

BT PPC STANDARD HANDOVER AGREEMENT

ANNEX E

SERVICE LEVEL AGREEMENT

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1 DEFINITIONS

- 1.1 In this Annex a reference to a paragraph or an Appendix, unless stated otherwise, is to a paragraph or Appendix of this Annex. Words and expressions have the meaning given in Annex D.

2 GENERAL

- 2.1 This Annex E sets out the service level commitments for the services and facilities which BT has agreed to provide to the Operator under this Agreement (the "Service Levels").
- 2.2 Where BT fails to meet the Service Levels to which compensation is expressed to apply, it shall be liable to pay to the Operator compensation payments calculated in accordance with the provisions of this Annex E.
- 2.3 The Service Levels and levels of compensation set in this Annex E will apply unless otherwise agreed in writing by the Parties.
- 2.4 BT shall provide reasons to justify a Committed Delivery Date which is beyond the relevant Requisite Period and obtain the Operator's prior written consent, such consent not to be unreasonably withheld or delayed.
 - 2.4.1 Where a postponement of a Committed Delivery Date is agreed in writing by the Parties, any calculation of compensation for late delivery shall be performed by reference to the last Committed Delivery Date so agreed by BT and the Operator.
 - 2.4.2 BT shall only postpone the Committed Delivery Date with the written agreement of the Operator. BT shall inform the Operator as soon as practicable

in writing of any proposed postponement of the Committed Delivery Date for a Partial Private Circuit or Network Infrastructure; BT shall reimburse the Operator for any reasonable additional expenses incurred by the Operator as a direct result of such postponement.

- 2.4.3 BT shall, at the reasonable request of the Operator, postpone the Committed Delivery Date of a Partial Private Circuit or Network Infrastructure if such postponement is technically and organisationally reasonable. In agreeing to such a postponement BT shall only charge for reasonable additional expenses it has directly incurred as a result of the postponement.
- 2.5 Where any Service Level sets a time-scale for the performance of any obligation by BT, that time-scale shall be extended to the extent that performance is delayed, and BT shall not be liable to pay compensation under this Agreement for periods of delay which arise, due to:
- 2.5.1 circumstances beyond BT's reasonable control ("BT Stop the Clock"). BT shall notify the Operator as soon as reasonably practicable when such circumstances arise. In determining whether a circumstance is beyond BT's reasonable control, all contractors or sub-contractors of BT of whatever level and their respective employees servants and agents shall be treated as employees of BT. BT major construction works shall not be considered as circumstances beyond BT's reasonable control. For the avoidance of doubt, the Cancellation Threshold shall not be extended in respect of circumstances beyond BT's reasonable control;
- 2.5.2 suspension of an Order Request pursuant to paragraph 3.6;
- 2.5.3 where FOC Acceptance occurs after the FOC Acceptance Interval but before the withdrawal of the FOC;
- 2.5.4 the agreement of a Committed Delivery Date beyond the relevant Requisite Period, except to the extent that BT fails to meet such Committed Delivery Date;
- 2.6 In addition to the circumstances set out in paragraph 2.5, if, following investigation by BT, it is recognised that site access is required for BT to resolve a fault and BT is unable to gain access (for example, if the Customer has not provided access details, has provided incorrect access details or access has lapsed), BT, when calculating the amount of compensation due in relation to the relevant Service Level, is entitled to deduct:
- 2.6.1 all time between the request for site access details and the time at which access is made available to BT (which includes any time to account for special arrangements for access, such as security checks or customer induction); and
- 2.6.2 an additional two hours to account for duplicated work from the initial investigatory task.
- 2.7 BT will not be liable to pay compensation in relation to provisioning, repair or availability of radio when a failure to meet a service level by BT is due to circumstances beyond BT's reasonable control. Such circumstances shall

include but not be limited to: no line of sight, no climbing or gaining access to high structures that don't have lighting or during the hours of darkness.

2.7 BT shall hold regular service review meetings as agreed with the Operator.

3. PROVISIONING

3.1 The FOC, FOC Receipt Interval and FOC Acceptance Interval process shall apply to Order Requests

3.2 Order Requests shall be despatched by the Operator to BT in writing in accordance with the Manuals. The Operator may submit Order Requests via fax or electronic means. If an Order Request is submitted by means other than fax or electronic, the date that that valid Order Request is actually received will be deemed to be the Order Request Date.

3.2.1 If an Order Request is received before 3pm, the Order Request Date shall be deemed to be the same Working Day;

3.2.2 If an Order Request is received between the hours of 3pm and 4pm, BT will use reasonable endeavours to allocate the Order Request Date for the same Working Day. If an Order request so received is not allocated for the same Working day then the Order Request date shall be deemed to be the next Working Day; and

3.2.3 If an Order Request is received after 4 p.m. the Order Request Date shall be deemed to be the next Working Day.

3.3 BT shall acknowledge Order Requests submitted in accordance with paragraph 3.2 and the Manuals, and shall send the Operator a FOC before the end of the FOC Receipt Interval. If a FOC is sent after 4 p.m. the FOC Date shall be deemed to be the next Working Day. Exceptionally, if BT reasonably considers that the fulfilment of an Operator Order Request is not reasonably practicable (including without limitation as being beyond the specification for that product), BT shall so notify the Operator in place of supplying a Firm Offer Commitment, and in the timescales for a Firm Offer Commitment. Such notification shall be in writing, and shall specify the reasons why BT does not consider such fulfilment to be reasonably practicable. If the Parties are unable to agree on the matter within five Working Days the Operator may refer the matter to OFCOM as a Dispute.

3.4 The Operator shall confirm acceptance or rejection of the FOC before the end of the FOC Acceptance Interval. Except as provided in paragraph 3.6 or unless otherwise agreed in writing by the Parties, on the expiry of the fifth Working Day following the FOC Date, the FOC shall be withdrawn and no longer constitute an offer capable of acceptance. If within thirty days of receipt by the Operator of an original FOC, the Operator submits an Order Request which apart from the Customer Requirement Date is identical to the Order Request, that gave rise to the original FOC, BT shall apply the same charges in its FOC as BT applied in its original FOC.

3.5 BT shall notify the Operator of the Installation Date in writing.

3.6 Any time limits set out in this Annex E shall not apply to the Operator to the extent that periods of delay arise due to circumstances beyond the Operator's reasonable control ("Operator Stop the Clock"). The Operator shall notify BT

as soon as reasonably practicable when such circumstances arise. In determining whether a circumstance is beyond the Operator’s reasonable control, all contractors or sub-contractors of the Operator of whatever level, and their respective employees, servants and agents, shall for the purposes of this paragraph 3.6 be treated as employees of the Operator. The Operator shall be entitled to require BT by written notice to BT, to suspend an Order Request in the event of a specified circumstance beyond the Operator’s reasonable control occurring during the FOC Acceptance Interval. Such suspension shall last until BT receives written notice from the Operator requesting the resumption of the Order Request when the specified circumstance has ended. If where spare capacity then currently exists, such suspension lasts for no more than five Working Days, such Order Request shall be deemed to have been withdrawn by the Operator. In all other cases, unless otherwise agreed in writing by the Parties under paragraph 3.4, if such suspension lasts for more than thirty Working Days, such order Request shall be deemed to have been withdrawn by the Operator.

3.7 BT shall provide Partial Private Circuits and Network Infrastructure in accordance with the Requisite Periods set out in Table 1 below.

TABLE 1*

Product	Requisite Period (from Order Request Date)
ISH Links	110 Working Days with Civil Works; 85 Working Days without Civil Works
ISH Links - provision of a new ADM on an existing PPC ISH [SDH] Point of Handover	60 Working Days
ISH Links - provision of an additional STM-1 interface on an existing STM-1 ISH SMA4 ADM	60 Working Days
CSH Link	110 Working Days with Civil Works; 85 Working Days without Civil Works
CSH Links - provision of a new ADM on an existing PPC CSH [SDH] Point of Handover	60 Working Days
CSH Links - provision of a new Trib Card on an existing ADM	25 Working Days
Third Party Links	110 Working Days with Civil Works; 85 Working Days without Civil Works
Partial Private Circuits – 64kbits bandwidth	10 Working Days
Partial Private Circuits – 128kbits – 256kbits bandwidth delivered over copper	10 Working Days
Partial Private Circuits –	30 Working Days

128kbits – 256kbits bandwidth delivered over fibre	
Partial Private Circuits – 320kbits – 960kbits bandwidth	30 Working Days
Partial Private Circuits – 1Mbit/s bandwidth	30 Working Days
Partial Private Circuits – 2Mbit/s bandwidth	30 Working Days
Subsequent Partial Private Circuits – 2Mbit/s bandwidth	10 Working Days
Partial Private Circuits – 34Mbit/s bandwidth up to 155Mbit/s bandwidth (as detailed in Carrier Price List)	57 Working Days
Protected Path Partial Private Circuit Variants 1 and 2 - 2Mbit/s (CSH/ISH).	57 Working Days
Subsequent Protected Path Partial Private Circuit Variants 1 and 2 - 2Mbit/s bandwidth (CSH/ISH)	3 Working Days
Protected Path Partial Private Circuit Variants 1 and 2 - 34Mbit/s bandwidth up to 155Mbit/s bandwidth (as detailed in the Carrier Price List).	57 Working Days
Change of use of a PPC mux to become a PPC Facility mux	Subject to the Requisite Periods of the relevant product required.
Re- Designation	Subject to the Requisite Periods of the relevant product required.

*Note that reference to "Civil Works" therein refers to where BT needs to carry out Civil Works.

3.8 BT shall be liable to pay compensation payments to the Operator for any failure to provide Partial Private Circuits or Network Infrastructure within the Requisite Periods specified in Table 1 and in accordance with paragraphs 3.9 and 3.10 below.

3.9 Where a Partial Private Circuit (inclusive of Partial Private Circuit Variant 2) is delayed BT shall be liable to pay the Operator a fixed individual compensation payment in accordance with the following:

3.9.1 where the Committed Delivery Date is set by BT later than the relevant Requisite Period (as set out in Table 1 above) without the agreement of the Operator, BT shall be liable to pay the Operator a fixed individual compensation payment equal to 100% of the monthly rental for each Private Partial Circuit

delayed, per Working Day or part of a Working Day beyond the Committed Delivery Date or the relevant Requisite Period (whichever is later) and expiring on the Installation Date, up to a maximum of 60 days; and

- 3.9.2 where the Committed Delivery Date is set by BT either, later than the relevant Requisite Period (as set out in Table 1 above) but with the agreement of the Operator, or within the Requisite Period, BT shall be liable to pay the Operator a fixed individual compensation payment equal to 100% of the monthly rental for each Private Partial Circuit delayed, per Working Day or part of a Working Day beyond the Committed Delivery Date or the relevant Requisite Period (whichever is later) and expiring on the Installation Date, up to a maximum of 60 days.
- 3.10 Where Network Infrastructure is delayed, BT shall be liable to pay the Operator a fixed individual compensation payment in accordance with the following:
 - 3.10.1 where the Committed Delivery Date is set by BT later than the relevant Requisite Period (as set out in Table 1 above) without the agreement of the Operator, BT shall be liable to pay the Operator a fixed individual compensation payment equal to 100% of the monthly rental for the Network Infrastructure delayed, per Working Day or part of a Working Day beyond the Committed Delivery Date or relevant Requisite Period (whichever is later) and expiring on the Installation Date up to a maximum of 60 days; and
 - 3.10.2 where the Committed Delivery Date is set by BT either, later than the relevant Requisite Period (as set out in Table 1 above) but with the agreement of the Operator, or within the Requisite Period, BT shall be liable to pay the Operator a fixed individual compensation payment equal to 100% of the connection fee for the Network Infrastructure delayed, per Working Day beyond the Committed Delivery Date or relevant Requisite Period (whichever is later) and expiring on the Installation Date up to a maximum of 60 days.
- 3.11 Any compensation payments provided for under paragraph 3.9 shall apply to Partial Private Circuits provided by BT pursuant to Schedule 03 after the relevant Requisite Period, only if the associated ISH Link, CSH Link or Third Party Link Capacity:
 - 3.11.1 is available for service at the Contractual Completion Date of the Partial Private Circuits ordered under Schedule 03, or
 - 3.11.2 has been ordered by the Operator, and is due to have been provided by BT by such date and has not been provided as a result of the default of BT.
- 3.12 Where new Network Infrastructure is required for a Partial Private Circuit and ordered by the Operator, BT shall ensure that the Committed Delivery Dates and the Installation Dates for the Partial Private Circuit and such Network Infrastructure are the same.
- 3.13 In any calendar month BT shall, at the request of the Operator, make reasonable endeavours to set Committed Delivery Dates for Partial Private Circuits of

2Mbit/s bandwidth or less (other than Protected Path Partial Private Circuits Variants 1 and 2) within 50 per cent of the relevant Requisite Period, rounded up to the nearest Working Day where necessary, for a number of circuits equivalent to at least 15 per cent of the Operator's previous month's order volume of Partial Private Circuits of 2Mbit/s or less. ("Expedited Order"). The Operator shall inform BT in writing which particular Partial Private Circuits BT shall endeavour to expedite pursuant to this paragraph 3.13. This paragraph shall not apply to Partial Private Circuits which exceed 120% (by volume) rounded up to the nearest integer where necessary, of an Operator's Advance Order Commitment.

3.14 BT will at the request of the Operator, make all reasonable endeavours to set Committed Delivery Dates for Partial Private Circuits of 2Mbit/s bandwidth where both ends of the circuit terminate within the Central London Zone in as little as 10 working days when delivered where spare capacity then currently exists over HDSL or existing infrastructure (installed before 23rd December 2002). These Partial Private Circuits are outside the 'Expedited Orders' in paragraph 3.13. This paragraph shall not apply to Partial Private Circuits which exceed 120% (by volume) rounded up to the nearest integer where necessary, of an Operator's Advance Order Commitment. In addition, the following applies :

- (a) only available when circuit forecasts have been agreed by BT
- (b) only available to new circuit provision
- (c) not available as Protected Path or Assured Resilience PPC products

3.15 Where the Provisioning Interval exceeds the relevant Requisite Period set out in Table 1 above the Operator shall have the option to cancel its Order for a Partial Private Circuit after the Cancellation Threshold (as set out in Table 2) has expired, and in those circumstances BT shall not charge the Operator for the circuit, and shall not charge for cancelling the circuit. The Cancellation Threshold shall commence upon the expiry of the relevant Requisite Period set out in Table 1 of this Annex E. The Requisite Periods in Table 1 shall apply, for the purposes of this paragraph 3.15, regardless of whether there is a delay in delivery of a Partial Private Circuit which is due to circumstances beyond BT's reasonable control. If an Operator has delayed delivery of a Partial Private Circuit then the period of delay will be added to the cancellation threshold in these circumstances. Additionally, if an Operator has requested or accepted a Committed Delivery Date beyond the Requisite Period then the cancellation threshold shall also be extended by the same amount. For the avoidance of doubt such cancellation shall not affect BT's liability to pay the Operator any fixed individual compensation payments accumulated pursuant to this Agreement before such cancellation.

TABLE 2 : Cancellation Threshold re Partial Private Circuits

Requisite Period	Cancellation Threshold
10 Working Days or less	10 Working Days
11-20 Working Days	20 Working Days

21-40 Working Days	20 Working Days
41-60 Working Days	25 Working Days
Over 60 Working Days	30 Working Days

3.16 Where the Provisioning Interval exceeds the relevant Requisite Period set out in Table 1 above the Operator shall have the option to cancel its Order for Network Infrastructure after the Cancellation Threshold (as set out in Table 3) has expired, and in those circumstances BT shall not charge the Operator for the Network Infrastructure, and shall not charge for cancelling the Network Infrastructure. The Cancellation Threshold shall commence upon the expiry of the relevant Requisite Period set out in Table 1 of this Annex E . The Requisite Periods in Table 1 shall apply, for the purposes of this paragraph 3.16, regardless of whether there is a delay in delivery of Network Infrastructure which is due to circumstances beyond BT's reasonable control. . If an Operator has delayed delivery of a Partial Private Circuit then the period of delay will be added to the cancellation threshold in these circumstances. Additionally, if an Operator has requested or accepted a Committed Delivery Date beyond the Requisite Period then the cancellation threshold shall also be extended by the same amount. For the avoidance of doubt such cancellation shall not affect BT's liability to pay the Operator any fixed individual compensation payments accumulated pursuant to this Agreement before such cancellation.

TABLE 3: Cancellation Threshold re Network Infrastructure

Requisite Period	Cancellation Threshold
21-40 Working Days	20 Working Days
41-60 Working Days	25 Working Days
61-90 Working Days	30 Working Days
Over 90 Working Days	40 Working Days

3.17 Subject to paragraphs 3.15 and 3.16, where the Operator wishes to cancel an Order before the Committed Delivery Date this cancellation must be submitted in writing. BT shall charge the Operator a cancellation charge in accordance with the charges set out in the Carrier Price List.

3.18 BT shall ensure that for at least 70 per cent by volume of Partial Private Circuits of a particular bandwidth delivered by BT to the Operator within a three month period (such period not to be calculated on a rolling basis), a Committed Delivery Date is set within the relevant Reduced Requisite Period set out in Table 4 below.

3.19 In calculating the 70 per cent figure:

3.19.1 the following shall not be included: Partial Private Circuits of 64Kbit/s; Partial Private Circuits of 128-256Kbit/s delivered over copper; Subsequent Partial Private Circuits of 2Mbit/s; Expedited Orders pursuant to paragraph 3.13 and Partial Private Circuits beyond 120% (rounded up to the nearest integer) of the Operator's Advance Order Commitment;

3.19.2BT shall take into account those Partial Private Circuits not in the categories listed in paragraph 3.18.1 that are ordered but cancelled by the Operator due to late delivery by BT.

TABLE 4: Partial Private Circuit - Reduced Requisite Period

Bandwidth of Partial Private Circuit	Reduced Requisite Period
128 –256Kbit/s delivered over fibre	20 Working Days
320-960Kbit/s	20 Working Days
1Mbit/s	20 Working Days
2Mbit/s	20 Working Days
34 – 155Mbit/s	45 Working Days

3.20 The Reduced Requisite Periods set out in Table 4 above apply only if, in the Operator’s previous three month billing period (such period not to be calculated on a rolling basis) the Operator has ordered from BT:

3.20.1 at least 10 Partial Private Circuits of the same bandwidth where such Partial Private Circuits are 2Mbit/s or less; or

3.20.2 at least 2 Partial Private Circuits of the same bandwidth where such Partial Private Circuits are more than 2Mbit/s.

3.20.3 For the purposes of this paragraph 3.20 the first billing period of three months shall be the first three month billing period.

3.21 BT shall ensure that for at least 70 per cent by volume of the total VC4-equivalent of Network Infrastructure delivered to it by the Operator during a three month period (such period not to be calculated on a rolling basis) the Committed Delivery Date is set within the relevant Reduced Requisite Period (as set out in Table 5 below). In performing the calculation, Network Infrastructure which exceeds 120% (by volume) rounded up to the nearest integer where necessary, of an Operator's Advance Capacity Order shall not be included.

3.22 The Reduced Requisite Periods set out in Table 5 only apply if, in the Operator’s previous three month billing period (such period not to be calculated on a rolling basis) the Operator has ordered from BT at least 2 VC4-equivalents of Network Infrastructure. In performing the calculation, BT shall take into account infrastructure that is ordered but cancelled by the Operator due to late delivery by BT.

TABLE 5*: Network Infrastructure - Reduced Requisite Period

Product	Reduced Requisite Period
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ISH Links	75 Working Days with Civil Works; 60 Working Days without Civil Works
ISH Links - provision of a new ADM on an existing PPC ISH [SDH] Point of Handover	40 Working Days
ISH Links - provision of an additional STM-1 interface on an existing STM-1 ISH SMA4 ADM	40 Working Days
CSH Link	75 Working Days with Civil Works; 60 Working Days without Civil Works
CSH Links - provision of a new ADM on an existing PPC CSH [SDH] Point of Handover	40 Working Days
CSH Links - provision of a new Trib Card on an existing ADM	20 Working Days
Third Party Links	75 Working Days with Civil Works; 60 Working Days without Civil Works

*Note that reference to "Civil Works" therein refers to where BT needs to carry out Civil Works.

3.23 For those Orders where the Partial Private Circuits or Network Infrastructure ordered by an Operator exceeds 120% (rounded up to the nearest integer) of its Advance Order Commitment or Advance Capacity Order respectively, the following shall apply in respect of the excess:

- 3.23.1 the Requisite Periods shall be increased by 50%, rounded up to the nearest integer where necessary;
- 3.23.2 BT's obligations with respect to the Reduced Requisite Periods shall not apply; and
- 3.23.3 BT shall not be obliged to provide Expedited Orders pursuant to paragraph 3.13.
- 3.23.4 BT shall not be obliged to provide 2 Mbit Central London Zone Orders pursuant to paragraph 3.14.

3.24 In determining whether 120% (rounded up) of an Operator's Advance Order Commitment or Advance Capacity Order has been exceeded, the following applies:

- 3.24.1 for Partial Private Circuits the percentage shall be calculated at a national level separately for each Partial Private Circuit bandwidth category;
- 3.24.2 for Network Infrastructure, the percentage shall be calculated per VC4-equivalent at each Point Of Handover.

3.25 Where no Advance Order Commitment or Advance Capacity Order has been agreed with the Operator

- 3.25.1 the Requisite Periods shall be increased by 50%, rounded up to the nearest integer where necessary (Increased Requisite Period)
- 3.25.2 BT's obligations with respect to the Reduced Requisite Periods shall not apply; and
- 3.25.3 no Expedited Order pursuant to paragraph 3.13 shall be permitted.

- 3.26 Where BT receives an Order for 11 or more Partial Private Circuits on the same day from an Operator to serve a single Third Party premises, the relevant Requisite Period applicable to determine whether BT shall pay fixed individual compensation shall be the relevant Requisite Period set out in Table 1 above increased by a maximum of 50% (Multiple Order). This paragraph 3.26 shall not apply to orders of Partial Private Circuits made pursuant to paragraph 3.13 of this Annex E in respect of Expedited Orders. BT shall inform the Operator of the revised timescales as soon as reasonably practicable.

- 3.27 If the ordered resilience path of a Protected Path Partial Private Circuit Variant 1 is not delivered by BT at the same time as the first path:

- 3.27 If the ordered resilient path of a Protected Path Partial Private Circuit Variant 1 is not delivered by BT at the same time as the first path:
 - 3.27.1 the Operator shall have the right to cancel the Order for both the first path and the resilient path after the Cancellation Threshold has expired and in accordance with paragraph 3.15 BT shall not charge the Operator for the circuit for either path nor shall BT charge for cancellation of the Order; or
 - 3.27.2 subject to agreeing an appropriate time for the upgrade of the circuit when the resilient path is available, the Operator shall be entitled to a rent-free period for such first path. When such resilient path is made available, the rental period for the Protected Path Partial Private Circuit Variant 1 shall commence and the Connection Charge shall become due; or
 - 3.27.3 the Operator shall have the right to cancel the resilient path, where such resilience has not been delivered after the Committed Delivery Date. The rental period for the non-Protected Path Private Circuit shall commence and the Connection Charge shall become due. The Operator will be liable for all applicable excess construction charges. Where the Operator accepts the first path and the free rent free period is applied, then no compensation will be due. Where a rent free period was not applied, then the Operator will be entitled to compensation for late delivery; or
 - 3.27.4 the Operator shall have the right to wait until delivery by BT of both the first path and the resilient path and the Operator shall have the same entitlement to compensation for late delivery as under paragraph 3.9.
 - 3.27.5 Where such resilient path has not been delivered by the end of a three month period from the Committed Delivery Date, the Operator shall have the right either to cancel the Order without incurring liability for payment, or to retain

the first path as a (non-Protected Path) Partial Private Circuit, in which case the rental period for such Partial Private Circuit shall commence, and the Connection Charge shall become due, immediately.

3.27.6 For the avoidance of doubt the provisions of paragraph 3.27.2 and of paragraph 3.27.5 for such circuits shall be in lieu of the right of the Operator to other compensation under this paragraph 3 in respect of such period of non-delivery.

3.28 After FOC Acceptance an Operator may suspend an order for a total of 30 Working Days. If after 30 Working Days no new CRD is available then the order will be cancelled and cancellation charges raised. Additionally, an Operator may delay the Committed Delivery Date a maximum of three times, each time the Committed Delivery Date may be delayed by the RP of the product after three days any further requests will result in the order being cancelled and cancellation charges raised.

4 REPAIR

4.1 BT shall be liable to pay compensation payments to the Operator for failure to achieve repair time-scales in accordance with Table 6 below. Such compensation shall be payable where BT fails to repair within the time-scales set out below in respect of Partial Private Circuits and Network Infrastructure and shall be calculated in respect of the period commencing on the expiry of the applicable repair time set out herein and expiring at the time the Partial Private Circuit or Network Infrastructure is repaired.

4.2 -For the purposes of this paragraph 4, a ~~fault~~ Ffault shall be:

4.2.1 -a reported ~~fault~~Fault which causes a total loss of service ~~of one minute or more that is not considered by BT to be an intermittent fault~~ (i.e. no transmission of signals in one or both directions) ~~of one minute or more that is not considered by BT to be an Intermittent Fault; or~~

4.2.1 a reported Intermittent Fault for which:

a) the Operator agrees to provide immediate and continuous service downtime to enable BT to undertake intrusive testing for the duration of the fault; and

b) a fault is found on BT's Network Instructure.

4.3 For circuits subject to RegularCare:

~~4.3.1 BT will automatically acknowledge receipt of a fFault report raised by the Operator~~BT will acknowledge receipt of a fault report from the Operator within one hour of a Working Day as defined in paragraph 4.5.1;

~~4.3.2 BT will action a fFault report received before 17.00 hours within one Working Day~~BT will respond to a fault report received before 17.00 hours within one Working Day;

4.3.3 ~~If service is not restored or the fault not fixed within two Working Days of receipt of the fFault report from the Operator, the Operator will be paid compensation by BT calculated in accordance with Table 6 and BT shall contact the Operator to report the progress being made to remedy the fFault. If the fault is not resolved within two Working Days of receipt of the fault report from the Operator, the Operator will be paid compensation by BT calculated in accordance with Table 6; and~~

~~4.3.4 If the fault is not resolved within two Working Days of receipt of a fault report, BT shall contact the Operator to report the progress being made to remedy the fault.~~

4.4 For circuits subject to EnhancedCare:

4.4.1 ~~BT will automatically acknowledge receipt of a Ffault report raised by the Operator. BT will acknowledge receipt of a fault report from the Operator within one hour;~~

4.4.2 ~~BT will commence diagnostic testing on a Ffault within one hour of receipt of a fault report, unless agreed otherwise in writing by the Parties. On completion of diagnostic testing BT will undertake any necessary physical repair work to rectify any Ffaults identified during the diagnostic tests, commencing such work within four hours of receipt of a fault report, unless agreed otherwise in writing by the Parties. BT will respond within four hours of receipt of a fault report, unless agreed otherwise in writing by the Parties;~~

4.4.3 ~~If service is not restored or the fault not fixed within five hours of it being reported to BT the Operator will be paid compensation by BT calculated in accordance with Table 6. If the fault is not resolved within five hours of it being reported to BT the Operator will be paid compensation by BT calculated in accordance with Table 6; and~~

4.4.4 ~~BT shall contact the Operator to report the progress being made to remedy any Ffault in accordance with Annex E, paragraph 6 (Update Quality). If the fault is not cleared within five hours of it being reported to BT, BT shall contact the Operator to report the progress being made to remedy the fault.~~

4.5 For circuits subject to EnhancedCare Plus:

4.5.1 ~~BT will automatically acknowledge receipt of a Ffault report raised by the Operator. BT will acknowledge receipt of a fault report from the Operator within one hour;~~

4.5.2 ~~BT will commence diagnostic testing on a fFault within one hour of receipt of a fault report, unless agreed otherwise in writing by the Parties. On completion of diagnostic testing BT will undertake any necessary physical repair work to rectify any fFaults identified during the diagnostic tests, commencing such work within two hours of receipt of a fFault report, unless agreed otherwise in writing~~

~~by the Parties. BT will respond within two hours of receipt of a fault report, unless agreed otherwise in writing by the Parties;~~

4.5.3 ~~If service is not restored or the fault not fixed within three hours of it being reported to BT the Operator will be paid compensation by BT calculated in accordance with Table 6. BT shall contact the Operator to report the progress being made to remedy any fFault in accordance with Annex E, paragraph 6 (Update Quality)If the fault is not resolved within three hours of it being reported to BT the Operator will be paid compensation by BT calculated in accordance with Table 6; and~~

~~4.5.4 If the fault is not cleared within three hours of it being reported to BT, BT shall contact the Operator to report the progress being made to remedy the fault.~~

TABLE 6

Partial Private Circuit:	Compensation payable by BT
Operator ordered RegularCare for Partial Private Circuit	100% of the monthly rental payable for the type of Partial Private Circuit being repaired per Working Day or part of a Working Day, of delay in repair up to a maximum of 30 days.
Operator ordered EnhancedCare for Partial Private Circuit	15% of the monthly rental payable for the type of Partial Private Circuit being repaired per hour or part of an hour, of delay in repair up to a maximum of 200 hours.
Operator ordered EnhancedCare Plus for 2Mbit/s Partial Private Circuits only	15% of the monthly rental payable for the type of Partial Private Circuit being repaired per hour or part of an hour, of delay in repair up to a maximum of 200 hours.

4.6 The following definitions shall apply to this paragraph 4 and shall be effective only for the purposes of this paragraph 4:

4.6.1 For the purposes of Regularcare, "Working Day" shall mean any day other than Saturdays, Sundays, public or bank holidays in the United Kingdom, between 08.00 and 17.00 hours; and

4.6.2 For the purposes of EnhancedCare and EnhancedCare Plus, "Working Day" shall mean a period of 24 hours commencing at any time (including Saturdays, Sundays, public and bank holidays).

4.7 When total loss of service occurs to a Partial Private Circuit more than 3 times in any 12 month period, the Operator shall not be liable to pay monthly rental to BT in any subsequent month where total loss of service occurs until such time as twelve successive months have passed without a fault for that Partial Private Circuit. For the purpose of calculating the number of faults on a particular circuit, the Parties shall have regard to the following:

4.7.1 occurrences of total loss of service which have resulted in BT being liable to make a payment under the delayed repair compensation scheme (paragraphs 4.3 and 4.4 refer) shall not be considered as an occurrence of a total loss of service and therefore be excluded from the calculation; and

4.7.2 total loss of service means total loss of service for a minute or more.

5. REPORTS

5.1 BT shall provide to the Operator quarterly reports setting out BT's performance to the Operator with respect to Committed Delivery Dates, Requisite Periods, Reduced Requisite Periods, FOC Receipt Intervals, repair and availability of service and a list of incidences of circumstances beyond the reasonable control of BT, split by reason. The aggregated reports shall include BT's performance with respect to its retail arm.

5.2 BT shall provide quarterly to the Operator the following information:

5.2.1 the number of Orders having Committed Delivery Dates quoted within 50% of the Requisite Periods set out in the Table 1 as a percentage of the Operator's previous month's orders for such bandwidth;

5.2.2 the number and percentage of instances where the Operator exceeds the applicable FOC Acceptance Interval, set out by bandwidth, for Partial Private Circuits;

5.2.3 the number and percentage of instances where the Operator exceeds the applicable FOC Acceptance Interval for Network Infrastructure;

5.2.4 the average amount by which the Operator exceeds the applicable FOC Acceptance Interval, set out by bandwidth, for Partial Private Circuits;

5.2.5 the average amount by which the Operator exceeds the applicable FOC Acceptance Interval for Network Infrastructure;

5.2.6 the number and percentage of orders for Partial Private Circuits rejected by BT;

5.2.7 the number and percentage of orders for Network Infrastructure rejected by BT;

5.2.8 the mean response time to fault reports relating to Partial Private Circuits and Network Infrastructure by BT to the Operator; and

5.2.9 new installation fault report rate relating to Partial Private Circuits.

5.3 The information set out in this paragraph 5 shall apply as appropriate to

5.3.1 all Partial Private Circuits and Network Infrastructure regardless of when, or if, they were migrated from a Qualifying BT Retail Private Circuit and regardless of when the Partial Private Circuit or Network Infrastructure was ordered.

- 5.4 BT shall provide to the Operator, upon written request, the necessary wholesale network and pricing information to enable the Operator to obtain the same information for Partial Private Circuits that is available to BT Retail for its "Quick Quote" and "High Bandwidth Quote On Line" quote facilities. Such services shall be provided by BT on a cost orientated basis.
- 5.5 BT shall keep complete and accurate records of the ordering and provisioning and repair of Partial Private Circuits and Network Infrastructure it provides to an Operator.

6. UPDATE QUALITY

- 6.1 BT will provide regular, timely, meaningful updates on fault reports from the point of fault report to the point of fault resolution in accordance with this paragraph 6.
- 6.2 These updates will be a combination of (a) automated updates confirming the status of the fault and associated engineering tasks and (b) proactive updates from repair staff explaining the status of the fault and giving the reasons for those engineering tasks
- 6.3 BT updates should be clear and meaningful and should make sense in conjunction with the other updates in the fault. They should meet expectations set by previous updates, explain what has happened since the last update and set expectation about when the next update will be received.
- 6.4 Where BT raises additional engineering tasks, it should provide reasons why the fault had not been cleared and what next steps will be taken to clear the fault.
- 6.5 BT will provide resolution details on all faults confirming the nature of the fault and the action taken by BT to resolve it. All resolution details provided will be clear and contain the minimum of BT jargon and abbreviations as possible.
- 6.6 BT will endeavour to provide a time of restoration on all faults where possible.
- 6.7 BT will, as necessary and where reasonable, agree with the Customer a process for reviewing and improving update quality and the frequency of updates.
- 6.8 Where BT is unable to work on a fault due to health and safety concerns and where requested by the Operator, BT will provide available detail of the health and safety concerns. Where possible, such detail will also demonstrate any efforts used by BT to continue the repair (for example deploying portable lighting and climbing platforms, sending additional engineers etc.).

7. ESCALATIONS

- 7.1 BT will accept escalations from an Operator in circumstances where:

- ~~7.1.1~~ diagnostics has not begun within 90 minutes of receipt of the fault report;the update provided by BT simply repeats previous updates without adding value or adding any new information;
- ~~7.1.2~~ no engineer is on site and dealing with the fault within 4 hours and 15 minutes of receipt of the fault report;the expectation set by BT in previous updates has been missed, or is unacceptable;
- ~~7.1.3~~ a Circuit experiences either a high order failure or major service outage and BT's updates do not set expectation about when the next update will be, or those expectations have been set and missed;diagnostics has not begun within 60 minutes of receipt of the fault report;
- ~~7.1.4~~ the fault is outside the Service Level Agreement and has no clear path to resolution;BT has handed a fault back as cleared without restoring service, the Operator has failed retest and requires a plan of action from BT in terms of next steps
- ~~7.1.5~~ a large number of Circuits have dropped at the same time in a suspected single incident;BT is unable to resource an engineering task within 4 hours of the task being built;
- ~~7.1.6~~ the Circuit has failed retest; the fault is outside or about to miss the Service Level Agreement and has no clear path to resolution;
- ~~7.1.7~~ the fault is a long running intermittent fault and the Operator is unhappy with the management, diagnostics or progress with respect to the fault; orBT has failed to respond to a web request within 30 minutes;
- ~~7.1.8~~ BT has failed to respond to a web request within 30 minutes;a joint meeting between BT and the Operator or its customer is in jeopardy due to poor communication of updates; or
- ~~7.1.9~~ BT is struggling to source specific equipment (e.g. a hoist) or resource an engineer with specific skills e.g. a Precision Testing Officer.
- ~~7.2~~ BT will respond to all escalations either immediately (if passed to BT by phone) or within an hour (if made by voicemail). BT will:
 - ~~7.2.1~~ Give an escalation reference, regardless of whether the escalation is accepted or rejected;
 - ~~7.2.12~~ Accept or reject the escalation. If BT reject the escalation they will give clear reasons why it has been deemed as invalid;
 - ~~7.2.23~~ Where the escalation is accepted, BT shall take reasonable steps to resolve the matter, for example by escalating it internally to try to expedite the speed of repair or diagnostics, or by reviewing the fault history and providing an appropriate plan of action with respect to the fault, and will update the Operator accordingly. Accept or reject the

escalation. If BT reject the escalation they will give clear reasons why it has been deemed as invalid;

7.2.34 Provide the Operator with an estimate of its next proposed contact with the Operator and take reasonable steps to meet such estimate; and-

7.2.5 Advise the Operator that the escalation has been discharged and can be stood down. In the event that the Operator believes that the matter has not been resolved and that the escalation should not be stood down then it shall advise BT accordingly providing as much detail as possible of the reasons why the escalation should not be stood down. Where BT is in agreement with the Operator, the Parties shall work together until such time as it is agreed that the matter has been resolved.

7.3 Operators are entitled to escalate to the next level in BT in the following circumstances:

7.3.1 Where the response from the previous escalation point is deemed to be unsatisfactory;

7.3.2 Where the escalation point has failed to respond to a voicemail in a timely manner (for illustration, within one hour at the first point of escalation);

7.3.3 Where the escalation point has failed to keep a promise around updates or call-backs;

7.3.4 Where the escalation point has refused to accept an escalation that the Operator feels is valid or has closed an escalation that the Operator feels should remain open;

7.3.5 Where there have been multiple separate escalations to the escalation point in relation to a single incident and the Operator feels that there is a continued lack of progress or traction

7.4 The Operator may request, through the service review meeting process, information or reports showing the volumes of escalations received and reasons for those escalations, and BT, where reasonably requested, will work together with the Operator to provide such information or reports.

8. 6 BT PAYMENTS

8.1 BT shall pay to the Operator any compensation and reimbursement sums due under this Annex E, in accordance with this paragraph ~~68~~. Compensation payments shall be made as soon as possible after the event and no later than the billing cycle following the cycle after the event unless not practicable. For the avoidance of doubt, compensation shall be payable without the need for the Operator to make a claim.

- 8.2 Unless otherwise agreed between BT and the Operator, any compensation and reimbursement sums due by BT to the Operator shall be offset against charges due by the Operator to BT under this Agreement in the first invoice submitted by BT after 6 March 2003 and thereafter in each quarterly invoice in alignment with the Operator's billing cycle, or where there are no charges due by the Operator under this Agreement, offset by BT against money owed to it by the Operator.
- 8.3 BT shall keep complete and accurate details of the amounts it has offset. BT shall make available such records at the request of the Operator.
- 8.4 BT shall be liable to pay Default Interest Rate on any sums of compensation due under this Annex E, to the extent that such sums are not refunded or paid to the Operator within the timescales set out in the Billing Manual.
- 8.5 Any dispute relating to BT's liability for payment of compensation to the Operator under this Annex E shall be treated as a Dispute under paragraph 4 of Annex B.
- 8.6 ~~any~~ Any compensation payable under this Annex E shall be without prejudice to any right of either party to claim for additional loss,

APPENDIX 1

KEY PERFORMANCE INDICATORS

Performance and Reliability

The target figures for service performance are provided as a general guide to users and network designers. BT aims to achieve or better this level of performance for most circuits. Although the BT network is monitored for these targets, performance of individual circuits is not normally measured.

Error Performance:

Error Performance given by the CCITT G821 Parameters and BT targets is detailed below in Table 1.

The BT target figures for error performance are expressed in a manner consistent with CCITT Recommendation G821. This recommendation defines performance at the 64Kbit/s level only.

The target for long term bit error ratio being 10^{-7} when evaluated over a minimum period of 24 hours, excluding 1 second periods with error ratios worse than 10^{-3} .

Table 1 – Error Parameters

	% Error free seconds	% 1 Min period with error ratio better than 10^{-6}	% 1 Sec periods with error ratio better than 10^{-3}
Envisaged performance based CCITT recommendation G831	98.8	98.5	99.935
BT Target	99.5	99.5	99.95

Reliability and Availability

The availability of a Partial Private Circuit when assessed over a period of at least one year will in most cases be better than 99.85%. To put 99.85% in more realistic terms, this represents a total of 13 hours out of service time per annum to the customer.

The availability of a Protected Path Partial Private Circuit Variant 1 and Variant 2 when assessed over a period of at least one year will in most cases be better than 99.995%. To put 99.995% in more realistic terms, this represents a total of 30 minutes out of service time per annum to the customer.

A circuit is deemed to be unavailable when there is a break in transmission or the error rate exceeds 10^{-3} for more than 10 consecutive seconds.

Periods of less than 10 consecutive seconds count against long term error performance and parameters shown in Table 1 columns (2) and (4). No direct indication of fault rate is quoted.

Intermittent Breaks of Duration Greater than 10 Seconds

% of day break free	80
% of days with one break	12
% of days with two or more breaks	8

This performance relates to an averaging period of one year. This means that on 44 days in a year a single break in service of greater than 10 seconds is likely to occur; and that on 29 days in the same year two or more breaks in service of greater than 10 seconds could be expected.

No upper limit is directly quoted for the duration of these breaks, though typically they are unlikely to exceed more than 1 minute. If they do, a fault condition can be assumed to apply.

Fault Conditions

These will be considered to exist (or have existed) when the circuit non-availability, as defined above, has exceeded a total of 1 minute in a day.

Quality of Maintenance Service

This is dependent on the care package – RegularCare or EnhancedCare

Note: these maintenance levels are for the Partial Private Circuit only, and unless the context provides otherwise, not for Operator or Third Party own wiring or equipment, whether or not it is provided by BT. Separate arrangements for maintaining other equipment and on-site wiring can be made under separate agreement with BT.