did not cause or contribute to the claim;
- you let us know straight away when you hear about a possible claim;
- you use reasonable endeavours to mitigate any losses, damages or liability;
- you let us take control over any claim if and when we ask; and
- you get our permission in writing before you make any payments or admit liability.

Apart from what we have mentioned above (for anything else) we won't pay you more than £500,000.00 in compensation in a calendar year.

Please note that apart from liability for death or personal injury and fraud, fraudulent statements or other liability that cannot be excluded under law, we're not responsible for and will not indemnify you for any (direct or indirect) loss of profit, revenue, business, goodwill, anticipated savings, wasted expenditure, wasted time, opportunity, contracts or data, nor are we responsible for any special, indirect or consequential loss.

3 Your responsibilities

You must not damage our apparatus or allow anyone else you are responsible for to damage our apparatus.

You must not place or build anything on your property which would make it more difficult for us to get to our apparatus. You must not plant a tree or shrub if the roots are likely to interfere with our apparatus, unless you have to do this because of planning law.

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4 Notices

The procedure for sending notices under this agreement is set out in the code. We will send notices to your address shown on page 1 of this agreement. You must send any notice to us at our registered office address.

5 Who apparatus belongs to

Our apparatus belongs to us at all times.

6 Use of personal data for placement of apparatus

We collect and process the personal data set out in this wayleave for the purposes set out in clause 1 of this Agreement. The lawful basis for the collection and processing of the personal data is to meet our legitimate interests. For information on our obligations and your rights please see our privacy policy available at:
https://www.openreach.com/privacy-policy/

7 Termination

7.1 Subject to the following clauses, this agreement will terminate automatically without notice in the event that we:

7.1.1 remove the Permitted Apparatus; or
7.1.2 cease to be a person to whom the Code is applied.
7.2 We may terminate this agreement by giving you three months' notice.
7.3 Subject always to clause 7.5 you can only terminate this agreement by giving us 18 months' written notice and only if,
a. you intend to redevelop the Property or land neighbouring and cannot reasonably do so unless this agreement comes to an end or
b. the prejudice caused to you by the agreement can no longer be compensated for by money and the public benefit likely to result from this agreement continuing no longer outweighs the prejudice to you
7.4 if we are in substantial breach of the agreement and
a. the breach is incapable of remedy or
b. we have failed to remedy the breach within 30 days after you have notified us of the breach;
7.5 your right to terminate this agreement is subject to paragraph 31 of the Electronic Communications Code.
7.6 you shall have the right to require removal of the Permitted Apparatus subject to Part 6 of the Code.

Notes (These notes do not form part of the agreement.)

The Electronic Communications Code is set out in Schedule 3A to the Communications Act 2003. The Code sets out our rights and responsibilities when we put apparatus on private property.

Paragraph 11 of the Code says we must get the occupier's written permission to place apparatus on private land.

Paragraph 82 of the Code gives us the right to lop overhanging trees on the roadside that interfere with our apparatus.

Part 15 of the Code sets out the procedures for notices.

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