



Contract for BT Business eSaver – Broadband, Calls and Lines

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9. Definitions

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1. **DESCRIPTION**
- Overview**
- 1.1 The Service is a pricing package available to eligible customers that order the services covered by the Standard Contracts (details of which are set out at <http://business.bt.com/phone-services/phone-lines-and-calling-plans/phone-line-and-broadband> at the same time and which is only available to order via the BT Business online sales channel.
- 1.2 To be eligible for the Service the Customer agrees to:
- (a) pay all Charges by direct debit;
 - (b) receive bills only via e-mail; and
 - (c) self serve on-line all service issues relating to the Standard Contracts, including fault reporting and billing queries.
- 1.3 BT may be unable to process orders via its on-line sales channel for certain customers. Where an order cannot be processed on-line, it will not be eligible for the Service and BT will contact the Customer to advise them that the order has failed.
- 1.4 Orders placed for the Service are business to business transactions to which the Consumer Protection (Distance Selling) Regulations 2000 as amended by the Consumer Protection (Distance Selling) (Amendment) Regulations 2005 do not apply.
- Standard Contracts**
- 1.5 This Contract is separate from the Standard Contracts. All Standard Contracts will continue subject to their own terms and conditions (including the charges and the billing terms) except as varied by clauses 3.1, 3.3, 3.4, 3.5 and 5.8 of this Contract and the Order Form (where this includes charges).
- 1.6 The ending or modification of a Standard Contract covered by the Service will mean that this Contract will end immediately. The Customer will be liable for cancellation charges under the Standard Contract where applicable, and for standard charges for the remaining and/or modified Standard Contracts.
2. **COMMENCEMENT**
- 2.1 The Contract begins on the date BT communicates its acceptance of the Customer's order for the Service and continues until
- terminated by the Customer or BT in accordance with the Contract.
- 2.2 Unless otherwise stated in the Contract, the Service commences on the Service Start Date.
3. **CHARGES AND PAYMENTS**
- General**
- 3.1 Charges for the Service are set out on-line at http://business.bt.com/phone-services/phone-lines-and-calling-plans/phone-line-and-broadband/esaver#tab_pricing and calculated using the details recorded by BT.
- 3.2 The Charges will supersede any equivalent charges and terms under the Standard Contracts until this Contract ends.
- 3.3 In the event that the Customer contacts BT via telephone in respect of any issues relating to the Service and/or the Standard Contracts, the Customer will be directed to a helpdesk. Calls to the helpdesk will be charged at national rates as set out in the BT Price List.
- 3.4 BT will notify the Customer via the e-mail address provided by the Customer to BT at the time of applying for the Service that bills are available to view on-line. The Customer agrees to continually maintain the e-mail address as this will be the only means by which BT will inform the Customer that a bill is available to view. No paper copies of bills will be provided
- 3.5 BT will provide to the Customer a separate bill in English only for each Standard Contract service comprised in the Service across which the Charges will be apportioned. Split bills showing call charges and rentals separately will not be available.
- 3.6 BT will provide its first bill shortly after providing the Service, and then at regular intervals, usually every month. Sometimes BT may provide the Customer with a bill at a different time.
- 3.7 BT will hold bills online for a maximum of 15 months. If the Customer wishes to keep a record of bills for business use (VAT or other reasons) the bills may be printed or saved from the Customer's internet browser.
- 3.8 The Customer will be liable for Charges from the Service Start Date.
- 3.9 The Customer agrees to pay:

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- (a) in advance for subscription, rental and other recurring charges (including inclusive usage charges); and
- (b) in arrears for usage (excluding inclusive usage charges), connection and other non-recurring charges. Where possible the charges will appear on the Customer's next bill but sometimes there may be a delay.

3.10 All charges are exclusive of VAT which is chargeable at the applicable rate.

3.11 Payment is due upon receipt of BT's bill or the date specified on the bill, whichever is the later.

3.12 The Customer must pay all charges by direct debit.

Disputed Bills

3.13 If the Customer disputes any charge on a bill the Customer will notify BT in writing within 14 days of the date of the bill with all relevant information. Where the disputed amount is:

- (a) less than 5% of the total bill, the Customer will pay the full amount of the bill; or
- (b) more than 5% of the total bill, the Customer must pay the amount not in dispute. Also, if requested by BT, the Customer will place funds equivalent to the disputed amount into an account with a reputable bank as reasonably specified by BT, established jointly by the Customer and BT, accruing interest at a variable rate equal to that which the selected bank certifies it would normally pay to a commercial customer depositing the amount credited to such an account (escrow account).

Any disputes will be resolved promptly and the resolved amount if any is payable immediately.

Late Payment

3.14 If BT does not receive payment by the due date, BT may charge the Customer:

- (a) the late payment charge set out in the BT Price List, Section 15 Part 12 Subpart 2 (Business charge is applicable); and/or

- (b) daily interest on late payments at a per annum rate equal to 7% above the base lending rate of the European Central Bank for the period beginning on the date on which payment is due and ending on the date on which payment is made.

3.15 If the Customer does not pay a bill, BT may instruct a debt collection agency to collect payment (including any interest and/or late payment charges) on its behalf. If BT instructs an agency, the Customer must pay BT an additional sum. This will not exceed the reasonable costs BT has to pay the agency, who will add the sum to the Customer's outstanding debt on BT's behalf.

3.16 If any sum owed by the Customer to BT under the Contract or any contract with BT is not paid by the due date, BT may deduct this sum from any payment or credit due to the Customer under the Contract or any other contract with BT.

Fraud Prevention and Credit Vetting

3.17 BT may check the Customer's details with a fraud prevention agency. If the Customer provides information that BT reasonably believes to be false or incorrect and BT suspects fraud, BT may record this information with a fraud prevention agency. BT and other organisations may use and search this information.

3.18 Information BT holds about the Customer may be used for credit vetting purposes and this may include BT sharing such information with third party companies including other communication companies.

4. CHANGING THE CONTRACT

4.1 BT can change the Contract (including the charges) at any time and will publish any change in line with clause 4.2.

4.2 BT will publish any changes to the Contract (including the charges) online at <http://www.bt.com> (or any other online address that BT may advise the Customer), and/or in accordance with clause 8.9, as follows:

- (a) for changes that are to the Customer's significant detriment, at least 14 days before the change is to take effect; and

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- (b) for all other changes, at least one day before the change is to take effect.

5. ENDING THE CONTRACT

5.1 The Customer may cancel the Contract at any time before BT provides the Service. The Customer will pay BT the cancellation charge(s) applicable to each Standard Contract cancelled as a result.

5.2 The Contract may be ended by either party on 7 days written notice to the other.

5.3 If the Customer moves premises BT may not be able to continue to provide the Service for technical reasons, and this Contract will automatically end.

5.4 If the Customer or BT ends the Contract during the Minimum Period the Customer will pay BT the early termination charges set out at http://business.bt.com/phone-services/phone-lines-and-calling-plans/phone-line-and-broadband/esaver#tab_pricing. This clause will not apply if:

- (a) the Customer ends the Contract during the Minimum Period because BT is in material breach of the Contract; or
- (b) the Customer gives notice to end the Contract within three months of BT notifying the Customer of an increase to the charges or changes to the Conditions in either case to the Customer's significant detriment; or
- (c) BT ends the Contract during the Minimum Period for convenience; or
- (d) the Contract ends because 5.3 or 8.1(c) applies.

5.5 The Customer may end the Contract if:

- (a) BT materially breaches the Contract and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by the Customer to do so; or
- (b) insolvency proceedings are brought against BT or BT makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of BT's assets or BT goes into liquidation or a corresponding event under Scottish Law.

5.6 BT may suspend the Service or end the Contract, or both, at any time without notice if:

- (a) the Customer breaches the Contract or any other Contract that the Customer has with BT and, if the breach is capable of remedy, fails to put right the breach within a reasonable time of being asked by BT to do so. In this clause breach includes non-payment of any valid invoice by the due date; or
- (b) bankruptcy or insolvency proceedings are brought against the Customer or the Customer does not make any payment under a judgement of a Court on time or the Customer makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of the Customer's assets or the Customer goes into liquidation or a corresponding event under Scottish Law.

The Customer will continue to pay the Charges during any period of suspension.

5.7 When the Contract ends BT will refund any money owed to the Customer after first deducting any money due to BT under the Contract or any other contract that BT has with the Customer.

Effect of ending this Contract

5.8 When this Contract ends, the Charges will cease to apply to the Standard Contracts and will be superseded by the equivalent standard charges and terms in the Standard Contracts.

Termination for Breach

5.9 In addition to BT's rights under clause 5.6 of the Conditions, BT may suspend the Charges. Where the Charges are suspended the Customer will be charged in accordance with the Standard Contracts.

6. LIMITATION OF LIABILITY

6.1 BT accepts liability as set out in the Contract. BT does not guarantee that the Service will be fault-free.

6.2 Neither the Customer nor BT excludes or restricts its liability to any extent not permitted by law.

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6.3 Neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any direct loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, business interruption or for any other similar direct loss which may arise in relation to the Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.

6.4 Neither the Customer nor BT shall be liable to the other in contract, tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss of profit, revenue, time, anticipated savings or profit or revenue, opportunity, data, use, business, wasted expenditure, loss of or damage to physical property, business interruption or for any other indirect or consequential loss or punitive damages which may arise in relation to the Contract whether or not the Customer or BT was advised in advance of the possibility of such loss or damage.

6.5 Subject to clauses 6.2, 6.3 and 6.4, the Customer and BT accept liability to the other in contract, tort (including negligence) breach of statutory duty or otherwise for direct loss limited to £10,000 for all loss or damage arising from any one incident or series of connected incidents and £50,000 for all incidents in any period of 12 consecutive months.

6.6 For the avoidance of doubt clause 6.5 will only apply to this Contract and not to the Standard Contracts.

6.7 Clause 6.5 will not apply to any obligation to pay charges.

6.8 Each part of this clause operates separately. If any part of a clause is held by a Court to be unreasonable or inapplicable the rest of the clause will continue to apply.

7. INTELLECTUAL PROPERTY

7.1 Except as expressly set out in the Contract, the Customer and BT do not acquire any rights or licences to the other's Intellectual Property Rights.

8. GENERAL TERMS

Matters Beyond Reasonable Control

- 8.1 (a) If the Customer or BT is unable to perform, or is delayed in performing, any obligation under the Contract because of something beyond its reasonable control including act of God, lightning, flood, exceptionally severe weather, epidemic, pandemic, fire, explosion, war, civil disorder, industrial disputes or acts or omissions of local or central government or other competent authorities, or beyond the reasonable control of its suppliers, it will have no liability to the other for that failure or delay in performing.
- (b) BT will not be liable for failure to or delay in supplying the Service if legal or regulatory restrictions are imposed that prevent BT from supplying the Service.
- (c) If any of the events detailed in clauses 8.1(a) or 8.1(b) continue for more than three months the Customer or BT may terminate the Contract in whole or part by written notice to the other.

Escalation and Dispute Resolution

- 8.2 (a) BT will try to work through any dispute that the Customer may have with BT. If this does not resolve the dispute then the Customer may refer the matter in accordance with the details set out in BT's Customer Complaints Code located at www.bt.com/complaintscode, copies of which are available on request.
- (b) Nothing in this clause 8.2 shall prevent the Customer or BT from exercising any rights and remedies that may be available in respect of any breach of the provisions of the Contract.

Transfer of Rights and Obligations

- 8.3 The Customer and BT may not transfer any of their rights or obligations under the Contract without the written consent of the other, except that:
- (a) The Customer may transfer its rights or obligations or both to a Group Company with the written consent of BT, such consent not to be unreasonably withheld or delayed; and

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

Severability

- 8.4 If any term of the Contract is held invalid, illegal or unenforceable by any court of competent jurisdiction, it will be severed and the remaining terms will continue in full force as if the Contract had been made without the invalid, illegal or unenforceable terms.

Survival

- 8.5 Clauses 3.15, 3.16, 3.18 and 8.12 will survive the termination or expiry of the Contract for two years.

Entire Agreement

- 8.6 (a) The Contract contains the entire agreement between the Customer and BT and replaces all previous written or oral agreements relating to its content.
- (b) The Customer and BT agree that:
- (i) they have not been induced to enter into the Contract by, nor have they relied on, any statement, representation, warranty or other assurance not expressly incorporated; and
 - (ii) in connection with the Contract their only rights and remedies in relation to any statement, representation, warranty or other assurance are for breach of the Contract and that all other rights and remedies are excluded.
- (c) The terms of clauses 8.6(a) and 8.6(b) will not affect the rights or remedies of the Customer and BT for any fraudulent misrepresentation.

Waiver

- 8.7 A failure or delay by the Customer or BT to exercise any right or act upon a breach under the Contract will not be a waiver of that right or breach. If the Customer or BT waives a right or breach of the Contract, that waiver is limited to the particular right or breach.

Rights of Third Parties

- 8.8 A person who is not the Customer or BT (including an employee, the officer, agent, representative or subcontractor of the Customer or BT) has no right under Contracts (Rights of Third Parties Act 1999) to enforce any term of the Contract. This does not affect any right or remedy that exists or is available apart from that Act.

Notices

- 8.9 Unless otherwise stated in the Contract, notices given under the Contract must be in writing and delivered to the following addresses:
- (a) to BT at the address shown on the bill or any address which BT provides to the Customer for this purpose; or
 - (b) to the Customer at the Customer's primary email address.

This clause does not apply to notices given under clauses 2.1 or 4.1.

- 8.10 The Customer must inform BT immediately if there is any change to any of the contact information the Customer provided to BT.

Data Protection and Freedom of Information Requests

- 8.11 The Customer and BT will comply with their respective obligations under the Data Protection Act 1998 and any data protection, privacy or similar laws that apply to any personal data processed in connection with the Contract. The Customer and BT will provide such help and co-operation as is reasonably necessary or requested by the other to enable compliance with this clause.
- 8.12 If the Customer receives a request under the Freedom of Information Act 2000 which encompasses any information held by the Customer which was provided by BT in connection with the Contract the Customer will notify BT immediately of the request and give BT at least 10 working days to make representations.

Customer's Instructions

- 8.13 BT may take instructions from a person whom it thinks, with good reason, is acting with the Customer's permission.

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Law and Jurisdiction

8.14 The Contract is governed by the law of England and Wales and is subject to the non-exclusive jurisdiction of the English courts.

9. DEFINITIONS

9.1 In the Contract the following terms have the meanings shown next to them:

BT British Telecommunications plc of 81 Newgate Street, London EC1A 7AJ, registered in England No. 1800000 and whose VAT number is 245 7193 48.

BT Price List the document containing a list of BT's charges and terms that apply to one or more component parts of the Service and which can be seen at <http://www.bt.com/pricing> and <http://business.bt.com/broadband-and-internet/internet-access/broadband/terms> (or any other on-line address(es) that BT may advise the Customer).

Charges the charges and terms set out at http://business.bt.com/phone-services/phone-lines-and-calling-plans/phone-line-and-broadband/esaver#tab_pricing and the Price List and the Order Form (where it includes charges) applicable to the Service.

Conditions these Conditions for BT Business eSaver – Broadband, Calls and Lines.

Contract this agreement for the provision of the Service between BT and the Customer comprising the following documents and, in order of precedence:

the order/registration form;
the Conditions; and
any other documents expressly incorporated by any of these documents.

Customer the person with whom BT contracts to provide the Service.

Group Company a subsidiary or holding company including a holding company, or a subsidiary of any such holding

company, all as defined by Part 38 Section 1159 of the Companies Act 2006.

Intellectual Property Rights

any patent, petty patent, registered design, copyright, design right, database right, rights in designs, invention, semiconductor topography right, know-how, or any similar right exercisable in any part of the world and including any applications for the registration of any patents or designs.

Minimum Period

the period stated in the order/registration form, measured from the Service Start Date.

Order Form

the on-line order form setting out the details of the Customer's order and any charges and associated terms not stated in the BT Price List.

Service

the BT Business eSaver service.

Service Start Date

the earliest of the service start dates (as defined in the applicable Standard Contract) for the services that are included in the BT Business eSaver pricing package.

Standard Contract

a contract between the Customer and BT for the provision of services that are included in the BT Business eSaver pricing package.