

Schedule 7 – Service Levels

1. Introduction

- 1.1 This Schedule sets out the Service Levels that apply where BT provides and the Customer consumes the Services.

2. BT Service Levels

- 2.1 BT will, upon receipt of a valid Order for a Network Adjustment acknowledge receipt of that Order within a period of four (4) Working Hours.
- 2.2 BT will upon receipt of a valid Order for a Network Adjustment and subject to paragraphs 2.4, and 2.5 below provide a Response Notice within five (5) Working Days starting from the first Working Day after the acknowledgment of the Order together with where BT accepts the Network Adjustment:
- (a) a CCD and an estimate of the charges for BT to complete the Network Adjustment; and
 - (b) the information set out in the paragraph 2.1 of the Self-Provide Terms provided the Network Adjustment is something that BT allows the Customer to do itself as set out in the Product Description.
- 2.3 If BT rejects an Order for a Network Adjustment then it will provide reasons for the rejection.
- 2.4 In those cases where the Network Adjustment relates to a Pole and where BT has safety, stability or other concerns BT may need to conduct a survey and/or require the Customer to attend a joint survey to determine the extent and nature of the Network Adjustment and the time period for BT to provide a Response Notice set out at paragraph 2.2 will not commence until that survey and/or joint survey has been concluded provided that in the case of joint surveys both parties shall use all reasonable endeavours to agree a date and time of the joint survey as soon as reasonably practicable.
- 2.5 BT may amend the time period to provide a Response Notice under paragraph 2.2 above if notice is required under the Traffic Management Act or Transport (Scotland) Act and/or where one of the circumstances set out in 3.3(a), 3.3(d), 3.3(f), 3.3(g), 3.3(h) occurs provided always that BT will notify the Customer as soon as reasonably practicable where it intends to amend the time period to provide a Response Notice and what any subsequent date is as soon as reasonably practicable.

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3. Service Level Guarantees

- 3.1 If BT fails to acknowledge the Order for the Network Adjustment within the time period set out at paragraph 2.1 above or provide a Response Notice within the time period set out at paragraph 2.2 above then subject to paragraphs 3.4, 3.5 and 4.4 below the Customer shall be entitled to compensation set out at paragraph 3.5 below for each complete Working Day that BT is late in providing the acknowledgment of the Order or in providing a Response Notice (as the case may be) up to a maximum of sixty (60) Working Days late.
- 3.2 If BT fails to complete the Network Adjustment in respect of an Order accepted under paragraph 2.2 above by the CCD then subject to paragraphs 3.3, 3.4 and 4.4 below the Customer shall be entitled to compensation set out at paragraph 3.5 below for each complete Working Day beyond the CCD up to a maximum of sixty (60) Working Days late.
- 3.3 BT may amend the CCD referred to in paragraph 2.2 above where:
- (a) one of the circumstances detailed in paragraph 5 of this Schedule occurs; or
 - (b) there is a collapsed junction box or manhole but only to the extent this arises after the Response Notice; or
 - (c) if BT provides a Response Notice which accepts the Network Adjustment the Customer fails to confirm that they wish to proceed within one (1) Working Day of the Response Notice provided by BT under paragraph 2.2; or
 - (d) there is a manhole or footway box that is contaminated with, or by, a substance which requires special treatment; or
 - (e) the charges for the Network Adjustment are likely to be higher than those set out in the Response Notice and there is no existing approval for those higher charges from the Customer; or
 - (f) asbestos has been identified; or
 - (g) work by the Customer at the location fails to comply with the Engineering Principles or any safety requirements set out in or referred to by this Agreement; or
 - (h) BT requires an additional wayleave or change to an existing wayleave or other permission or consent or a change to any existing wayleave, permission or consent; or
 - (i) BT's contractor informs BT of the date the contractor believes it can conduct the work (which may be sooner or later than the original CCD) provided that BT can only amend the CCD under this sub-paragraph (i) where it does so within eight (8) Working Days

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starting on the first Working Day after the Customer confirms that they wish to proceed with the Order following a Response Notice sent by BT under paragraph 2.2(a) above

provided always that BT will notify the Customer as soon as reasonably practicable where it intends to amend the CCD and what any subsequent CCD is as soon as reasonably practicable.

3.4 The Service Level Guarantees set out above are subject to the exclusions and limitations set out in this Agreement, in the paragraphs above and paragraph 5 below.

3.5 The compensations amounts referred to in paragraphs 3.1 and 3.2 are as follows:

SLA	AMOUNT	
Time to Acknowledge (para. 3.1)	£2.43	
Time to Verify (para. 3.1)	BT to do work £2.43	Self-Provide Order £5.53
Completion to CCD (para. 3.2)	Working Days prior to CCD (as amended pursuant to 3.3) that BT informs the Customer*	Total
	>=5	£6.33
	4	£6.95
	3	£7.57

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	2	£8.18
	1	£8.80
	0	£9.42

*the level of compensation payable is determined based on how many days prior to the CCD that BT informs the Customer that it will be unable to complete the work on or before the CCD

- 3.6 Subject to paragraph 3.7 if BT informs the Customer via KCI OSU Complete that it has completed the work in respect of an Order for a Network Adjustment that it has accepted in a Response Notice and this is not correct then BT will pay as one-off compensation the sum of five hundred and thirty two pounds (£532). BT will not be liable to pay any compensation under this paragraph if the Customer is unable to use the Physical Infrastructure and/or take the benefit of the work to resolve the Network Adjustment due to the acts and/or omissions of third parties (excluding any contractor working for and on behalf of BT) including but not limited to work by other communications providers provided BT can reasonably demonstrate the relevant Network Adjustment work was completed to a satisfactory standard.
- 3.7 Any compensation under paragraph 3.6 is subject to paragraph 5 below and will only be payable if all of the following conditions are met:
- (a) the Customer informs BT within ten (10) Working Days of KCI OSU Complete that the work is incomplete and provides BT with full details and Photographic Evidence;
 - (b) the Customer provides such information and assistance as BT reasonably requires; and
 - (c) BT investigates and finds (acting reasonably and in good faith) that the work has not been completed to the necessary standard or at all.

4. How BT Will Pay Compensation

- 4.1 Any compensation payable will normally be made by deduction from the Customer's next invoice for the NOI/Order which is the subject of the Network Adjustment unless not practicable. For the avoidance of doubt compensation shall be payable without the need for the Customer to make a claim. BT may offset all or part of any such amounts against:

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- (a) any outstanding amounts due for the Service which have not been paid by the Customer, except where these amounts may be the subject of a pre-existing Invoice Dispute; or
 - (b) any compensation due from the Customer to BT as set out in paragraph 7 below.
- 4.2 Any compensation payable under paragraph 3 shall be without prejudice to any right or remedy the Customer may have including any right to claim for additional loss.
- 4.3 BT reserves the right to recover from the Customer any compensation amounts paid under this Schedule where the relevant Build Period expired or was cancelled (other than, in the case of a cancellation, where this was a direct result of BT's failure to meet the Service Levels set out in this Schedule) or where the Customer failed to submit a complete and accurate Build Completion Pack prior to the expiry of the relevant Build Period.
- 4.4 For the avoidance of doubt the Service Level Guarantees referred to in paragraphs 2 and 3 above will:
 - (a) be calculated and payable for only one Network Adjustment per Order, irrespective of the number of Network Adjustments on that Order; and
 - (b) not apply where the Order for the Network Adjustment combines both overhead and underground and/or Self Provide Orders and orders where the Customer wants BT to complete the work

as set out in the Product Description.

5. What is Not Covered

- 5.1 The service levels, service guarantees and any compensation payments will not apply if:
 - (a) the failure by BT is due to the Customer's own act or omission or any other network or equipment outside the BT Network; or
 - (b) the Customer is in breach of any part of this Agreement and where BT has served notice of that breach; or
 - (c) through no fault of its own or because of circumstances beyond its reasonable control, BT is unable to carry out any necessary work at, or gain access to the relevant location or work is aborted due to the Customer; or

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- (d) the Customer and BT agree a different timescale in writing (which shall include e-mail) for performance of the relevant Service provided that the service levels and service guarantees would apply to any such revised timescale; or
- (e) reasonable assistance is required or information is reasonably requested by BT within a reasonable timescale from the Customer or a third party (excluding BT's own contractors) and such assistance or information is not provided; or
- (f) through no fault of its own, BT can provide evidence to demonstrate that it has been unable to obtain any necessary permissions or consents required in connection with the performance of a particular Service to meet a service level; or
- (g) the failure is due to a Force Majeure event; or
- (h) the Customer fails to provide a forecast and monthly build report as set out in Schedule 2 (Forecasting); or
- (i) circumstances as set out in paragraph 5 of Schedule 2 (Forecasting) apply; or
- (j) the failure is due to an inaccurate or incomplete Order being submitted by the Customer

6. Reciprocal Service Levels

- 6.1 If either Party is unable to attend an appointment it has with the other Party then it should provide a minimum of two Working Day's prior written notice to the other Party and if it fails to provide that minimum period of notice and fails to attend an appointment date which is agreed in writing between the Parties then it shall pay to the other Party compensation of ninety pounds (£90) (together with any reasonable expenses reasonably and properly incurred when the appointment was in a remote location as set out in the Product Description). If the Customer cancels the Order for any Service where it has missed an appointment it will be subject to the relevant cancellation charge in addition to the missed appointment compensation referred to above.

7. Customer Service Levels

- 7.1 The Customer must rectify any SLG Fault that BT reports to it as set out in the Product Description.
- 7.2 If the Customer fails to rectify any SLG Fault within the relevant period advised by BT and in accordance with the process set out or referred to in the Product Description, then:

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- (a) BT reserves the right to do the work to rectify the SLG Fault at the Customer's cost and expense (all such costs and expenses being reasonable in amount and reasonably incurred) and where it is a Serious Defect BT will not be liable to the Customer for any damage or loss suffered and/or incurred by the Customer as a result of the work by BT to rectify the Serious Defect; and
- (b) the Customer will pay to BT on demand the sum of one hundred pounds (£100) per Defect and two hundred and fifty pounds (£250) per Serious Defects.

7.3 If the Customer

- (a) challenges any SLG Fault but on investigation BT reasonably believes the SLG Fault still exists; and/or
- (b) claims to have rectified any SLG Fault but on investigation BT reasonably believes this is not the case

then BT will be able to exercise the rights referred to in sub-paragraphs 7.2 (a) and (b) above and the Customer will pay to BT the sum of one hundred pounds (£100).

7.4 The terms:

- (a) **“Defect”** means where the Customer fails to comply with the Traceability Requirements, Engineering Principles or Good Industry Practice when using, installing, opening, sealing or connecting Customer Apparatus in or on the Physical Infrastructure or where the Customer fails to remove Inactive Drop Wires;
- (b) **“Serious Defect”** means a Defect which BT reasonably considers to have serious or potentially serious safety or security issues;
- (c) **“SLG Fault”** means one or more of either a Defect or a Serious Defect;

7.5 Any compensation payable by the Customer will normally be made by addition to the Customer's next invoice unless not practicable. For the avoidance of doubt compensation shall be payable without the need for BT to make a claim.

7.6 The compensation payable by the Customer as set out in paragraph 7.2(b) is payable for each full 30 calendar day period that the Customer fails to rectify the SLG Fault starting from the earliest date BT notifies the Customer of the SLG Fault which may be via Candid (or any replacement BT system) or by email, or letter (subject to a maximum of £2400 per Defect).

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7.7 Any compensation payable under this paragraph 7 shall be without prejudice to any right or remedy BT may have including any right to claim for additional loss and for the avoidance of doubt an SLG Fault is a breach that is capable of remedy and if the Customer fails to remedy the Defect within a maximum of ninety (90) calendar days starting from the date BT notifies the Customer of the SLG Fault which may be via Candid (or any replacement BT system) or by email, or letter then on notice from and within a timescale reasonably determined by BT it will supply for BT's approval a remedial plan to rectify the Defect. If:

- (a) BT approves the remedial plan and the Customer fails to comply with the actions and dates set out in the remedial plan; or
- (b) the Customer fails to provide a remedial plan within the timescale set by BT; or
- (c) the Customer fails to submit a remedial plan which is acceptable to BT within the timescale reasonably set by BT (provided always that BT must notify the Customer where a remedial plan is not acceptable to BT)

then this shall be considered a breach which the Customer has failed to remedy for the purposes of Clause 2.7 of the Conditions. BT shall not unreasonably reject or object to any remedial plan submitted by the Customer in connection with this paragraph 7.7.