



## SPECIFIC CONDITIONS FOR ORANGE PROFESSIONAL SERVICES

1. **DEFINITIONS.** The following capitalized words and phrases will have the meanings given below in this Clause 1 (*Definitions*). All capitalized terms used but not defined in these Specific Conditions will have the meanings set out in the General Conditions.

“**Business Hours**” means the normal Orange working hours for each Business Day.

“**Change Control Process**” means the process described in Clause 4 (*Change Control Process*) below for implementing changes to the Professional Services to be provided pursuant to a Statement of Work or Order.

“**Change Request**” means a request by either Party made in accordance with the Change Control Process for a change to the Project, Program, or Professional Services.

“**Change Request Form**” means Orange’s then-current standard change request form that documents changes requested by either Party to the Project, Program, or Professional Services, the impact of those changes, and the final approval by both Parties of the mutually agreed changes in accordance with Clause 4 (*Change Control Process*). The Change Request Form is attached to the SOW, or if not attached, then provided to Customer upon request.

“**CPE**” means the equipment (including hardware, cables, connectors, and related software) that is supplied by Orange as part of the Services and managed by Orange for use with such Services at the Locations. For the avoidance of doubt, CPE is never owned by Customer.

“**Delivery Schedule**” means the specific deadlines mutually agreed by the Parties for Orange to provide the Deliverables, as specified in a SOW.

“**Program**” means a portfolio of Customer projects and activities (which may include Project(s)) that are managed or coordinated by Orange, as identified in a SOW, for which Orange is providing the Professional Services and Deliverables.

“**Required Consent**” means any consent or approval required to give Orange the right or license to access, use, or modify (including creating derivative works of) the hardware, software, firmware, and other products that Customer uses in order for Orange to provide the Deliverables without infringing the ownership or licensing rights (including Intellectual Property Rights) of the providers or owners of such hardware, software, firmware, or other products.
2. **PROVISION OF SERVICES.** Orange will have no obligation to provide the Professional Services to Customer except as specified in an SOW or Order executed by both Parties. For any Professional Services ordered by Customer, the Parties will mutually agree on and execute an SOW setting forth the scope and description of the Project or Program and the Charges applicable thereto. Orange may terminate the Professional Services at any time upon written notice to Customer if Customer does not perform its responsibilities, as set forth in the SOW, or if the assumptions upon which the Professional Services are based are in Orange’s opinion inaccurate or misleading.
3. **CUSTOMER RESPONSIBILITIES**
  - (a) Customer will designate a point of contact who will be Customer’s primary interface with Orange for the Project or Program and who will have the authority to make decisions and provide approvals to Orange as necessary for Orange to provide the Deliverables in accordance with the Delivery Schedule.
  - (b) Customer agrees and covenants that it will obtain and provide all Required Consents necessary for Orange to provide the Professional Services and Deliverables. Orange will be relieved of the performance of any obligations that may be affected by Customer’s failure to promptly obtain and provide any such Required Consent.
  - (c) Customer agrees and covenants that it will provide complete and accurate information in response to any request for Customer information from Orange or that is otherwise relevant to the performance of the Professional Services and that it will not withhold or conceal from, or misrepresent to, Orange any information that is material to the performance of the Services and provision of the Deliverables.
  - (d) Customer agrees and covenants that the information, documentation, or software it provides to Orange will not infringe any third party Intellectual Property Right and that Customer will comply with any Intellectual Property Right or license concerning the use, distribution, duplication, or transfer of any Deliverables.
  - (e) Notwithstanding anything to the contrary contained in the General Conditions, Clause 6.4 (*Limitations of Liability*) and Clause 6.5 (*Waiver of Consequential and Indirect Damages*) of the General Conditions will not apply to any claim arising out of or relating to subsections (b), (c), or (d) above.
4. **CHANGE CONTROL PROCESS**
  - (a) Except as otherwise agreed upon by the Parties in the relevant SOW, either Party may initiate a Change Request by completing the Change Request Form with sufficient detail to enable the other Party to evaluate it.
    - (i) If Customer initiates the Change Request, then Orange will include in the Change Request Form received from Customer Orange’s analysis of the Change Request, including the impact to the terms of the SOW, (e.g., the assumptions, Charges, Expenses, Deliverables, etc.), and return the form to Customer. If Orange initiates the request, then Orange will complete the Change Request Form, including its analysis of the Change Request, before submitting it to Customer for review.
    - (ii) Customer will evaluate Orange’s analysis and will sign and return the Change Request Form to Orange if it wants to proceed with the Change Request. If Customer fails to provide Orange with the signed Change Request Form within the timeframe specified on the Change Request Form (or within 10 Business Days following receipt of the

Change Request Form from Orange if no timeframe is specified), or if Customer notifies Orange in writing not to proceed, then the Change Request shall be deemed withdrawn, and Orange shall take no further action in respect of it.

- (iii) Upon execution of the Change Request Form by both Parties, the provisions of the applicable SOW affected by the Change Request shall be deemed automatically amended to incorporate the terms of the Change Request Form. If the Parties agree that a separate amendment is required to implement the terms of the Change Request, then Orange will prepare the amendment and the related Change Request will not become effective until both Parties have duly executed the amendment.

- (b) Any Change Request that is required due to Customer's failure to comply with the Customer Responsibilities shall be deemed a Change Request made by Customer and the provisions of the foregoing Clauses 4(a)(i) - (iii) shall apply, except that Orange may, upon notice to Customer and at Orange's sole discretion, suspend the Professional Services until such time as Customer has complied with the Customer Responsibilities.

## **5. INVOICES, PAYMENT AND TAXES**

- (a) Orange will invoice Customer as specified in the SOW.
- (b) Unless expressly stated otherwise in an SOW, all Charges for Professional Services exclude Expenses, and Orange will invoice Customer for the Expenses in addition to the Charges. If, during the course of the Project, Orange requires a third party specialist who has not been previously identified or documented, then Orange will obtain Customer's written agreement for the retention and charges of such third party prior to Orange's engagement thereof.
- (b) Notwithstanding anything to the contrary contained in the General Conditions, upon any early termination of an SOW, Customer will pay Orange for all work performed and for all costs, including Expenses and third party charges, incurred through the effective date of termination, except as otherwise agreed upon by the Parties in writing.

## **6. DELIVERABLES**

- (a) All Deliverables and other advice provided by Orange will constitute Confidential Information. Unless otherwise agreed to in writing, Orange grants to Customer a perpetual, royalty free, non-transferable license to the Deliverables. However, Orange will retain copies of each of the Deliverables for quality assurance purposes. Orange will be free to use all concepts, techniques, research and know-how employed or developed by Orange in the provision of the Deliverables. In any event, Orange will continue to be free to perform similar services for its other clients using general knowledge, skills and experience, and all pre-existing methodologies and techniques developed by Orange prior to and during the Service Term. Customer acknowledges that Orange may use products, materials or methodologies proprietary to Orange or a third party or Orange in its creation and delivery of the Deliverables and, during the course of doing so, may produce proprietary materials or methodologies that are not part of the Deliverables. Customer agrees that it will not have or obtain any rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement on terms to be agreed, and Customer agrees to maintain the confidentiality of such items
- (b) Each Party acknowledges that the Deliverables may require the provision by Orange or Customer of certain software, specifications, documentation, or other materials that are proprietary to it or to a third party. Each Party shall grant to the other Party, for the duration of the applicable Service Term, non-exclusive and non-transferable licenses to use such proprietary materials strictly for such purpose.

- 7. WARRANTY AND WARRANTY DISCLAIMER.** Orange will exercise due care in the performance of the Professional Services, in accordance with applicable professional standards. Orange will re-perform or correct any Deliverable that is not in compliance with this undertaking, in accordance with this Agreement and without further liability for such non-compliance, if Customer notifies Orange of the non-compliance within 30 days after the Deliverable is performed or provided. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE GENERAL CONDITIONS, ORANGE DOES NOT WARRANT, NOR WILL ORANGE BE RESPONSIBLE FOR, THE PERFORMANCE OF ANY THIRD PARTY BRANDED PRODUCTS OR SERVICES USED IN THE CREATION OF OR PROVIDED AS PART OF THE DELIVERABLE. In the event Orange is asked to re-perform any work and it is determined that Orange has already met its obligations under this Clause 7, Customer will pay Orange on a time and materials basis at the applicable Hourly Labor Rate for time spent on such additional work.

- 8. PERSONNEL.** Orange reserves the right to re-assign its employees providing the Services under an SOW. In the event Orange does re-assign personnel, Orange shall use commercially reasonable efforts to effect an orderly transition, including cooperation between the replaced and the newly-assigned personnel or, where appropriate, an overlap in the assignment of such personnel to Customer.

## **9. CPE.**

- 9.1 The CPE will remain the sole and exclusive property of Orange or its suppliers, and no User will obtain any property rights or interest in the CPE.
- 9.2 The Parties will agree to the dates for the installation and connection of CPE, and Customer will provide all necessary assistance to enable Orange to complete the installation, connection, and disconnection of CPE.
- 9.3 Customer will not sell, assign, sub-let, pledge or part with possession or control of CPE or any interest therein, and Customer will keep CPE free from distress, liens or claims of lien.
- 9.4 Customer will not change, remove, or obscure any labels, plates, insignia, lettering, or other markings that Orange or the manufacturer has placed on CPE. Customer will not modify or move the CPE or allow anyone other than Orange to modify or move the CPE without Orange's express written permission.
- 9.5 Customer will maintain proper environmental conditions (e.g., air conditioning, ventilation, electrical power supply, etc.), as specified by Orange or CPE manufacturers.

- 9.6 Customer will provide a secure and safe environment for the CPE with adequate access to data communications circuits and a back-up power supply, including protecting the CPE from tampering and any usage outside of the provision of the applicable Service.
- 9.7 Prior to commencement of installation of any CPE, Customer will advise Orange of potential health hazards to Orange personnel providing Services at the relevant Location, including any hidden power, gas or water lines, and the existence of any material constituting a health risk (e.g. asbestos).
- 9.8 Upon termination or expiration of the relevant Order, Customer will surrender possession of CPE to Orange in good order, repair, and condition, reasonable wear and tear excepted.
- 9.9 Orange will maintain the CPE in good working order for the duration of the Service Term. If a lapse in the Service is caused by a failure in the CPE, then Orange will repair the fault following notification of the failure by Customer or detection of the failure by Orange, whichever occurs first. Orange may be required to dispatch a field engineer to the Location to repair the CPE, and Customer will promptly provide access to the Location where the CPE is installed.
- 9.10 Orange may charge Customer the Hourly Labor Rate for time attributable to, and for Expenses and the costs of materials it incurs as a result of, visits to a Location or repairs to CPE that are required due to: (a) damage to the CPE not caused by Orange; (b) repairs carried out by non-Orange personnel that have not been approved by Orange; (c) modifications to the CPE that have not been approved by Orange or have been carried out by personnel not approved by Orange; (d) improper treatment of the CPE by Customer; (e) failure by Customer to meet Orange's or the CPE manufacturer's specifications on environmental conditions; or (f) User's negligence or intentional misconduct.
- 9.11 Customer will be liable for any loss or damage to the CPE beyond reasonable wear and tear and for all costs (including cost of labor and material), incurred by Orange to repair or replace the lost or damaged CPE, unless such CPE loss or damage was caused by, or the repair or replacement was necessary due to, the fault of Orange, its Subcontractors, or agents. If the CPE is damaged or destroyed by any User, Customer will notify Orange within 2 days of such damage.

#### **END OF SPECIFIC CONDITIONS FOR ORANGE PROFESSIONAL SERVICES**