

## PUBLICATION 1 SPECIFIC CONDITIONS FOR ORANGE NETWORK SERVICES

### 1.1 Definitions

All capitalized terms used but not defined in these Specific Conditions will have the meanings set out in the General Conditions.

**"Acceptance Test"** means, for each Network Service, the acceptance test or tests described in the relevant Service Descriptions or, if not described, the Orange then standard acceptance tests for the Network Service.

**"Allowance"** means the unobstructed distance between the Demarcation and the first piece of equipment or its connective cabling at the Location.

**"Date of Acceptance"** means the date all Acceptance Tests are successfully completed.

**"CPE"** means hardware (including cables, connectors, and software) at Locations, as may be supplied by Orange as part of the Network Services.

**"Demarcation"** means the last point of responsibility of the TO with respect to a Location.

**"Location"** means each Customer or User site to be provided with Network Services, identified in each Order.

**"Losses"** means all claims, liabilities, demands, proceedings, losses, costs (including reasonable legal and other professional costs), and reasonable expenses of whatever nature.

**"Network"** means the Orange network used by Orange for the provision of the Network Services, excluding Tail Circuits, public networks, and CPE.

**"Network Services"** means all Services designated by Orange as Network Services.

**"Tail Circuit"** means a telecommunications circuit or other capacity and attached modems leased from a TO connecting Locations to the Network.

**"Target Date"** means the expected date for delivery and acceptance of Network Services, as set out in each Order.

**"TO"** means operators authorized to own, lease, and operate telecommunications circuits.

### 1.2 Provision of Services – Orange Obligations

1.2.1 Orange will provide all Network Services ordered by Customer or Users specified in each Order.

1.2.2 Orange will use reasonable endeavors to have each Date of Acceptance occur no later than the Target Date. Orange will notify Customer of the successful completion of the Acceptance Tests ("**Service Commencement Notice**"). Customer will be deemed to have accepted a Network Service on the date on which Orange issues a Service Commencement Notice for that Network Service, unless Customer notifies Orange in writing of a material fault in the Network Service within 5 Business Days of receipt by Customer of the Service Commencement Notice. In such event, the above acceptance process will be repeated.

1.2.3 Orange will provide the Network Services in accordance with the applicable Service Descriptions and will use reasonable endeavors to meet any applicable Service Level. In the event that a Service Level is not met, then the provisions of the applicable SLA will apply.

1.2.4 Orange will maintain safeguards at least equivalent to those generally prevailing in the telecommunications industry against the destruction, loss, or alteration of Customer data while such data is held in or being transmitted through the Network.

1.2.5 Orange will provide Network Services Support, which consists of:

- (a) Access to help desks at certain locations notified by Orange, from which Customer may obtain technical advice regarding the Network Services;
- (b) Global Customer Service Centers ("GCSCs"), which provide the first level of customer support 24 hours a day, 7 days a week; and
- (c) Fault Management procedures. Upon Customer's detection of a fault, Customer will open a trouble ticket with the GCSC, and the GCSC will commence standard procedures to properly address the problem and restore the Network Service. Orange also will escalate trouble tickets in accordance with its standard procedures.

Upon Customer's request, Orange will provide Customer a more detailed description of the Network Service Support.

### 1.3 Use of the Service - Customer's Obligations

1.3.1 Customer will:

- (a) provide to Orange all router configurations that may be needed for IP Service implementation no later than 14 days after the date on which Orange accepts the applicable Order. If Customer fails to so provide such router configurations, then Orange will install the router(s) with a basic or "Vanilla" configuration, for which Customer will pay an additional fee. The Vanilla configuration will allow Orange to perform Acceptance Tests locally on the connection, but the Network Service will not be operational and no acceptance testing may be performed by Customer, as provided in Clause (b) below, until Customer provides the router configurations to Orange. Upon receipt of the router configurations from Customer, Orange will perform the Acceptance Tests using such configurations. Notwithstanding anything to the contrary contained in this Agreement except for Clause (b) below and Clause 1.6 below, Customer will pay Orange for the Network Service as of the date on which Orange successfully completes all Acceptance Tests using the Vanilla configuration.

- (b) use all reasonable endeavors to accept the Network Service at the Locations on the Target Date. Orange reserves the right to commence the Charges for any Network Services that are delayed due to Customer's breach of this obligation or if Customer is not in compliance with the physical requirements necessary for Service provisioning (e.g. maximum Allowance, power, ventilation) as of the Target Date, from the Target Date, subject to Clause 1.6 regarding Tail Circuit and Software Licenses Charges.

1.3.2 Customer will not use the Network Services to transmit, distribute, disseminate, publish, or store any material that:

- (a) is in violation of any applicable local, national, or international law or regulation;
- (b) is defamatory, abusive, obscene, indecent, or harassing; or that threatens or encourages bodily harm, destruction of property, or infringement of the lawful rights of any party; or
- (c) contains software viruses, Trojan horses, or any computer code, files, or programs designed to disrupt, destroy, invade, gain unauthorized access to, corrupt, observe, or modify without authorization, data, software, computing or network devices, or telecommunications equipment.

1.3.3 Customer will not use the Network Services to access any computer, network, or data without authorization or in a manner which exceeds authorization including, any attempt to:

- (a) retrieve, alter, or destroy data;
- (b) probe, scan, or test the vulnerability of a system or network; or
- (c) breach or defeat system or network security, authentication, authorization, confidentiality, intrusion detection, monitoring, or other security measures.

1.3.4 Customer will indemnify and hold harmless Orange and its Affiliates from and against any and all Losses caused by or arising from any breach by Customer or Users of Clause 1.3.2 and Clause 1.3.3 of these Specific Conditions.

1.3.5 If a Network Service includes Internet access, Customer will use such Service, and will use reasonable endeavors to cause all Users to use such Service, in accordance with the Orange Code of Conduct Policy for Orange IP Products and Services as the same may be modified by Orange from time to time, a copy of which can be obtained from Orange. Orange exercises no control over, and accepts no responsibility for the content of, the information passing through Orange host computers, network hubs, and points of presence.

1.3.6 Customer will not directly connect or allow the direct connection of any CPE provided as part of any Network Service to any other network without having received prior written approval from Orange. Any breach of this provision will be a material breach of the Agreement.

1.3.7 With respect to Tail Circuits, Customer is responsible to ensure that the Allowance is of 50 feet/15 meters or less, unless Orange approves a greater distance in writing.

## 1.4 CPE

1.4.1 Orange will ensure that it has the right to provide or procure the provision of CPE to Customer and Users and that Customer and Users will have the right to use CPE solely in connection with the Network Services for the Service Term of the relevant Order.

1.4.2 CPE will remain the sole and exclusive property of Orange or its suppliers, and neither Customer nor any User will obtain any property rights or interest in CPE.

1.4.3 Customer will provide all necessary assistance to enable Orange to complete the installation and connection of CPE.

1.4.4 Customer will not sell, assign, sub-let, pledge, or part with possession or control of CPE or any interest therein, nor move the CPE from the Location, and will keep CPE free from distress, liens, or claims of lien.

1.4.5 Customer will not change, remove, or obscure any labels, plates, insignia, lettering, or other markings that Orange or the manufacturer has placed on CPE.

1.4.6 Customer will ensure that proper environmental conditions, as recommended by Orange or CPE manufacturers, are maintained and that the exterior surfaces are kept clean and in good condition.

1.4.7 Customer will not to make any modifications to CPE.

1.4.8 Upon termination of the Agreement, Customer will promptly surrender possession of CPE in good order, repair, and condition, reasonable wear and tear excepted, to Orange.

1.4.9 Customer will allow Orange reasonable access to the Locations where CPE is to be installed for work related to the installation, inspection, maintenance, and de-installation of CPE.

1.4.10 Customer will be liable for any loss or damage to the CPE beyond wear and tear, excluding any loss or damage to CPE that was the fault of Orange, its subcontractors or agents. In the event that the CPE is damaged or destroyed by Customer or any User, Customer will inform Orange within 2 days of such damage. If the CPE is not capable of repair, Customer agrees to pay Orange for the replacement value of such CPE as new at then current prices. If the CPE is capable of repair, Orange will repair the CPE and Customer agrees to pay for the cost of such repair within 30 days from the date of invoice.

## 1.5 Disconnection of Services

If a Network Service is disconnected during the Service Term or any Extended Term as authorized by this Agreement, (a) by Orange, other than pursuant to the following Clauses of the General Conditions: 12.11(a) (Reservation of Rights) or (b) by Customer, other than pursuant to the following Clauses of the General Conditions: 7.3 (Termination of Agreement), 7.5(a) (SLA), then (i) Customer will provide at least 90 days prior notice

using the Orange prescribed disconnection form; (ii) Customer will be liable to pay the disconnection fees of \$250 for any Location without CPE and \$1,500 for any Location with CPE; (iii) Customer will remain liable to reimburse Orange for all contingent Tail Circuit charges including any cancellation penalties (Orange agrees to mitigate any such charges by terminating any Tail Circuit leases with the TO as soon as practicable following notification of the disconnection by Customer); and (iv) if Orange has provided CPE, Customer will be liable to pay Orange a lump sum equal to the undepreciated value of CPE as of the date of disconnection, based on the original price paid by Orange for CPE plus 15% of such original price as a fee for administration and disconnection, except that no such sum will be payable by Customer if Orange is able (as reasonably determined by Orange) to re-deploy CPE. This Clause 1.5 is without prejudice to the Orange rights and remedies if a Network Service is disconnected (i) by Customer, other than as authorized by this Agreement or (ii) by Orange, pursuant to Clause 7.3 (Termination of Agreement) or Clause 7.4 (Payment Default) of the General Conditions.

## **1.6 Invoicing**

1.6.1 All Charges will commence from the Date of Acceptance of the Service at a Location, subject to Clause 1.3.1 of these Specific Conditions, except that: (a) Tail Circuit Charges will commence from the date of installation of the Tail Circuit at a Location by the TO; (b) any Software License Charges will commence from the date of delivery of the Software to Customer.

1.6.2 Unless otherwise provided in this Agreement, Orange will invoice Customer, and Customer will be solely responsible for, any charges (including installation charges), fees, taxes and terms and conditions of service imposed by domestic and international TOs or third party access providers relating to the provision of Network Services, including rate fluctuations in tariffs, communications charges and access charges that are composed or enacted by access suppliers after the Effective Date. Customer will be responsible for any gains or losses associated with fluctuations in the exchange rate or timing of payment where access charges are billed to Orange by the TOs or access providers in a currency other than the currency in which such charges are paid to Orange by Customer under this Agreement.

## **1.7 Change Implementation**

In the event that Customer requests network or operational changes, Orange will charge a change order fee for the processing, scheduling and management of the change as well as updating of Customer network documentation where applicable. This fee, based upon the type of change required by Customer, will be a minimum of \$500.00, and is in addition to any labor, materials or TO or expedite charge. A schedule of change implementation fees is available upon request.

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