

Conditions for services



Business

Smart Tracking

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1. Definitions

Orange Belgium nv: Orange Belgium nv, with its registered office at Bourgetlaan 3, 1140 Brussels, with CBE number 0456.810.810.

Customer: a natural person, legal person or unincorporated association with which Orange Belgium nv has entered into the contract to supply the service.

Hardware: Trackers and accessories necessary in order to provide the Service and monitor Assets.

Contract: the contract that is drawn up in writing, completed and signed by the Customer to order the Service and any Options. It contains all the useful data to enable Orange Belgium nv to evaluate and, if appropriate, accept the order. The Contract also contains the prices of the Service and Options provided.

General Terms & Conditions: designates the present document, whose purpose is to define the terms and conditions under which Orange Belgium nv shall provide the Service(s) to the Client.

Service(s): the Smart Tracking service as described in the Description of the Smart Tracking service.

Agreement: the Contract, the general terms and conditions, the Description of the Smart Tracking service, if appropriate, specific terms and conditions and any written amendment to this Agreement. All previous oral or written arrangements and agreements with regard to the object of this Agreement are deemed to be non-existent and replaced by this Agreement.

Working Days: Monday through Friday, from 8 a.m. to 5 p.m., except official national public holidays.

Asset: an item of the Customer's property with a commercial and/or replacement value.

Tracker: the sensor that it is attached to an Asset to be able to track the Asset and report the Asset's location via the Orange Belgium mobile network.

Contract Value: the total amount to be invoiced to the Customer during the fixed term of 48 months of the Agreement, consisting of activation charges, one-off costs for the Hardware and the monthly subscription costs per monitored Tracker and for the Options.

Options: options described in the Description of the Smart Tracking service.

2. Scope

21. These General Terms and Conditions apply to all orders, price quotes and Agreements with regard to the Service(s), unless the parties expressly agree otherwise in writing.

These General Terms and Conditions exclude the application of the Customer's own general terms and conditions. The General Terms and Conditions will be notified to the Customer with the Contract if not before.

The General Terms and Conditions are available at any time on the website, and may be obtained by calling our customer service.

22. The fact of the Customer placing an order shall be deemed as acceptance of these General Terms and Conditions and any specific terms and conditions relating to the Service.

23. In the case of conflict between the clauses in the documents that collectively form the Agreement, the following sequence of precedence shall apply:

- the Contract
- the appendices to the Contract (Description of the Smart Tracking service, any specific terms and conditions)
- the Smart Tracking General Terms and Conditions

3. Formation and duration of the Agreement

31. The Customer undertakes to purchase the Service concerned by placing an order. The Customer may place an order by sending Orange Belgium nv a copy of the Contract, completed and signed by it. If Orange Belgium nv does not respond within eight (8) Working Days of the order, that order shall be deemed to have been accepted, without prejudice to Article 3.4.

32. The Agreement shall enter into force on the date of signature of the Contract by the Customer.

It is entered into for a fixed term of 48 months. This period commences on the date of signature of the Contract. After expiry of the agreed term, the Agreement shall be renewed by tacit consent for an open-ended period and the Agreement may be terminated by either Party at any time in writing, and without requirement to state reasons. In case of termination by the Customer, the Contract will end at the time chosen by the Customer, which may even be with immediate effect. Orange Belgium nv will then shut down the Service concerned as soon as technically feasible, and send the Customer written confirmation. In case of termination by Orange Belgium nv, a one-month notice period will be observed by Orange Belgium nv.

This term also applies for any extensions of the Service (addition of Trackers or Options or accessories for the Customer or an associated entity).

Any amendment to the signed Agreement is subject to Orange Belgium nv's prior approval and the right to charge an administration fee. Failing written approval by Orange Belgium nv of the amendment, the Customer shall continue to respect the signed Agreement and remains liable to pay the agreed Contract Value.

33. Orange Belgium nv may request the Customer to produce the following documents before entering into the Agreement:

- identity card
- a copy of the articles of association published in the Belgian Official Gazette as well as any amendments made
- proof of power of attorney or representation of a legal person or unincorporated association

34. Orange Belgium nv reserves the right not to enter into an Agreement in the following cases:

- if technical reasons render provision of the Service impossible or unreasonable
- if the Customer does not fulfil the obligations imposed on it under another agreement relating to the service provision
- the technical or other data supplied by the Customer to enable Orange Belgium nv to provide the Service is incomplete or incorrect
- there is doubt about the Customer's creditworthiness

3.5. Any indication of a delivery date, in any document whatever, is for information only. Orange Belgium nv undertakes to implement an order within a reasonable period.

3.6. Orange Belgium nv reserves the right both when entering into the Agreement and during the term of the Agreement to seek reasonable assurances - in the form of a financial or bank guarantee - of fulfilment of the Customer's obligations. In the event of non-payment of the guarantee or provision of a bank guarantee within the specified period, Orange Belgium nv may refuse to enter into the Agreement or terminate the Agreement with immediate effect, without the Customer being entitled to any compensation.

4. Level of service provision

The Services of Orange Belgium nv are implemented based on an obligation to employ its best endeavours, unless and to the extent that Orange Belgium nv has expressly committed itself to achieve a specified result in the written agreement. Agreements with regard to a service level must always be recorded expressly in writing and confirmed by Orange Belgium nv.

5. Obligations of Orange Belgium nv

5.1. Orange Belgium nv undertakes to use its expertise and diligence to provide the Customer with a Service of the best possible quality. Orange Belgium nv endeavours to provide a quality Service with continuous availability 7 days per week and 24 hours per day (except during periods of maintenance announced in advance, and during regular reboots as a precautionary measure), without breaks in service and without loss of quality. Due to the nature of the Service, however, this result cannot be guaranteed.

In the event of disruption of the Service(s), the Customer must inform Orange Belgium nv as soon as possible and Orange Belgium nv will make every effort to restore the Service(s) as soon as possible. A customer service is at the Customer's disposal to provide the necessary assistance and support for the Service. The details of the customer service are shown in the Contract.

5.2. The Service makes use of the cellular networks of Orange Belgium nv and the roaming partners with which Orange Belgium nv has entered into commercial agreements.

The list of roaming partners where the Service is active can be found on the Orange Belgium nv website.

Since it concerns a cellular service, 100% coverage cannot be guaranteed.

5.3. The maintenance and development of the Orange network and Service(s) may oblige Orange Belgium nv to limit or suspend the Service(s). Orange Belgium nv undertakes to restrict any such limit or suspension to the time strictly necessary to carry out that work and to inform the Customer about it in advance by any appropriate means if these works will have an impact on the Service(s), unless that proves impossible due to a case of force majeure.

5.4. If it is agreed that the Service will be provided in various phases, then Orange Belgium nv has the right to suspend the start of a subsequent phase until the Customer has approved the results of the preceding phase in writing and full payment has been received for the preceding phase.

5.5. In providing the Service, Orange Belgium nv is only obliged to comply with the promptly given and reasonable instructions of the Customer, if this is expressly agreed in writing.

6. Obligations of the Customer

6.1. The Customer undertakes to perform the Agreement taking account of the interests of Orange Belgium nv. The Customer shall not hinder Orange Belgium nv in any way in providing the Service, or disrupt or impair the operation of the Service.

6.2. The Customer shall provide Orange Belgium nv with all the information it needs to provide the Service. That includes: prompt notification of changes in all relevant data relating to the Customer. Moreover, Orange Belgium nv must be informed promptly of any change with regard to that information, so that proper service can continue to be provided.

6.3. The Customer is responsible for the use of the Service and undertakes to use the Service only for authorised purposes and in accordance with accepted standards and decency, and not to act contrary to public order.

6.4. The Customer undertakes to comply with the specific instructions (including operational, quality, legal or safety) concerning the installation, use and maintenance of the Service. The Customer must follow the reasonable instructions of Orange Belgium nv to obtain and maintain the best quality of Service.

7. Hardware

7.1. Orange Belgium nv sells certain Hardware for the purpose of providing the Service(s). Orange Belgium nv's General Terms and Conditions of Sale apply to the sale of the Hardware, as do these Smart Tracking General Terms and Conditions. In the event of any conflict between these terms and conditions, these Smart Tracking General Terms and Conditions take precedence.

The Customer is deemed to be buying the Hardware for its own use, and may not re-sell the Hardware to third parties.

7.2. The Hardware is delivered to a location notified in writing by the Customer, as shown in the Contract. Orange Belgium nv shall inform the Customer as soon as possible of the date when it or the transport contractor plans to deliver the hardware. The delivery dates and times quoted by Orange Belgium nv are always for information only.

The risk of loss and theft of and damage to the Hardware is transferred to the Customer once the Hardware is delivered to the Customer. If a transport contractor is used for the delivery (regardless of whether this is done at the request or on the instructions of the Customer), the risk of loss, theft or damage will be transferred to the Customer once the Hardware is handed over to the transport contractor.

The Customer shall provide the facilities necessary for the Hardware, and shall comply with all instructions from Orange Belgium nv that are required for the installation.

7.3. The Customer is not entitled to connect hardware and systems not supplied by Orange Belgium nv with the Hardware sold by Orange Belgium nv to the Customer, and may not install any software that was not supplied by Orange Belgium nv on the Hardware. The Customer is liable for the costs of testing and correction of faults that arise due to the connection of hardware or installation of software not supplied by Orange Belgium nv.

7.4. The Customer shall inform Orange Belgium nv immediately if a fault occurs in the Hardware.

7.5. The Customer may not alter, move, open or otherwise change and/or influence the Hardware without express prior written permission from Orange Belgium nv.

The Customer undertakes not to alter the configuration of the Hardware itself, or read out the Hardware or decompile the firmware.

Any attempt to copy the technical identification details of the Hardware and any fraudulent or unlawful use of the Hardware are prohibited. The Customer undertakes to refrain from subjecting the Hardware to any decompilation, analysis or reverse engineering, and refrain from creating any derivative software or using the Hardware in any way other than that provided for in the Contract.

7.6. Orange Belgium nv gives a standard warranty of 1 years as from the date of the invoice for the Hardware.

Under the standard warranty, Orange Belgium nv shall, at its discretion, replace or repair the defective Hardware. If Orange Belgium decides to repair the damaged Hardware in the workshop, the Customer shall bring or send the damaged Hardware to the address indicated by Orange Belgium nv. If Orange Belgium nv decides to replace the damaged Hardware, Orange Belgium shall only ship the Hardware after the damaged Hardware has been returned. The Customer may not claim any compensation for this and hereby waives his right to hold Orange Belgium nv liable for the unavailability of this Hardware during the repair or replacement phases.

The repair or replacement of the damaged Hardware during the contractual warranty period does not lead to the extension of this warranty period.

This warranty only covers the Hardware, not the battery.

A guide value for the working life of the battery depending on the configuration of the Tracker can be found in the description of the Tracker. Any alteration of the configuration of the Tracker has an influence on the working life of the battery.

The warranty obligation shall lapse if the faulty Hardware is entirely or partly the result of incorrect, careless or inexperienced use by the Customer, due to external causes such as fire damage, vandalism, etc. or if the Customer, without the permission of Orange Belgium nv, has made or caused changes to be made to the Hardware or the components supplied by Orange Belgium nv, or if the Customer has not carried out the installation of the Hardware in accordance with the guidance given in the installation manual. The warranty does not apply in the event of loss of the Tracker.

When replacing the battery, the Customer must follow the instructions strictly, in order to guarantee correct operation of the Hardware. If the battery is not replaced in accordance with good technical practice, the warranty on the Hardware no longer applies. These instructions are described in the 'replacement battery guide'.

8. Orange software and documents

8.1. No transfer shall take place of the intellectual property rights to the software, firmware and the documents relating to that software or firmware which Orange Belgium nv makes available to the Customer in connection with the Service and/or Option. This concerns software, firmware and documents of which Orange Belgium nv is the owner or for which Orange Belgium nv holds the necessary distribution rights and which enable access to a Service/Option (this software, firmware and documents are subsequently referred to collectively as 'Orange Software'). The Customer receives an ordinary, non-exclusive and non-transferable user licence for using the Orange Software for the purposes and within the limits laid down in the Agreement.

8.2. The user licence referred to in Article 8.1 is granted to the Customer exclusively for the use of the Service by the Customer and by the other end-users to whom the Customer has made the Service available. The Customer undertakes not to transfer the Orange Software or to hire it out to third parties and not to let third parties use it in any way.

8.3. The Customer undertakes not to make copies or have copies made of the Orange Software. It undertakes not to subject the Orange Software to any decompilation, analysis or reverse engineering, or create any derivative software, or use the software in any other way than that foreseen in the Agreement.

8.4. As long as the Orange Software is at the Customer's disposal, the Customer is solely liable for:

- any use of the software and the consequences of that use
- any loss, theft of or damage to the Orange Software, regardless of the cause, apart from a deficiency in the software itself or in the service offered by Orange Belgium nv

Faults will be resolved remotely or from a location determined by Orange Belgium nv. Orange Belgium nv is entitled to install temporary solutions, program work-arounds or restrictions that avoid problems in the Orange Software.

8.5. Article 8 continues to apply in full if Orange Belgium nv sells a copy of the Orange Software to the Customer.

9. Charges

Orange Belgium nv shall charge the Service(s) as shown in the Contract for the Service(s) concerned.

10. Invoicing and payment terms

10.1. Orange Belgium nv shall send a monthly invoice for the Service(s) provided to the Customer or a third party payer designated by the Customer.

The invoice may show, besides the statements required by law, the following items, depending on the Service(s) and Options chosen by the Customer:

- the activation charges
- the subscription charges for the Service(s)
- the subscription charges for the payable Options chosen by the Customer
- the amounts, calculated pro rata, for any subscription charges for Trackers that were added during an invoicing period
- amounts charged pro rata on the first invoice
- all other costs and credits for the account of the Customer

If the third party payer designated by the Customer fails to pay, that does not release the Customer from its payment obligation. The third party payer does not acquire any rights whatever to the Service(s) provided.

The invoices are payable within thirty (30) days after the date of issue of invoice, to the account number stipulated by Orange Belgium nv.

10.2. If the Customer has not received the invoice, it must subsequently pay the amount of the invoice notified by Orange Belgium nv. At the Customer's request, a duplicate will be provided. As from the issue of a second duplicate, a fee will be charged for doing this. A summary of any additional costs that Orange Belgium nv can recover is available on the Orange Belgium nv website (www.orange.be).

10.3. Orange Belgium nv reserves the right to stipulate an earlier payment date or to invoice at a different frequency, inter alia in the event of exceptional volumes or for reasons of creditworthiness. Orange Belgium nv may also request an advance against the monthly invoice, if the size of the amount to be invoiced justifies this, or if there is a suspicion of fraud or serious doubt about the Customer's ability to pay.

10.4. In case of late payment, the amount of the invoice will be increased automatically, by operation of law and without prior notice of default, by interest on overdue payment equal to the statutory rate of interest, and if Orange Belgium nv is inclined to outsource recovery of the outstanding invoice amount to a third party, to charge a penalty of 15% with a minimum of €62.

If Orange Belgium nv fails to refund any amounts due to the Customer within the agreed payment term, the Customer is entitled to identical statutory interest, as well as, if the Customer is inclined to outsource recovery of the outstanding invoice amount to a third party, flat-rate compensation of 15% on the total amount payable with a minimum of €62 and a maximum of €250.

10.5. In the event of non-payment on expiry of the payment term, Orange Belgium nv shall send a reminder. In that case, a reminder fee may be charged (rates on orange.be). Orange Belgium nv may decide at that time to suspend or cancel the Agreement/provision of the Service(s) without notice or compensation, without prejudice to the rights of Orange Belgium nv to demand full payment of all outstanding amounts.

11. Challenging an invoice

11.1. If the Customer is of the opinion that the amount invoiced is incorrect, it must notify Orange Belgium nv in writing within twenty (20) days after the invoice date, and mention the disputed item and amount. After expiry of this period, the Customer is deemed to have accepted the invoice irrevocably.

11.2. The obligation to pay the disputed amount will then be suspended, but the undisputed amount must be paid within the normal payment term. In the event of the complaint being rejected by Orange Belgium nv, the disputed amount will become payable immediately.

11.3. If, after investigation by Orange Belgium nv, the complaint appears unfounded, Orange Belgium nv is entitled to charge for any costs that it has incurred.

12. Liability

12.1. Orange Belgium nv is not liable for any loss that has occurred as a result of the Service not working or not working properly, unless there is wilful misconduct or gross negligence by Orange Belgium nv.

12.2. Orange Belgium nv can only be held liable for the Service(s) that it provides. Under no circumstances is Orange Belgium nv liable for the way in which the Customer uses the Service(s) provided by Orange Belgium nv and related facilities, nor for any loss sustained by the Customer as a consequence of the Customer failing to fulfil its obligations.

12.3. Orange Belgium nv is not liable for the content of the voice and/or data communication. Neither is Orange Belgium nv liable for the actions or omissions of other providers of telecommunications services or for faults or defects in their hardware.

12.4. Orange Belgium nv cannot be held liable for delays or deficiencies in the provision of the Service if they are a consequence of force majeure. That also applies in case of war, uprising, riots, popular movements, actions by the civil or military authorities, embargoes, explosions, epidemics, strikes or social conflicts (even if its own personnel is involved), floods, prolonged freezing weather, fire, storms or actions by third parties.

12.5. Orange Belgium nv is not liable for damages as a consequence of loss of data, security breaches, loss of time or damage to the Customer's hardware or software as a consequence of malicious software (e.g. viruses).

12.6. If the liability of Orange Belgium nv is proven, its liability (both contractual and extracontractual) shall be limited to remedying the foreseeable, direct, personal and irrefutable damages that the Customer has sustained, excluding any indirect or immaterial damages such as, but not limited to, pure financial loss, loss of profits, loss of customers, the loss of or damage to data and the loss of contracts. In all cases where Orange Belgium nv is liable, its liability towards the Customer remains limited to a maximum of €25,000 per claim, with a maximum of €50,000 per year.

13. Protection of privacy

For more information about the processing of personal data by Orange Belgium nv, the Customer may consult the privacy policy of Orange Belgium nv, available on the Orange Belgium nv website. <https://corporate.orange.be/en/privacy-policy>

14. Amendments

14.1. Orange Belgium nv may at any time amend the terms and conditions of the Agreement and alter the price terms or the technical specifications or characteristics of the Service(s).

Orange Belgium nv undertakes to bring these changes to the attention of the Customer by all appropriate means. This notification must be made at least one (1) month before the changes take effect.

14.2. If the Customer, on learning of such amendments, does not accept the new conditions for the Services that are activated, it may cancel the Agreement free of charge and in writing, but no later than the last day of the month following the entry into force of the changes, except in the case of changes in conditions as a consequence of new legislation or decrees that allow operators no choice about implementation. In the event of a price increase, the Customer may cancel the Agreement free of charge and in writing no later than the last day of the month following receipt of the first invoice after the price increase comes into effect, except if the contract provides for an increase linked to the consumer price index.

15. Assignment

15.1. The Customer may not assign the Agreement, either wholly or in part, except with prior written permission from Orange Belgium nv. Due to the transfer, all rights and obligations under the Agreement are assigned to the Assignee, which accepts. Transferee and transferor must provide Orange Belgium nv with a document confirming the transfer of the Agreement, signed by both parties.

15.2. Orange Belgium nv may transfer the Agreement wholly or partly to another company in the Orange group.

16. Suspension and termination by Orange Belgium nv

16.1. Orange Belgium nv is entitled to suspend performance of the Agreement entirely or partly, if appropriate without warning, if:

- a) The Customer fails in any way to fulfil its obligations under the Agreement within 5 working days after receiving notice of default.
- b) Orange Belgium nv has indications that the Service is being misused, whether or not by the Customer.
- c) There is a non-culpable deficiency or case of force majeure on the part of Orange Belgium nv, after prior notice of the suspension and its probable duration, except in the case of extreme urgency, in which case the notification will happen as soon as possible. The following are deemed to be non-culpable deficiencies, inter alia: actions by third parties whose involvement is essential to the provision of the Service(s).

The suspension ends when the Customer fulfils all its obligations. Throughout the duration of the suspension, payment of the charges is due.

16.2. Orange Belgium nv is entitled to dissolve the Agreement wholly or partly by operation of law with immediate effect and without prior action through the courts if:

- a) The Customer fails to fulfil its obligations under the Agreement within thirty (30) days following notice of default.
- b) The Customer is declared bankrupt or allowed to suspend payments.

The dissolution of the Agreement will be notified to the Customer in writing, citing the reasons for the dissolution.

c) If as a consequence of operating requirements, a Service must be withdrawn permanently. Orange Belgium nv shall inform the Customers concerned as soon as possible by all appropriate means. The Agreement for this Service shall end by operation of law from the date of withdrawal of this Service, without one of the parties being liable to pay compensation.

16.3. If Orange Belgium nv terminates the Agreement for the reasons mentioned under 16.2 a) or b) Orange Belgium nv is entitled to demand compensation from the Customer equal to 100% of the Contract Value.

17. Termination by the Customer

17.1. The Customer may terminate the Agreement for any reason whatever before the expiry of the initial term of 48 months provided that it gives written notice and on payment of compensation for termination amounting to the pro rata amount of the Contract Value for the remaining number of months until the expiry of the initial term of 48 months.

17.2. The Customer also has the right to dissolve the Agreement by operation of law with immediate effect and without prior action through the courts if:

- a) Orange Belgium nv fails to fulfil its obligations under the Agreement within thirty (30) days following notice of default;
- b) Orange Belgium nv is declared bankrupt or has suspended payments.

The dissolution of the Agreement will be notified to Orange Belgium nv in writing, citing the reasons for the dissolution.

17.3. The termination of a Contract leads by operation of law to the ending of the Services contained therein, and the associated Options. The termination, for whatever reason, is without prejudice to the Customer's obligation to pay all amounts due.

17.4. The termination of the Agreement does not imply the termination of other contracts for different services with Orange Belgium nv.

17.5. In the event of individual Trackers being deactivated before the expiry of the initial 48-month term of the Agreement, the Customer shall be liable to pay the following compensation: monthly subscription charge for the Tracker(s) concerned x the remaining number of months until the expiry of the initial 48-month term.

18. Actions by Orange Belgium nv in case of security and integrity incidents

Orange Belgium nv undertakes to build security features into the Orange telecom and IT network to minimise potential unauthorised access and the risk of hacking. Orange Belgium nv cannot rule out every form of improper use or improper disclosure of data, but in that case, Orange Belgium nv shall use its best endeavours to minimise the impact.

19. Complaints and dispute resolution

19.1. In the event of complaints, the Customer should contact the Orange Belgium nv customer service, whose address is shown in the Contract.

19.2. The Customer may contact the Ombudsman's Office for Telecommunications (Koning Albert II-laan 8 bus 3, 1000 Brussels Tel.: 02 223 09 09 - fax: 02 219 86 59 – Email: klachten@ombudsmantelecom.be – Website: www.ombudsmantelecom.be) established by law within the Belgian Institute for Postal Services and Telecommunications. Only complaints submitted in writing are dealt with. Complaints are only admissible if the Customer can show that it has already taken action with Orange Belgium nv. The Ombudsman's Office may refuse to deal with a complaint if it relates to events that occurred more than a year before the submission of the complaint.

20. Applicable law and jurisdiction

20.1. Any dispute about the interpretation and application of the Agreement falls under the exclusive jurisdiction of the Brussels courts.

20.2. The terms of this Agreement are governed by Belgian law.