

SPECIFIC CONDITIONS FOR MACHINE-TO-MACHINE SERVICES

(ORANGE SA)

1. THESE SPECIAL TERMS AND CONDITIONS MAY BE INCORPORATED BY REFERENCE INTO AND FORM PART OF A MASTER AGREEMENT OR TEST AGREEMENT UNDER WHICH APPLICATION PROVIDER IS AUTHORIZED TO RESELL OR OTHERWISE FURNISH ORANGE SERVICES TO ITS SUBSCRIBERS (THE "AGREEMENT"). ALL CAPITALIZED TERMS NOT OTHERWISE DEFINED HEREIN HAVE THE MEANINGS ASSIGNED TO THEM IN THE AGREEMENT. THESE SPECIAL TERMS AND CONDITIONS APPLY ONLY WITH RESPECT TO SERVICE PROVIDED BY OR THROUGH ORANGE SA ("ORANGE") THAT ARE RESOLD BY APPLICATION PROVIDER TO ITS SUBSCRIBERS UNDER THE MASTER AGREEMENT ("TELEFONICA SERVICES"). THE ORANGE SERVICES ARE OFFERED TO APPLICATION PROVIDER BY ORBCOMM AND APPLICATION PROVIDER ACKNOWLEDGES THAT IT HAS NO CONTRACTUAL RELATIONSHIP WITH ORANGE OR ANY OF ITS SUBSIDIARIES OR AFFILIATES AS A RESULT OF ENTERING INTO OR PERFORMING UNDER THE MASTER AGREEMENT. THE MASTER AGREEMENT, INCLUDING WITHOUT LIMITATION THESE SPECIAL TERMS AND CONDITIONS, SETS FORTH THE LEGAL RIGHTS AND OBLIGATIONS GOVERNING ORBCOMM'S OFFER, PROVISIONING AND DELIVERY OF ORANGE'S SERVICES AND APPLICATION PROVIDER'S RECEIPT AND RESALE THEREOF TO ITS SUBSCRIBERS. THE EXACT NATURE, SCOPE AND TECHNICAL REQUIREMENTS OF THE ORANGE SERVICE ARE SUBJECT TO CHANGE BY TELEFONICA FROM TIME TO TIME.

2. DEFINITIONS.

"Activation Date" means the date a Service or part thereof commences, as specified in these Specific Conditions or the applicable Service Description.

"CSD" (Circuit Switched Data) means a protocol allowing the transfer of data over a GSM network in circuit mode.

"DTMF" (Dual Tone Multi Frequencies) means a protocol allowing the transmission of data over a circuit switch voice channel.

"EDGE" (Enhanced Data for GSM Evolution) means the modulation technology designed to increase the network and data evaluation capacity in GSM networks.

"European Roaming Regulation" means the Regulation (EU) no 531/2012 of the European Parliament and of the Council of 13 June 2012 on Roaming On Public Mobile Communications Networks Within The Union.

"GPRS" (General Packet Radio Service) means the service for the transmission of data in packet mode.

"GSM" (Global System for Mobile Communication) means the digital cell system for communication with or between Terminals.

"HSDPA" (High-Speed Downlink Packet Access) means the extension to the UMTS telephone network intended to increase the speed of data services using packets.

"Machine (or remote machine)" means autonomous equipment remote from the server, able to communicate using a compatible GSM-CSD, EDGE, GPRS and/or UMTS Terminal by utilizing a packet data circuit. This equipment is able (if necessary) to establish a voice circuit on the GSM network to transmit data in DTMF format or enable a voice exchange between a User and a voice server or a Application Provider call centre for service requirements.

"Machine to Machine Service" or "M2M Service" means a service enabling a Machine to receive and/or send data via a compatible GSM-CSD, EDGE, GPRS and/or UMTS dedicated Terminal, using local radio communication capabilities, operator core network and secure access to a server located at Application Provider's premises. The M2M Managed Global Connectivity Services are M2M Services.

“**Mobile Networks**” means all public mobile telecommunications networks, be they 2G (GSM, GPRS), EDGE, 3G (UMTS), HSDPA and H+, 4G, Wi-Fi or any other future technology and/or telecommunications standards available via the Services.

“**Orange SA**” means Orange SA, a French public limited company registered in France, with its registered office located at 78 rue Olivier de Serres, 75015 Paris, France, registered at the Paris Trade and Companies Register under N° 380 129 866.

“**Service(s)**” means the M2M Service and the other services provided under these Specific Conditions, which are further described in the applicable Service Description.

“**SIM Card**” means the microchip card, inserted into a Terminal, used to identify Application Provider across all Mobile Networks. This may be a SIM, Micro SIM, USIM or any other type of card that will be adapted to Application Provider’s requirements.

“**Terminal**” means a cellular modem enabling data exchanges between a Machine and a GSM-CSD, EDGE, CPRS and/or UMTS communication network.

“**Territory**” means the geographical area agreed in the Charges Schedule for the commercialisation of the Value Added Solution.

“**UMTS**” (Universal Mobile Telecommunications System) means the digital cell system for communication with or between mobiles, intended to provide a range of voice, data and image services, together with Internet access.

“**User**” means an end-user of the Services or a provider or end user of the Value Added Solution, as applicable.

“**Value Added Solution**” means Application Provider’s products integrating the M2M Services as part of the solution to be offered by Application Provider and its Affiliates to their Users, as such Value Added Solution is defined in the Charges Schedule.

3. CONDITIONS OF USE.

3.1 General Obligations

3.1.1 Application Provider will be liable for any use of the Services by Application Provider or the Users. A breach of this Agreement by a Application Provider Affiliate or a User will be deemed to be a breach by Application Provider and the Agreement will be understood accordingly.

3.1.2 Application Provider will and will ensure that its Users use the Services in accordance with:

- a) this Agreement and any reasonable instructions given by Orange and/or ORBCOMM; and
- b) the applicable laws and regulations applicable in the countries where the Service are provided.

3.1.3 Application Provider will not, and will ensure that its Users will not, use the Services for transmitting, distributing, publishing or receiving data or anything else that:

- a) is in violation of any applicable local, national, or international law or regulation, including any law or regulation regarding privacy;
- b) is defamatory, abusive, obscene, indecent, false or harassing; or that threatens or encourages bodily harm, destruction of property, or infringement or misappropriation of the lawful rights of any party, including any intellectual property rights; 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; or
- d) Constitutes ‘spam material’.

3.1.4 Application Provider will not use the Service to access any computer, network or data without authorization or in a manner that 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.
- 3.1.5 Application will not change, modify, delete or disable any IP addresses or passwords set up by Orange, without Orange's prior written consent.
- 3.1.6 If the Service includes internet access, Application Provider will use such Service in accordance with Orange's Acceptable Use Policy for Orange IP Products and Services (the "Policy") as the same may be modified by Orange from time to time, a copy of which can be obtained from Orange upon request or which may be made available at a URL identified by Orange. Orange exercises no control over, and accepts no responsibility for the content of, the information passing through the Orange network, including Orange's host computers, network hubs and points of presence.
- 3.1.7 In the event of any breach or suspected breach of these usage rules, Orange will be entitled to:
- a) Monitor usage, and initiate investigations into potential misuse or abuse of the Service by the Application Provider; and
 - b) Involve and cooperate to the fullest extent possible with, law enforcement, regulatory, and other authorized agencies in the investigation and prosecution of crimes alleged or suspected to have been committed using the Service, including disclosure of information.
- 3.2 Application Provider will not, and will ensure that its Users will not, use the M2M Services for voice over IP, peer-to-peer and streaming unless expressly permitted by Orange. In this Clause, "peer-to-peer" means a file exchange technology between Internet users, enabling two computers or mobile telephones connected to the Internet to communicate directly without going through a central server and "streaming" means the capture of audio/video feeds and the reading of an audio or video file in real time, i.e. as it is received (the file is neither downloaded nor stored before it is read).
- 3.3 Application Provider hereby confirms that the hardware and software used in conjunction with the Services are compliant with the relevant standards and regulations and that its staff is suitably qualified to operate and manage Application Provider M2M applications. Application Provider further confirms that the Terminals are compliant with applicable GSM-CSD, EDGE, GPRS and UMTS standards and are compatible with, and can allow access to, the Mobile Networks.
- 3.2.1 In the event a SIM Card is lost or stolen, Application Provider must immediately notify ORBCOMM and ORBCOMM will deactivate the SIM Card. The deactivation of the SIM Card will be deemed to occur on the date ORBCOMM received the notification from Application Provider. Application Provider will be liable for any use of the SIM Card before its deactivation. ORBCOMM will not be responsible for any inaccurate request of deactivation. The Service remains in force notwithstanding this deactivation. A replacement fee for the SIM Card may be charged.
- 3.2.2 Application Provider undertakes to return any faulty SIM Card to ORBCOMM.
- 3.3 Closed User Group**
- 3.3.1 The use of the SIM Cards is restricted to a specific "Closed User Group", between the Machines and the servers that are part of the fleet of the same solution/application and Application Provider warrants that the Services will at all times be used exclusively for transmissions of data between remote Machines and servers. SIM cards may only be used in Machines and for M2M applications and may under no circumstances be used in 'GSM Gateway' devices or similar equipment.
- 3.4 Application Provider will irrevocably and unconditionally indemnify and keep indemnified Orange, Orange SA and its Affiliates from and against all claims, liabilities, demands, proceedings, losses, penalties, costs (including without limitation, reasonable legal and other professional costs) and reasonable expenses suffered or incurred by Orange, Orange SA or its Affiliates arising out of or in connection with Application Provider or Users acting or failing to act in relation to the Value Added Solution and/or Application Provider's dealings with Users in general, including any claims or other demands brought by a User or end-user of the Value Added Solution.

3.5 End User Service Agreement

Prior to authorizing any Use to access or use the Service or Application Provider Product or Service, Application Provider shall cause such User to enter into a service agreement which contains the following provision:

“[insert User name] EXPRESSLY UNDERSTANDS AND AGREES THAT IT HAS NO CONTRACTUAL REALTIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT [insert User name] IS NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN [insert Application Provider Name] AND THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO [insert User name] AND [insert User name] HEREBY WAIVES ANY AND ALL CLAIMS OR DEMANDS THERFOR.”

4. INTELLECTUAL PROPERTY RIGHTS.

4.1 Orange SA or its subcontractors are and remain the sole owner of the SIM Cards. Application Provider will not, and will procure that its Users do not, destroy or damage the SIM Cards in any manner whatsoever or reverse engineer, decompile, or disassemble the SIM Cards.

4.2 Application Provider will, and will procure that its Affiliates or the Users, do not copy the SIM Cards or its documentation or cause them to be copied.

4.3 Brand

4.3.1 Orange SA and Orange Brand Services Limited are the owners, in France and abroad of many registered trademarks, including to the words “Orange”, or “Orange Business Services” and their corresponding logos (hereinafter the “Trademarks”). Application Provider expressly recognizes and agrees that it has no rights in these Trademarks which are the exclusive property of Orange SA and Orange Brand Services Limited. Therefore Application Provider will not use the Trademarks without the prior written consent of Orange, and in the event of consent, only in accordance with the applicable license for its use.

4.3.2 Where any part, product or component of any Service comes physically prefixed during the manufacturing or production process with the name, brand, logo, trademark or other similar identifier of Orange or an Orange Affiliate or sub-contractor, Application Provider will ensure that such identifier is not removed, changed or replaced in any way.

5. DATA PROTECTION.

5.1 In this Clause, “**Data Protection Legislation**” means the EU Directive 95/46/EC of 24 October 1995 or any applicable similar legislation on the protection of personal data and “**Data Controller**”, “**Data Processor**”, “**Processing**” and “**Personal Data**” will have the meaning set out in the relevant Data Protection Legislation. For the purpose of the Services, Application Provider is a Data Controller and Orange (or Orange SA as applicable) is a Data Processor.

5.2 Application Provider will comply with its obligations as Data Controller under the Data Protection Legislation.

5.3 To the extent that Orange or Orange SA is processing Personal Data (which is controlled by Application Provider) in its performance of the Services (such as geo-localisation of the Users), Orange or Orange SA will comply with the Data Protection Legislation, to the extent applicable as a Data Processor.

5.4 Orange will further be allowed to transfer the Personal Data for the purpose of carrying out fraud or crime detection or to comply with any legal obligation, regulatory requirement or court or other public authority order.

5.5 Application Provider expressly agrees that Orange or Orange SA may transfer the Personal Data outside the European Economic Area if :

a) such transfer is to a person in a country which has “adequate” or “equivalent” protections in relation to the Processing of Personal Data, as those terms are defined under the Data Protection Legislation;

- b) such transfer is to a company certified under Safe Harbour; or
 - c) the recipient of such Personal Data outside the European Economic Area enters (or has entered) into a data transfer agreement (based on or equivalent to the “Standard Contractual Clauses for the Transfer of Personal Data to Processors established in Third Countries” approved by the European Commission) (notwithstanding the foregoing, the Parties agree that, for the purposes of Personal Data transfers to take place in connection with the Data Processor’s obligations under the Agreement which the Parties have agreed as at the Effective Date, the Data Processor shall not be required to have in place the arrangements referred to this sub- paragraph c)).
- 5.6 Notwithstanding anything above, Orange hereby informs Application Provider that it will have portions of the Services performed by Orange SA, Affiliates or subcontractors, some of whom may be based outside the EEA, and which may include such subcontractors processing Personal Data, and Application Provider hereby approves the use of Orange SA or such Affiliates or subcontractors, by Orange.

END OF THE SPECIFIC CONDITIONS FOR M2M SERVICES