

SD-WAN Cloud Console

Version 1.2 – August 2021

Background

This document or "Terms of Use" tells you about our SD WAN Portal (which we sometimes call "SD WAN Analytics" or "Analytics") and sets out the rules which you must follow when accessing or using the Portal. We've done our best to cover everything which you might need to know about your use of the Portal within this document, so please read it carefully before you use or access the Portal or invite or allow permitted Users to access or use the Portal. If you have queries in connection with these Terms of Use, just call Our Customer services team on 0800 052 0800 or contact your relevant Account Manager.

Who we are

We are Virgin Media Business Limited a company registered in England (registered number 01785381) and Our registered office is at 500 Brook Drive, Green Park, Reading, RG2 6UU. In these Terms of Use we may refer to ourselves as "We", "Us" or "Our". We may refer to you as "You", "Your" or "the Customer".

Your acceptance of these Terms of Use

We allow You to access and use the Portal only in accordance with these Terms of Use, which we may update from time to time in accordance with clause 12. By accessing and using the Portal and permitting Users to access and use the Portal, You accept and agree to be legally bound by these Terms of Use and all other terms referenced within these Terms of Use, as amended from time to time.

If You do not accept and agree to be bound by these Terms of Use, You should not access or use the Portal or permit Users to access or use the Portal. In addition, You must navigate away from the login page and ensure that Users do not have access to, and cannot use, the Portal.

Use and Access

You are solely responsible for all User access to, and use of, the Portal and We will assume You have given Users the authority to access the Portal. You represent and warrant that You have advised Users of these Terms of Use, the Agreement and any other agreements or policies relevant to the User's access and use of the Portal and that Your Users have accepted all such terms and have read and will

comply with all policies applicable to their use of and access to the Portal. You further warrant that You have made all Users aware of any settings within the Portal which may have an impact on how their personal information is processed and that You have all necessary consents and notifications in place for ensuring that the transfer and use of User personal information under these Terms of Use is lawful and that without taking any further steps, We may use such personal information in accordance with clause 9 and our Privacy Policy <https://www.virginmediabusiness.co.uk/legal/privacy-policy/>

Our Right to Amend

We may amend these Terms of Use from time to time. Every time You wish to use or access the Portal, please check these Terms of Use to ensure You understand the terms which apply at the time of Your use and access.

When and How these Terms Apply

These Terms of Use apply to You and your permitted Users, unless otherwise expressly stated. You are responsible for ensuring that all Users who access and use the Portal are aware of these Terms of Use and all other applicable terms and conditions, and that they comply with them.

These Terms of Use do not cover terms which relate to Our provision of Services or products to You. Where You have purchased Services or products from Us, You should read these Terms of Use together with Our Standard Terms and Conditions or the individual agreement which We have in place with You for the provision of such Services and products and any other terms notified to You from time to time.

Depending on the Service You have purchased from Us, We may grant You access to different features of the Portal. Access to the Portal and its features shall be granted at Our sole discretion and may be withdrawn, restricted or suspended by Us at any time. We will try to give You reasonable notice of any suspension, restriction or withdrawal, however, this may not always be possible.

Please refer to Your individual Agreement with Us to confirm Your permitted authorisation level and the permitted authorisation level of each of Your Users in respect of the Portal. We may change and update Your authorisation level and the features available to You in respect of the Portal from time to time in order to reflect changes to Our Services, products, features, Your needs, Our business priorities or for any other purpose. We will try to give you reasonable notice of any major changes, however, You understand that it may not always be possible for Us to do so.

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1. Definitions and Interpretation

1.1 In these Terms of Use, defined terms shall have the meanings as follows:

"Acceptable Use Policy" or **"AUP"** means the instructions given by Us from time to time relating to use of the Portal (whether on paper, Our website or on such other website as may be referred to in this document);

"Agreement" means the written contract(s) under which the Services and products are provided to You including, without limitation, any order form, Our Standard Terms and Conditions, any Supplemental Terms, any individual agreement We have with You and any Special Terms;

Communications network means the communications network which We and Our Group companies run;

"Cookie Policy" means our Cookie Policy which can be found at <https://www.virginmediabusiness.co.uk/legal/cookies/>

"Customer Content" means any information, data or content uploaded to the Portal by You, Users or by Us for or on behalf of You or Users;

"Our Group" means Us and Our successors and assigns any entity (including a trust), owned or controlled by or affiliated with Us and/or Our successors or assigns;

"Intellectual Property Rights" means any patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered.

"Multifactor Authentication Token" means the physical or logical token provided by Us to allow Users to login to Portal using Multifactor Authentication;

"Offending Material" means material, data, images or information which is: (a) defamatory, inaccurate, indecent, abusive, obscene, menacing or otherwise offensive; or (b) in breach of confidence, copyright or other Intellectual Property Right, privacy or any other right of any third party; or (c) in contravention of any law, regulation, code of practice or acceptable use policy, including without limitation the Computer Misuse Act 1990; or (d) which is likely to cause harm to the Communications Network or any other third party's system, including material, data, images or information containing a virus;

"Password" means the secret alphanumeric character string used to authenticate Your User's entitlement to log in to the Portal;

"Privacy Policy" means our privacy policy which may be found at [http://www.virginmediabusiness.co.uk/Gene ra l/Legal/Privacy-policy/](http://www.virginmediabusiness.co.uk/Gene%20ral/Legal/Privacy-policy/);

"SD WAN Analytics Portal", "Analytics" or "the Portal" means the online 'window' into Your SD WAN Services which is provided by Us and which can be accessed by mobile, digital, tablet or other devices;

"SD WAN Services" means the SD WAN services which We provide to You under the Agreement;

"Service" means any service we provide to you under the Agreement;

"Special Terms" means any additional terms and conditions relating to the provision of the Service;

"Standard Terms and Conditions" means Our standard terms and conditions applicable to the Service;

"Supplemental Terms" means such terms and conditions (if any) applicable (in addition to these Terms of Use and Our Standard Terms and Conditions);

"Terms of Use" means this document that sets out the terms and conditions relating to the access and use of the Portal by You and Users;

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“User Name” means the user name(s) designated to You and any User which is used to login to the Portal;

“User” means, an individual that has been authorised by You to log into and use the Portal on your behalf.

“We”, “Us”, “Our” means, as applicable, Virgin Media Business Limited a company registered in England (registered number 01785381) and Our registered office is at 500 Brook Drive, Green Park, Reading, RG2 6UU

“You”, “Your” means the entity that has entered into the Agreement with Us under which access to the Portal is provided.

- 1.2 References in these Terms of Use to clauses, unless stated otherwise, refer to clauses in these Terms of Use.

2 Terms of Use

2.1 The Portal is provided to You as part of the Service which We provide to You under Our Agreement with You. These Terms of Use which apply to Your access and use of the Portal should be read together with Our Agreement with You. Where these Terms of Use are inconsistent with the Agreement terms and conditions, these Terms of Use shall prevail to the extent of the inconsistency.

2.2 These Terms of Use apply from the date on which You or a User accesses or uses the Portal and shall automatically cease on the date on which Our Agreement with You has terminated or expired (whichever is the earlier). You must cease, and procure that each User ceases, to use and access the Portal immediately upon termination or expiration of Our Agreement (whichever is the earlier).

3 Use of the Portal

3.1 Subject to Your full compliance with these Terms of Use and Our Agreement with You, We grant to You a non-transferable, non-exclusive license during the term of Our Agreement with You to access and use and to

allow Users to access and use the Portal in accordance with these Terms of Use.

3.2 Except where expressly stated within these Terms of Use, You have no right (and shall not permit any User or third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Portal in whole or in part without Our prior written consent.

3.3 You may not use or access any part of the Portal where You do not have authority to do so, nor shall You interfere with, damage or disrupt any part of the Portal or any software used in the provision of the Portal.

3.4 You may only configure Your SD WAN Services as authorised in the Agreement and You must not bypass, or attempt to bypass, any controls, restrictions or other limitations imposed by the Portal. You must not access, or attempt to access, any information or reports provided through the Portal in respect of any service, system or device not related to the Service or Our Agreement with You.

3.5 We have the right to remove any Customer Content which is uploaded to the Portal if, in Our opinion, such Customer Content does not comply with applicable law, the standards set out within these Terms of Use and for any other reason.

3.6 You are solely responsible for securing and backing up Customer Content. We will not be responsible for any loss of Customer Content.

3.7 You agree and warrant that You will not upload, post or otherwise transmit any Customer Content which:

(a) breaches or infringes the rights of others, including, without limitation, any statements which may defame, harass or threaten others;

(b) You know to be false, misleading or inaccurate;

(c) breaches applicable law;

(d) is protected by copyright, trade mark, trade secret, right of publicity or other proprietary right without the express permission of the owner of such copyright, trade mark, trade secret, right of publicity or

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other proprietary right. You shall be solely liable for any damage resulting from any infringement of copyrights, trademarks, trade secrets, rights of publicity, proprietary rights or any Intellectual Property Rights or any harm whatsoever resulting from or connected to Customer Content;

(e) contains any unsolicited or unauthorised advertising or promotional materials with respect to products or services;

(f) uses, processes, discloses or provides the personal data of others without a lawful basis for doing so; and

(g) uses any Offending Material.

3.8 You understand that You are solely responsible for Customer Content and that We do not endorse any Customer Content uploaded to the Portal. You shall not represent or suggest in any way that We endorse any Customer Content without Our prior written consent.

3.9 You shall not post or otherwise transmit, and shall not allow to be posted or otherwise transmitted, any Customer Content, software or other materials which contain a virus, trojan horses, malicious software, or other harmful or disruptive component.

3.10 You must ensure that any device used to access the Portal is secure and protected against viruses, trojan horses, malicious software and similar destructive, disruptive or nuisance.

3.11 You will be liable to Us and shall fully indemnify Us for any breach of this clause 3. This means You will be responsible for any loss or damage we suffer as a result of Your breach of this clause 3.

4 Our Rights In Your Content

4.1 Any Customer Content which is uploaded to the Portal will be considered non-confidential and non-proprietary. You retain all of Your ownership rights in Customer Content, but you agree to grant Us and our affiliates a non-exclusive, royalty free, irrevocable, sub-licensable licence to use, store and copy that Customer Content

and to distribute and make it available to third parties.

4.2 You agree that We may disclose Your identity to any third party who is claiming that any Customer Content posted or uploaded to the Portal constitutes a breach of their Intellectual Property Rights, or of their right to privacy.

4.3 You warrant that You are entitled to provide, upload and disclose all Customer Content and will release, defend, indemnify and hold Us harmless from against all loss, expense, damages and costs incurred by Us in respect of any claims in respect of any breach or alleged breach of any third party Intellectual Property Rights relating to Customer Content.

5 Information We Provide To You

5.1 Where You request that We provide information to You through the Portal, We shall use reasonable efforts to consider Your request as soon as practicable and, taking into account the complexity and nature of the request, We may agree to provide You with the information requested. Where We agree to provide You with requested information through the Portal whether as part of the Service or not, You may view such information as soon as We make it available in the Portal.

5.2 Although We will make reasonable efforts to provide You with requested information as soon as reasonably practicable, We do not guarantee that all information requested will be made available to you or that it will be made available to you immediately. Nor do We guarantee that, once provided, Your access to such information will be uninterrupted and permanently available. We may remove any information, content and reports from the Portal at any time and for any reason.

6 Service Configuration and Service Levels

6.1 The Portal is provided to You on an 'as is' basis. We will operate the Portal in accordance with

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good commercial practice however we do not guarantee that the Portal will be secure or free from bugs or viruses or that the Portal, or any content on it, will always be available or be uninterrupted.

- 6.2 You are responsible for configuring Your information technology, computer programmes and platform to access the Portal. You should ensure that any devices including computers, laptops, tablets and mobile devices used to access the Portal are appropriately secured and protected against security threats. We will not be liable for any breach of security affecting the Portal or SD WAN Services determined to have been caused by a failure to appropriately secure Your information technology. We reserve the right to disconnect any device which we consider to be a security threat and You agree to comply with our reasonable instructions to do so.
- 6.3 You must not misuse the Portal by knowingly introducing viruses, trojans, worms, logic bombs or other material that is malicious or technologically harmful. You must not attempt to gain unauthorised access to, or allow Users to attempt to gain unauthorised access to, the Portal, the server on which the Portal is stored or any server, computer or database connected to the Portal. You must not attack the Portal, or allow the Portal to be attacked, via a denial-of-service attack or a distributed denial-of service attack. By breaching this provision, You would commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing Your identity to them. In the event of such a breach, Your right to use the Portal will cease immediately.
- 6.4 You acknowledge and agree that We shall have no liability for any failure in Your use of the Portal due to configurations made by You in the Portal (where applicable to your permitted use of the Portal). In addition, we may, at our sole option, charge you for fixing any configuration.
- 6.5 You are responsible for any unauthorised service affecting configurations made by You or Users and shall be fully responsible for, and shall fully reimburse Us for, all costs which we incur as a result of any service affecting configurations requiring Our intervention. We may also, at our

sole option, charge you for fixing any configuration.

- 6.6 You acknowledge and agree that access to the Portal is not associated with and is independent from the Agreement and any other SD WAN Service Level Agreement (SLA) which You have with Us. Your SLA's in relation to the SD WAN Service can be found in Our Agreement with You.

7 Users

- 7.1 Where You have asked Us to provide user accounts allowing Users to access and use the Portal or where You have created user accounts for Users, We assume You have given Users authority to access and use the Portal and You will be responsible for their acts and omissions with respect of their use of the Portal.
- 7.2 You must ensure that Users comply with these Terms of Use. Although We reserve the right to review Users conduct for compliance purposes, we have no obligation to do so. We are not responsible for any Customer Content or the way You or Users choose to use the Portal.
- 7.3 You are solely responsible for Your access and use and Users access and use of the Portal.
- 7.4 By logging into and by using the Portal, all Users accept, and agree to be bound by these Terms of Use. If any User does not wish to be bound by these terms, the User must navigate away from the login page and must not log into and must not use the Portal. You must ensure that all Users have agreed to these Terms of Use. You warrant not to allow any person to access the Portal without confirming their acceptance of these Terms of Use.
- 7.5 You undertake not to use or permit (whether knowingly or unknowingly), anyone to use the Portal in breach of these Terms of Use or any applicable Acceptable Use Policy.
- 7.6 You will:
- (a) inform Users of all policies and practices that are relevant to Your access and use of the Portal and of any settings that may impact the processing of their personal data; and

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(b) ensure the transfer and processing of personal data under these Terms of Use is lawful.

8 Usernames, Passwords & Authentication Tokens

- 8.1 You agree to treat any User name(s) and Password(s) We have provided to You for logging in to the Portal as strictly confidential.
- 8.2 You are responsible for ensuring each User complies with all security procedures as notified to You by Us from time to time (whether by email, telephone or other means).
- 8.3 You must take all reasonable steps to keep any Password or multifactor authentication secret and You should only disclose it to the User for whose use it is issued by Us.
- 8.4 You must ensure Users take all reasonable steps to keep their Passwords secret and that Users do not disclose Password details to anyone else, including other Users or other members of Your staff or to members of Our staff.
- 8.5 If You or a User thinks a password is lost, compromised or known to someone else, You must ensure that You notify Us immediately so that we may suspend that User's use of the Portal, until a new Password has been set up.
- 8.6 You must notify Us of a change in Users (including when a User will no longer be part of Your organisation or when a User's role in Your organisation changes so that access to the Portal is no longer required in such new role) as soon as reasonably possible so that We may disable the Password.

9 Data Protection and Privacy

- 9.1 Please refer to Our Privacy Policy to understand Our responsibility to You with regards to Our use of Your personal information: <https://www.virginmediabusiness.co.uk/legal/privacy-policy/> In providing the Portal We may also use cookies in accordance with Our Cookie Policy. Cookies allow us to recognise and count the number of visitors to the Portal and help us

to see how Users use the Portal. The information collected via cookies helps us to understand better how the Portal Works and to make improvements to it. For example, cookies could assist us with making certain features of the Portal more accessible and easier to use. We will only use cookies in accordance with our Cookie Policy.

- 9.2 You confirm that You have read and understand our Privacy Policy and Cookie Policy.
- 9.3 During Your use of the Portal, You will be a controller of any personal information collected from Users and End-Users. You warrant that You are entitled to disclose the personal information of Users and End-Users to Us and that, without taking further steps, We may collect, access, reproduce, copy, translate, modify, edit, distribute, transmit, transfer, display, disseminate and use the personal data of Users and End-Users in accordance with our Privacy Policy.
- 9.4 Without prejudice to the generality of Our Privacy Policy, You acknowledge that subject to the terms and conditions applicable to any relevant order form or Agreement We may disclose any information and material provided by You, and Your identity to third parties where We are required to do so by applicable regulation and law.

10 Suspending Access to the Portal

- 10.1 We may cancel or suspend Your use of or access to the Portal or suspend the availability of the Portal at any time for any reason. We will usually give You reasonable notice of such cancellation or suspension. However, You acknowledge that such notices may not always be possible; for example, where there is a security concern or a technical issue.
- 10.2 Cancellation or suspension of Your access to the Portal may not affect the provision of the Services. Even where Your use and access to the Portal has been cancelled or suspended, We may be able to continue to provide the Services to You without the Portal. Where this happens, You will be responsible for paying all charges, fees and payments applicable to the provision of

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the Portal and the Services without any reduction or discount.

- 10.3 Cancellation or suspension of Your access to the Portal may not affect any instructions that Users have already given prior to such cancellation or suspension.
- 10.4 Where You cannot access the Portal due to Your own acts or omissions, You shall continue to be responsible for paying all charges, fees and payments applicable to the provision of the Portal and the Services without any reduction or discount.

11 Governing Law

- 11.1 These Terms of Use are governed by the laws of England and Wales. Any disputes shall be subject to the exclusive jurisdiction of the English courts.
- 11.2 Notwithstanding clause 11.1, should You access the Portal from outside of the United Kingdom, it shall be Your responsibility to ensure You comply with all applicable laws.

12 Changes

- 12.1 We have the right to change these Terms of Use at any time without notice. It is Your responsibility to check these Terms of Use each time You access the Portal. Your continued use, or Users continued use, of the Portal shall be deemed acceptance of any changes made. If You do not agree to the changes, You must cease to use the Portal immediately. If Users do not agree to the changes made to these Terms of Use, You must ensure that those Users cease to use the Portal immediately.
- 12.2 Changes to Your SD WAN Service will be reflected in Our Agreement with You.

13 Our Intellectual Property Rights

- 13.1 You acknowledge that all Intellectual Property Rights in the Portal belongs to and shall belong to Us or the relevant third-party owners

(as the case may be) and that You shall have no rights in or to the Portal other than the right to access and use it in accordance with these Terms of Use.

- 13.2 We undertake at Our own expense to defend You or, at Our option, to settle any claim or action brought against You alleging that Your access or use of the Portal (or any part thereof) in accordance with these Terms of Use infringes the UK Intellectual Property Rights of a third party ("**Claim**") and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against You as a result of or in connection with any such Claim. For the avoidance of doubt, this clause 13.2 shall not apply where the Claim in question is attributable to access and use of the Portal (or any part thereof) by You in any way other than in accordance with these Terms of Use, use of the Portal in combination with any hardware or software not supplied or approved by Us, or any unauthorised configuration of the Services. This clause 13.2 constitutes Your sole and exclusive remedy in respect of all Claims.
- 13.3 Material and information provided to You through Your access and use of the Portal may contain valuable information that belongs to Us or others. You must not use such material or information other than in connection with the Service and must not take copies (other than for Your use in connection with the Service), sell, assign, lease, sub-license or otherwise transfer such materials or information to any person.
- 13.4 We are the owner or the licensee of all Intellectual Property Rights in the Portal and in the material published on it, save for Customer Content. You grant us a licence to use all Customer Content in accordance with clause 4.
- 13.5 All images, logos and names which identify Us, members of Our Group or third parties and their products and services are Our proprietary marks or, the proprietary marks of the relevant member of Our Group and the relevant third parties. Nothing contained on the Portal shall be deemed to confer on any person any licence or right from Us, the relevant member of Our Group or any third party with respect to any such image, logo or name.

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14 Validity and Waiver

- 14.1 If any provision or part provision of these Terms of Use is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms of Use.
- 14.2 If any provision or part-provision of this agreement is deemed deleted under clause 14.1, We shall be entitled to amend such clause in a manner which to the greatest extent possible, achieves the intended commercial result of the original provision.
- 14.3 No waiver by Us of any failure by You to comply with these Terms of Use shall operate or be construed as a waiver by Us of any future failures, whether of a like or different character.

15 No Warranty

- 15.1 All warranties, conditions, undertakings or terms, express or implied in respect of Your use of the Portal and the information and material contained in Portal are excluded to the fullest extent permitted by law.
- 15.2 We do not guarantee uninterrupted and reliable access to the Portal and We make no guarantees as to the operation, availability, functionality or otherwise of the Portal.
- 15.3 We exclude all implied conditions, warranties, representations or other terms that may apply to the Portal or any content on it.
- 15.4 We do not warrant the availability of the Portal and third party services and shall have no liability whatsoever in relation to such availability or otherwise. The accessing and provision of information and third party services via the Portal shall be subject to such third parties' terms and conditions, if any. You shall be liable for compliance with those terms and conditions and We shall have no liability whatsoever in relation to any third party service.
- 15.5 We make no representations or warranties of any kind, whether express or implied, to you relating to the portal, which is provided to you on an "as is" and "as available" basis".

- 15.6 We exclude all liability in relation to and do not warrant the accuracy, content, quality, completeness, fitness for purpose or legality of any information or services accessed using the Portal. We exclude all liability of any kind for the transmission or the reception of or the failure to transmit or to receive any material of whatever nature.

16 Limitations of Liability

- 16.1 We exclude all liability for loss or damage to You or Your business due to unauthorised access, breach of security or attack, to the Portal or otherwise to Your business systems, data, information or other materials. It is Your sole responsibility to protect yourself in such manner as You think fit from such unauthorised access, security breach or attack.
- 16.2 We will not be liable to You for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with:
- (a) use of, or inability to use, the Portal; or
 - (b) use of or reliance on any content displayed on the Portal.
- 16.3 In particular, we will not be liable for:
- (a) loss of profits, sales, business, or revenue;
 - (b) business interruption;
 - (c) loss of anticipated savings;
 - (d) loss of business opportunity, goodwill or reputation; or
 - (e) any indirect or consequential loss or damage;

In each case, howsoever caused, whether in contract, tort or otherwise, and whether or not we had been advised of the possibility of such damages or loss. The foregoing disclaimers and limitations of liability will not apply to the extent prohibited by applicable law.