

# Specific terms and conditions

## Mobile Device Management

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**Business**

# General provisions

## 1. Offer and Agreement

**1.1.** The present contractual terms and conditions (hereinafter referred to as “Terms and Conditions”) shall apply to all offers, legal relationships and agreements under which Orange Belgium s.a. (“the Supplier”) provides Mobile Device Management Services (“MDM Services”) to its customer (“the Customer”).

**1.2.** The Customer warrants the accuracy and completeness of the measurements, requirements, performance specifications and other data on which the Supplier bases its offer and which have been stated by or on behalf of the Customer to the Supplier.

## 2. Term

**2.1.** This MDM Agreement shall start on the date of signature. It shall be entered for a 12 months period which commences as from date of ‘sign off’ document.

**2.2.** The term of the MDM Agreement shall be tacitly extended for an indefinite period, unless the Customer or the Supplier terminates the MDM Agreement in writing with due observance of a notice period of three months before the end of the period concerned.

## 3. Confidential information, solicitation of employees and privacy

**3.1.** Each of the parties warrants that all of the information received by the other party and known to be or should be known to be confidential in nature shall remain secret, unless a legal obligation mandates disclosure of that information. The party receiving the confidential information shall only use it for the purpose for which it has been provided. Information shall in any event be considered confidential if it is designated by either of the parties as such.

**3.2.** To the extent that the Supplier collects personal information, it shall be exclusively used to: (i) provide the services; (ii) personalize the approach of the Customer; (iii) the handling of complaints or claims; (iv) improve efficiency of business processes or (v) prevention and detection of fraud and irregularities. The Customer has the right to verify the information and make corrections.

**3.3.** The Customer shall indemnify the Supplier against claims by persons whose personal data has been recorded or processed in connection with a register of persons maintained by the Customer or for which the Customer is responsible under law or otherwise, unless the Customer proves that the facts underlying the claim are solely imputable to the Supplier.

## 4. Risk

**4.1.** The risk of loss or theft of, or damage to objects, products, software or data which are the subject of the MDM Agreement shall pass to the Customer at the time they have been placed at the actual disposal of the Customer or an assistant used by the Customer.

## 5. Cooperation by the Customer; Telecommunications

**5.1.** The Customer shall always furnish the Supplier in a timely manner with all data or information which is useful and necessary to execute the agreement properly and provide full cooperation, including access to its buildings. If the Customer utilizes its own employees in cooperating in the execution of the MDM Agreement, these employees shall possess the necessary know how, experience, abilities and availability.

**5.2.** The Customer shall bear the risk of selecting, using and applying in its organization the equipment, software, databases, telecom facilities and other products and materials and the services to be provided by the Supplier, and shall also be responsible for the monitoring and security procedures and proper system management.

**5.3.** If the Customer furnishes software, materials, databases or data to the Supplier on a data carrier, this carrier shall meet the specifications prescribed by the Supplier.

**5.4.** If the Customer does not provide the Supplier with the data, equipment, software or employees necessary to execute the MDM Agreement, or does not provide this in a timely manner or in accordance with the agreements made, or if the Customer otherwise does not fulfill its obligations, the Supplier shall be entitled to suspend execution of the MDM Agreement in whole or in part, and it shall be entitled to charge the ensuing expenses in accordance with its usual rates, all of this without prejudice to the Supplier’s right to exercise any other legal right.

**5.5.** In the event that employees of the Supplier perform work on-site at the Customer’s, the Customer shall provide the necessary facilities free of charge, such as a working space with computer and telecommunications facilities. The working space and facilities shall comply with all applicable statutory and other requirements and provisions concerning working conditions. The Customer shall indemnify the Supplier against claims by third parties, including the Supplier’s employees, who, in executing the Agreement, suffer injury that is the result of acts or omissions by the Customer or of unsafe situations in its organization. The Customer shall provide timely notice to the Supplier’s employees about security rules applicable within its organization.

## 6. Delivery Periods

**6.1.** All delivery and other periods stated or agreed by the Supplier have, to the best of its knowledge, been determined based on data known to the Supplier when it entered into the MDM Agreement. The Supplier shall exert its best efforts to observe agreed delivery and other periods as much as possible.

**6.2.** The mere fact that a stated or agreed delivery or other period has been exceeded shall not cause the Supplier to be in default. In all cases, hence, even if the Parties have expressly agreed on a firm date in writing, the Supplier shall not be in default because of a time period being exceeded until the Customer has provided it with a written and duly substantiated notice of default.

**6.3.** The Supplier shall not be bound by firm or non-firm delivery or other periods which can no longer be met on account of circumstances beyond its control which have occurred after the MDM Agreement was concluded. Nor shall the Supplier be bound by firm or non-firm delivery periods if the Parties have agreed to modify the substance or scope of the MDM Agreement (additional work, change in specifications etc.). If any period threatens to be exceeded, the Supplier and Customer shall consult with each other as soon as possible.

## 7. Termination of an Order

The customer cannot cancel or change any signed order. If a cancellation or a change is requested by the customer, the Supplier is entitled to refuse and / or charge an administrative fee before approving the cancellation / change. By lack of Suppliers' written consent, the invoices pertaining to the order are fully due upon maturity date.

## Services – general

In addition to the General Provisions in these Terms and Conditions, the provisions set forth in this Chapter "Services" shall apply if the Supplier provides services, such as advice, studies, consultancy, study programs, training sessions, support, hosting, installation, implementation or management of software or information systems and network services. These provisions shall not affect the further provisions included in these Terms and Conditions concerning specific services, such as computer services, development of software, hosting, training and maintenance.

## 8. Performance

**8.1.** The Supplier shall, to the best of its ability, do its utmost to perform the services with due care and, where appropriate, in accordance with the agreements and procedures recorded in writing with the Customer. All of the Supplier's services shall be performed on the basis of a best efforts obligation, unless and insofar as the Supplier has expressly committed to a result in the written MDM Agreement. Any agreements concerning a service level must always be expressly agreed in writing.

**8.2.** If it has been agreed that the services shall be provided in stages, the Supplier shall be entitled to postpone the start of the services which are part of a stage until the Customer has approved the results of the preceding stage in writing or until full payment for the previous stage is received.

**8.3.** In performing the services, the Supplier shall only be obliged to follow timely and sensible instructions of the Customer if this has been expressly agreed in writing.

## 9. Modification and Additional Work

**9.1.** If, at the request of or with prior consent from the Customer, the Supplier performs work or renders other performances beyond the substance or scope of the agreed services, the Customer shall pay for that work or performance according to the Supplier's usual rates. The Supplier shall however never be obliged to agree to perform additional work, and may require that a separate and prior written agreement be concluded.

**9.2.** The Customer accepts that extra work or performance as referred to in Article 9.1 may affect the agreed or expected time of completion of the services and the mutual responsibilities of the Customer and Supplier. The fact that additional work (or the need for it) arises during execution of the MDM Agreement shall never be a ground for the Customer to rescind or terminate the MDM Agreement.

**9.3.** Insofar as a fixed price has been agreed for the services, the Supplier shall, upon request, inform the Customer in writing in advance about the financial consequences of the extra work or performance.

## 10. Security, Privacy and Retention Periods

**10.1.** The Supplier processes personal data on behalf of the Customer. The Supplier shall qualify as the "Processor" and the Customer as the "Controller" (as these terms are defined in the applicable legislation relating to the protection of privacy in relation to the processing of personal data).

**10.2.** The Supplier will, in performing its obligations as a data Processor, comply in all respects with all applicable data protection legislation.

**10.3.** Where the Supplier processes personal data under the MDM Agreement it shall in particular:

- a)** Take appropriate technical and organizational measures against the unauthorized or unlawful processing of the personal data and against actual loss or destruction of, or damage to, the personal data. Such measures shall provide a level of security, which is not less than the legislation requirements, appropriate to the harm that might result from unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the personal data.
- b)** Process the personal data only on behalf of the Customer, in accordance with the MDM Agreement, at Customer's instructions or as is required by law or any relevant regulatory body.
- c)** Refrain from disclosing the personal data such as specified in applicable law to any third party except in accordance with this MDM Agreement, with the instructions of Customer or as otherwise required to do so by law or any relevant regulatory body.
- d)** Not use the personal data for any purposes which may be inconsistent with this MDM Agreement.

**10.4.** The Supplier may disclose the personal data to its staff as is necessary for the performance of its obligations under the MDM Agreement. The Supplier shall ensure the reliability of the staff who have access to the personal data and ensure that such staff are aware of and comply with the Supplier's obligations under this MDM Agreement and data protection legislation.

**10.5.** The Supplier agrees to indemnify the Customer against third party claims against Customer directly arising out of a breach of this Article 10 by the Supplier. The Supplier shall not be liable towards Customer for indirect or consequential damages, including but not limited to loss of profit, loss of business, loss of anticipated savings, loss of reputation and goodwill and loss of data.

## Hosting services

### 11. Conditions Of Use

**11.1.** The Supplier aims at providing high quality hosting services for its wireless solutions with a continuous availability 7/7 days and 24/24 hours (excluding pre-announced maintenance periods and periodical precautionary reboots) without interruptions or loss of quality. However due to the nature of the services and the number of intermediary parties involved, this result cannot be guaranteed (e.g. risk of loss of internet connections or the communications infrastructure managed by MDM software supplier) unless otherwise explicitly stipulated in the MDM agreement.

**11.2.** The Customer must follow reasonable instructions from the Supplier in order to obtain and maintain the best quality of hosting services and the Customer is responsible for using properly functioning infrastructure, software and continued connection to the hosted service.

**11.3.** The Supplier shall not be liable for damages due to loss of data, breaches of security, loss of time or damage to the Customer's hardware or software due to harmful software (e.g. viruses).

**11.4.** The Customer is not allowed to use the hosting services for illegitimate and / or inappropriate purposes (e.g. spamming) and shall hold the Supplier fully harmless in this respect.

### 12. Maintenance & Interruptions

**12.1.** The Supplier's infrastructure is continuously being improved. The Supplier may suspend (part of) the services and / or network for maintenance and / or upgrading purposes. The services shall not be suspended without an absolute necessity. Possible interruptions shall be announced duly beforehand, unless it involves short or limited interruptions of which a general announcement cannot be expected.

**12.2.** The Customer needs to provide the Supplier with the necessary information to maintain and / or reactivate its connections.

**12.3.** The Customers' needs to report any problems or interruptions as soon as possible to the Supplier.

### 13. Environment Requirements

**13.1.** The Customer shall not be entitled to connect equipment and systems not delivered by the Supplier to the equipment sold to the Customer and to install software not delivered by the Supplier on it. The Customer shall be responsible for the costs of examining and remedying malfunctions which occur through connecting equipment not delivered by the Supplier or installing software not delivered by the Supplier.

**13.2.** If the Supplier has undertaken to perform installation, the Customer shall provide a suitable installation site with all necessary facilities, such as cable work and telecommunications facilities, before delivery of the equipment and follow all instructions of the Supplier necessary for the installation.

**13.3.** The Customer shall bear the risk of loss or theft of or damage to the equipment during the period that the Customer has the equipment in its possession and shall hold the Supplier fully harmless in this respect. The Customer shall be responsible for insuring this risk.

## 14. Guarantee and Repairs

**14.1.** The Supplier shall do its utmost to fix, to the best of its ability, any defective material and manufacturing defects in the equipment delivered by the Supplier in connection with the guarantee or maintenance within a reasonable time period and free of charge, if these have been reported, with a detailed description. In the applicable case manufacturer's guarantees shall apply. If, in the Supplier's reasonable judgment, repairs are not possible, will take too long or will entail disproportionately high costs, the Supplier shall be entitled to replace the equipment free of charge with other, similar, but not necessarily identical, equipment. The guarantee shall not include data conversion which is necessary due to repairs or replacement. All parts replaced shall be the property of the Supplier. The guarantee obligation shall be extinguished if the defective material or manufacturing defects result in whole or in part from incorrect, careless or incompetent use, from external causes such as fire or water damage, or if, without the Supplier's permission, the Customer makes changes or causes changes to be made to the equipment or to the parts delivered by the Supplier in connection with the guarantee or maintenance. The Supplier shall not withhold such permission on unreasonable grounds.

**14.2.** To enable the Supplier to perform the necessary maintenance and repair work, the Customer shall give the Supplier access to the installation site during the Supplier's normal working days and hours. The Customer shall immediately inform the Supplier after a malfunction occurs in the equipment by having one of its employees with expertise in this area draw up a detailed description of the malfunction.

**14.3.** Before equipment is provided to the Supplier for maintenance, the Customer shall ensure that a proper and complete back-up copy has been made.

**14.4.** The Supplier shall charge work and repair costs falling outside the scope of this guarantee in accordance with its usual rates.

## Software use and maintenance

In addition to the General Provisions, the provisions set forth in this Chapter "Software Use and Maintenance" shall apply to all software provided by the Supplier, meaning computer software in a form which is readable for a data processing machine and recorded on material which is readable for such a machine, as well as to related documentation, all of this including any new versions to be furnished by the Supplier and websites.

## 15. Right of Use

**15.1.** The Customer may only use the software in its own company or organization on the one processing unit and for a specific number or type of users or terminals for which the right of use has been furnished. Insofar as not otherwise agreed. In the event there is a malfunction in the aforementioned processing unit, the software can be used on another processing unit for the duration of the malfunction. The right of use may pertain to multiple processing units insofar as this is expressly apparent from the agreement.

**15.2.** The software's source code and the technical documentation generated in developing the software shall not be made available to the Customer, not even if the Customer is prepared to pay financial compensation for making them available. The Customer acknowledges that the source code is confidential in nature and that it includes the Supplier's trade secrets.

## 16. Guarantee

**16.1.** The Supplier provides software from third parties to the Customer according to the guarantee conditions and during the guarantee period included in the concerned third parties' terms and conditions which shall apply with regard to that software.

The Customer shall accept the aforementioned third party terms and conditions.

**16.2.** The Supplier does not warrant that the software shall operate without interruption, errors or other defects at all times or that all errors and other defects shall be corrected. The Supplier may charge the repair costs according to its usual rates if there have been operating errors or improper use on the Customer's part or other causes not imputable to the Supplier or if the errors could have been ascertained when the agreed acceptance test was conducted.

**16.3.** The guarantee shall not include fixing mutilated or lost data. The guarantee obligation shall be extinguished if the Customer makes changes or has changes made to the software without the Supplier's written permission, which permission shall not be withheld on unreasonable grounds.

**16.4.** Errors shall be fixed remotely or at a location to be determined by the Supplier. The Supplier shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software.

**16.5.** The Supplier shall not have any obligations concerning fixing errors reported after the expiry of the guarantee period, unless the Parties have concluded a maintenance agreement which includes such a duty to fix.

## 17. Maintenance

**17.1.** If a maintenance agreement has been concluded for the software or if the user's fee for the software includes maintenance, the Customer shall provide detailed notice to the Supplier of the errors observed in the software in accordance with the Supplier's usual procedures. After receiving the notice, the Supplier shall, to the best of its ability, do its utmost to fix errors and/or to make improvements in later, new versions of the software. Depending on the urgency, the results shall be provided to the Customer in the manner and within the time period to be determined by the Supplier. The Supplier shall be entitled to install temporary solutions, program bypasses or problem-avoiding restrictions in the software. In the absence of express agreements in this regard, the Customer itself shall install, set up, design parameters for and tune the corrected software or the new version provided and, if necessary, adjust the equipment and user environment used in this connection. Unless expressly otherwise agreed, the Supplier shall not be required to convert data.

**17.2.** During the term of a maintenance agreement, the Supplier shall provide improved versions of the software to the Customer when they become available. The Supplier shall no longer be required to fix any errors in the old version or to provide support regarding an old version three months after an improved version becomes available. In providing a version with new options and functions, the Supplier may require the Customer to enter into a new agreement with the Supplier and to pay a new fee for this version being made available.

## Hardware

In addition to the General Provisions in these Specific Terms and Conditions Mobile Device Management, the provisions set forth in this Chapter "Sale of Equipment" shall apply if the Supplier sells equipment to the Customer. Insofar as the purport of the following provisions is not inconsistent with this, the term "equipment" shall also include separate equipment parts.

## 18. Selection, Delivery and Risk

**18.1.** The Customer shall bear the risk of selecting the equipment purchased. The Supplier shall not warrant that the equipment is appropriate for the use intended by the Customer, unless the intended uses have been clearly specified without reservation in the written purchase agreement between the Parties.

**18.2.** The equipment sold by the Supplier to the Customer shall be delivered to the Customer at the site of the Supplier's warehouse. The Supplier shall deliver the equipment sold to the Customer or have this delivered at a location to be designated by the Customer only if this has been agreed in writing. The Supplier shall inform the Customer before delivery in as timely a manner as possible of the time which it or the carrier used intends to deliver the equipment. The delivery times indicated by the Supplier shall always be indicative.

**18.3.** Equipment shall be delivered at the agreed location for the agreed purchase price. Unless expressly otherwise agreed, the equipment's purchase price shall not include the costs of transport, insurance, rigging and hoisting, leasing temporary facilities and the like.

**18.4.** The risk of loss and theft of and damage to the equipment shall pass to the Customer when it is delivered to the Customer. If a carrier is used for the delivery (whether or not at the Customer's request or instruction), the risk of loss, theft and damage shall, however, already pass to the Customer when the equipment is delivered to the carrier.

**18.5.** The Supplier shall package the equipment in accordance with the usual standards it applies. If the Customer desires a specific manner of packaging, it shall bear the related additional costs. The Customer shall handle the packaging released with the products delivered by the Supplier in a manner that is consistent with the applicable government regulations. The Customer shall indemnify the Supplier against third-party claims based on non-compliance with such regulations.

## 19. The Equipment of the Supplier's Supplier

**19.1.** If and insofar as the Supplier provides equipment from third parties to the Customer, those third parties' terms and conditions shall replace the deviating provisions in these Specific Terms and Conditions Mobile Device Management and shall apply with regard to that equipment, provided that the Supplier notifies the Customer in writing.

**19.2.** The Customer accepts the aforementioned third party terms and conditions. These terms and conditions shall be made available for the Customer's inspection at its request. If and insofar as the aforementioned third-party terms and conditions are deemed or declared inapplicable to the relationship between the Customer and the Supplier for whatever reason, the provisions in these Specific Terms and Conditions Mobile Device Management shall fully apply.

## Training sessions and courses

**20.1.** Reservations made on a provisional basis are not binding.

**20.2.** If a Customer wishes to make any alteration to a booking after it was confirmed by Supplier, Supplier will do its best to accommodate the request which must be specified in writing. If the Customer cancels the Course, the Customer must provide Supplier



with a cancellation notice fifteen (15) calendar days prior to the said Course's commencement. The Customer must send the cancellation notice for the Course to [mdmsupport@mail.Orange.be](mailto:mdmsupport@mail.Orange.be). If the cancellation notice is not received at least fifteen (15) days prior to the commencement of the Course, the Customer will be responsible for the full tuition amount for the Course.

**20.3.** If the Supplier alters the program date and/or content, it will advise the Customer as soon as reasonably possible. The Customer will then have the choice of accepting the alteration or taking an alternative program if Supplier is able to offer one (and where the price is lower, Supplier will refund the difference) or withdrawing from the contract. Supplier reserves the right in any circumstance to cancel a program. If the program is cancelled, the Customer will have the choice of taking an alternative program if Supplier is able to offer one (and where the price is lower, Supplier will refund the difference), or withdrawing from the contract. If Supplier is prevented from delivering a program due to force majeure, it may cancel the MDM Agreement in question or reschedule the service on agreement with the Customer. The Supplier has the right to change staff for any program without notice prior to or during the course of any program.

**20.4.** The Customer is solely responsible for deciding whether any service offered by the Supplier is suitable, and should inform itself in advance of the service details and the criteria and requirements for participants. The Supplier disclaims any warranty, express or implied, with respect to the suitability or results of the programs.

**20.5.** No part of any program may be considered to be the provision of professional advice that may be relied on by any particular Customer (such as, without limitation, investment, legal, accounting or financial advice). Liability for any recommendation or advice of any kind in any program materials, reports, or other learning materials is strictly excluded.

**20.6.** The Customer is bound to comply with any of the Supplier's policies or regulations concerning any particular program or in relation to using the Supplier's facilities. The Supplier reserves the right to remove any participant from a program for material non-compliance or unsuitability, in which case no refund will be due.

**20.7.** The Supplier's maximum liability for failure to deliver contracted services is strictly limited to the amount of fees paid in connection with such services.

**20.8.** All materials generated for use by the Customer may be used for authorized internal purposes but may not be reproduced, distributed or exploited for any other purpose without the express written authorization of the Supplier. Any useful concepts, methods, procedures, processes and improvements of any nature, made or conceived during the delivery of any programs shall remain the sole intellectual property of the Supplier.