

PUBLICATION 1 SPECIFIC CONDITIONS FOR ORANGE MESSAGING 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 or Operational Conditions, as applicable.

"Business Hours" means the normal Orange working hours applicable to the relevant Location.

"Component" means each component or series of components of a Solution which will be installed or made available to Customer separately according to the installation schedule agreed to by the Parties in writing.

"CPE" means the equipment (including hardware, peripherals, and related software) supplied by Orange as part of the Messaging Services and managed by Orange for use with such Messaging Services at the Locations. CPE is never owned by Customer.

"CPNI" means Customer proprietary network information, which includes (a) information that relates to the quantity, technical configuration, type, destination, location, and amount of use of a telecommunications service subscribed to by Customer and that is made available to Orange by Customer solely by virtue of the customer-carrier relationship, and (b) information contained in the invoices pertaining to telephone exchange service or telephone toll service received by Customer. CPNI does not include customer names, addresses, and telephone numbers.

"Date of Acceptance" means the date on which Orange successfully completes its acceptance testing for a Component. If no Orange acceptance testing applies to a Component, then the Date of Acceptance will be the date on which Orange notifies Customer the Component is ready for use or the date when Customer confirms its acceptance of the Component, whichever occurs first.

"Final Acceptance" means, for each Solution, the Date of Acceptance of the last Component to be installed or made available to Customer.

"Location" or **"Site"** means the site or location at which the Solution will be installed.

"Solution" means the Messaging Services solution that Orange provides to Customer pursuant to one or several Orders, as set out in the relevant Service Description.

"Target Date" means for each Component, the expected date for delivery of such Component to Customer, as set forth in the relevant Order or in the installation schedule agreed to by the Parties in writing.

1.2 Use of Information and Internet

Orange will have no responsibility: (a) for the operation or management of the Internet, any public network (e.g. Public Wi-Fi), or (b) for the activities of Users or third parties connected to the Internet or any public network (e.g. Public Wi-Fi). Customer is solely responsible for its Users' use of the information supplied by Orange (including statistics, reports, logs, etc.) as well as use of Customer's LAN by Customer's employees, Users, and third parties. Customer is solely responsible for any damage caused by the Users' use of the Internet or any public network (e.g. Public Wi-Fi).

1.3 Orange's Obligations

The provision of Messaging Services is dependent upon factors outside of Orange's control (e.g. the optimization of Customer-developed applications, the uncertain nature of the Internet, end users' hardware and software, etc.). Unless otherwise agreed upon by the Parties in writing, Orange is not responsible for the Messaging Services elements beyond the hosting of the equipment and applications under Orange's direct control. Orange does not guarantee the performance of any applications or software, whether server or client. Orange cannot ensure uninterrupted service on any network or access element providing Internet connectivity, and therefore Orange is not responsible for any resulting downtime, unless otherwise agreed by the Parties in writing. Customer agrees that Orange will not be responsible for any virus that may affect the Messaging Services, the delivery of any User message, or any data stored within any public or private folder or other database. Orange also will not be responsible for delays in deliveries from the manufacturers of hardware or Software, for the installation of circuits, or the writing of new software.

1.4 Customer Obligations

- (a) Customer will troubleshoot Internet access service and the access router if Orange is not the provider of managed Internet access or access router management.
- (b) When Customer is responsible for software licensing, Customer will ensure, at its sole cost, that the software is correctly licensed, in accordance with the service access licensing requirements of the software licensor(s), and that the operation of the software has been assigned to Orange.

1.5 CPNI

For Messaging Services provided in the United States, Orange will not disclose Customer's CPNI to third parties, and third parties will not be permitted to access or use Customer's CPNI, except as permitted by law. CPNI will be disclosed by Orange by telephone or in person (a) only by Orange's dedicated account representative for Customer, and (b) only to the person(s) authorized by Customer to be the contact with Orange and to receive the CPNI from Orange ("**Customer CPNI Contact**"). Customer may establish an online account to enable access to CPNI. Access to Customer's online account will be protected by a password that is not based on Customer account information. Customer will be required to reset the password if the password is lost or forgotten.

1.6 Solution

All title to and ownership of the Solution and all Components thereof, excluding any hardware or software provided by Customer, will remain the property of Orange or its licensors. Orange, however, grants to Customer for the Service Term of the applicable Messaging Services a non-exclusive, royalty free, and non-transferable license to use the Solution solely for the purpose of, and to the extent necessary for, the use of the Messaging Services. Customer will ensure that Users will not: (a) directly or indirectly attempt or allow a third party to attempt to reverse engineer, de-compile, disassemble, or otherwise derive source code or other trade secrets included in the Solution; or (b) add users to the Messaging Services in any manner designed to circumvent the obligation to pay incremental fees to either Orange or any software licensor.

Subparts (a) and (b) in the preceding sentence are collectively and individually referred to as the "**Unauthorized Use**" of the Messaging Services. Customer will defend, indemnify, and hold harmless Orange and its Affiliates from and against all Losses arising out of or relating to any and all claims brought by any person or entity against relating to Unauthorized Use by a User and will pay to Orange the applicable fees for any users added as described in subpart (b) above. Notwithstanding anything to the contrary otherwise contained in the Agreement, Clause 6.4 (Exclusion of Consequential and Indirect Damages) and Clause 6.3 (Limitations of Liability) of the General Conditions will not apply to Customer's obligations set forth in this Clause 1.6.

1.7 Service Term and Acceptance

1.7.1 Notwithstanding anything to the contrary otherwise contained in the Agreement (including an Order), each Order for a Messaging Service will have a minimum 36-month Order Term from Final Acceptance.

1.7.2 Orange will use reasonable efforts to have each Date of Acceptance occur no later than the Target Date. Orange will notify Customer of the successful completion of Orange's acceptance tests ("**Service Commencement Notice**" or "**Ready for Service Notice**"). Customer will be deemed to have accepted each Component on the date on which Orange issues a Service Commencement Notice for that Component, unless Customer notifies Orange in writing of a material fault in the Component within 10 days of Customer's receipt of the Service Commencement Notice. In such event, the acceptance process described in this Clause 1.7.2 will be repeated.

1.8 Charges and Invoicing

Notwithstanding anything to the contrary otherwise contained in the Agreement (including an Order), if third party supplier costs to Orange for the Messaging Services increase, then Orange may adjust the Charges for the Messaging Services accordingly, and Customer agrees to pay such adjusted Charges. Orange will invoice Charges for each Component from the Date of Acceptance of such Component, except that the Solution Charges will commence from the date of delivery of the Solution to Customer.

1.9 CPE

For the avoidance of doubt, this Clause 1.9 applies to the Solution.

1.9.1 CPE will remain the sole and exclusive property of Orange or its suppliers, and no User will obtain any property rights or interest in CPE. 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.

1.9.2 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.

1.9.3 Customer will not interconnect or allow the connection of CPE to any other equipment, network, or service without Orange's prior written approval. Any breach of this Clause 1.9.3 is a material breach of the Agreement.

1.9.4 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 CPE or allow anyone other than Orange to modify or move CPE without Orange's express written permission.

1.9.5 Customer will maintain proper environmental conditions (e.g. air conditioning, ventilation, electrical power supply, etc.), as specified by Orange or CPE manufacturers.

1.9.6 Customer will provide a secure and safe environment for CPE with adequate access to data communications circuits and a back-up power supply, including protecting CPE from tampering and any usage outside of the provision of the applicable Service.

1.9.7 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).

1.9.8 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.

1.9.9 Orange will maintain CPE in good working order for the Service Term. If a lapse in the Service is caused by a failure in 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 CPE, and Customer will promptly provide access to the Location where CPE is installed.

1.9.10 Orange may charge Customer for visits to a Location or repairs to CPE that are required due to: (a) damage to CPE not caused by Orange; (b) repairs carried out by non-Orange personnel that have not been approved by Orange; (c) modifications to CPE that have not been approved by Orange or have been carried out by personnel not approved by Orange; (d) improper treatment of CPE by Customer; (e) failure by Customer to meet Orange's or CPE manufacturer's specifications on environmental conditions; or (f) User's negligence or intentional misconduct.

1.9.11 Customer will be liable for: (a) any loss or damage to CPE beyond reasonable wear and tear and (b) all costs (including cost of labor and material), incurred by Orange to repair or replace lost or damaged CPE; provided that Customer will not be liable for CPE loss or damage caused by, or the repair or replacement of CPE that is necessary due to, the fault of Orange, Orange's subcontractors, or agents. If CPE is damaged or destroyed by any User, Customer will notify Orange within 2 days of such damage.

1.10 Termination of Services

1.10.1 **Cancellation of Orders.** Prior to the commencement of the Service Term, Customer may cancel an Order upon written notice to Orange and reimbursement of all amounts incurred by Orange in connection with the preparation of the Service or cancellation (including any amounts payable to any third party suppliers for which Orange is liable).

1.10.2 **Termination of Orders and Termination Liability.** If Customer terminates an Order or Service for any reason during the applicable Service Term, then no less than 90 days prior to the date of termination ("**Minimum Notice Period**"), Customer will submit to Orange a completed and accurate Orange disconnect form (or such other form mutually agreed upon by the Parties) to acknowledge and confirm the termination of the Service (unless Customer terminates pursuant to a remedy set forth in an SLA, then the period of prior notice will be as specified in the SLA). If Customer requests termination of the Order or Service earlier than the last day of the Minimum Notice Period, Orange may terminate the relevant Service on the Customer-requested date and invoice Customer for the remainder of the Minimum Notice Period.

Except as otherwise expressly provided in the General Conditions or in the Publication, if during the applicable Service Term (1) Customer terminates the Agreement other than pursuant to Clause 7.3.1 of the General Conditions or terminates an Order other than pursuant to Clause 7.3.2 of the General Conditions, or (2) Orange terminates the Agreement pursuant to Clause 7.3.1 of the General Conditions or terminates an Order pursuant to Clause 7.3.2 or Clause 7.3.3 of the General Conditions, then Customer will pay: (a) all accrued but unpaid charges incurred up to and including the date of termination; plus (b) the following termination charges: (i) Customer will reimburse Orange for all third party charges that would have been applicable for the remaining unexpired portion of the Service Term as of the date of termination and any cancellation fees payable to third parties associated with the termination; (ii) Customer will pay Orange \$1,500 for each Location with CPE and \$250 for each Location without CPE; (iii) if Orange has provided CPE, Customer will pay Orange a lump sum amount equal to the undepreciated value of the CPE as of the date of termination, based on the original price paid by Orange for the CPE (as evidenced by a written certification from Orange upon Customer's request) plus 15% of such original price as a fee for administration and disconnection; and (iv) Customer will reimburse Orange for any charges waived or credits provided by Orange during the Service Term (e.g. installation waiver credit) on a prorated basis.

The termination liability set forth in this Clause 1.10.2 is in addition to any other remedies available to Orange.

1.11 Cross-References

The references to Clauses of the General Conditions set forth in these Specific Conditions are to Clauses in Orange's standard form Master Services Agreement. To the extent that any such cross-references in these Specific Conditions do not accurately refer to provisions that address the indicated subject matter in the Agreement, the cross-references herein will be deemed to instead refer to the most closely corresponding provision(s) in the Agreement.

END OF SPECIFIC CONDITIONS FOR ORANGE MESSAGING SERVICES