



## AGREEMENT FOR INTERNATIONAL TRAFFIC TERMINATION

**THIS AGREEMENT IS MADE BETWEEN:**

**Orange Slovensko, a.s.**, a company duly incorporated and organised under the laws of Slovakia, whose registered office is at Metodova 8, 821 08 Bratislava, Identification No. (IČO) 35 697 270, recorded at Companies Registry of District Court Bratislava I, Section Sa, File No. 1142/B,

hereafter, “**Orange SK**” or “**OSK**”

**AND**

**Xxxxxxxxxx**, a company duly incorporated and organised under the laws of Slovakia, whose registered office is at ..... Bratislava, Identification No (IČO) ....., recorded at Companies registry of District Court Bratislava I, Section ....., File No. ....,

hereafter, “**xxxxxxxx**”

hereafter, “Party” or “Parties”

**WHEREAS**, both parties operate telecommunication systems and they wish to interconnect these systems in order to terminate each other’s international traffic

**WHEREAS**, it is necessary to specify the terms and conditions under which such telecommunications services are to be provided

**PARTIES HAVE AGREED AS FOLLOWS:**

**Article 1 / DEFINITIONS**

Agreement	Present agreement and all annexes hereto.
Point of Interconnection	The point of connection between the parties Systems detailed in particular Annex or document.
Service	The services detailed in particular Annexes.
Service Commencement Date	The earlier of the date on which a Service is first made available for use by a party or the date on which a party first uses a Service.
System	A telecommunications system run by one of the parties including any other telecommunication system connected to those telecommunications systems used to convey Calls under this Agreement.
Number Range Holder	The electronic communication undertaking disposed with number range containing numbers being part of the number portability obligation, primarily and effectively allocated to the undertaking by the National Regulatory Authority – Úrad pre reguláciu elektronických komunikácií a poštových služieb (“ÚPREKAPS”).
Donor	The electronic communication undertaking porting out number being part of the number portability obligation.
Recipient	The electronic communication undertaking porting in number being part of the number portability obligation.
Ported Number	Number from the number range primarily allocated to the Number Range Holder being ported from the Donor’s to the Recipient’s network.

**Article 2 / SCOPE OF AGREEMENT**

- 2.1 The Parties agree to provide and maintain telecommunications services as set forth in the attached Annexes to this Agreement in accordance with the terms and conditions of this Agreement.
- 2.2 For the avoidance of doubt, this Agreement shall not apply to any telecommunications or other services provided by either Party to the other, or between the Parties, except as listed in Annexes hereto (as may be amended from time to time) and this Agreement is independent of, and its scope does not include, any other agreement under which any telecommunications or other services are provided by either Party to any customer.
- 2.3 Nothing in this Agreement shall prevent or restrict either Party from entering into any agreement to provide the services described in this Agreement, alone or jointly with any other entity to any customer on such terms and conditions as it thinks fit (whether or not allowing resale), subject only to any lawful regulatory restrictions applying to the operating territory of either Party or to the international section.
- 2.4 The technical configurations and the standards and methods of operation to be used by the Parties in the provision of services hereunder shall be agreed upon by the Parties and described in a Technical Framework Document. However, where and as far as the Parties have not described the technical configurations and the standards and methods of operation in writing, the Parties shall apply technical standards conforming to the relevant recommendations of the ITU/T.
- 2.5 Each Party shall notify the other Party as soon as possible of any facility failure which will arise, or will be likely to arise, from a cause originating within the Party's area of operation and which is expected to result in a protracted interruption of any or all of the telecommunication services hereunder described.
- 2.6 Each Party shall not use services offered or devices (e.g. PABX, GSM gateways) operated according to or in connection with separate contract or agreement of the Parties in order to interconnect its system with the other Party's system. Each Party shall oblige to the same extent persons proprietary or personally connected to the Party, particularly controlled or controlling persons as of § 66a of the Commercial code.

**Article 3 / FORECASTING**

- 3.1 Parties shall co-operate in forecasting total traffic volume (from xxxxxxxx to Orange SK and from Orange SK to xxxxxxxx) flowing through the interconnection link between the Parties that will enable efficient dimensioning of this link.

**Article 4 / CHARGES**

- 4.1 xxxxxxxx shall pay the charges payable by it in accordance with the applicable tariffs as specified in Annex 1. These tariffs are exclusive of VAT and any other similar sales taxes, duties or levies imposed on Orange SK by law. In case such a tax, duty or levy will be due, the respective amount will be added to the charges payable by xxxxxxxx.
- 4.2 The tariffs set out in Annex 1, Table 1 may be amended only by mutual written agreement of the Parties. The tariffs set out in Annex 1, Table 2 may be amended from time to time by Orange SK, provided that xxxxxxxx receives prior written notice at least seven (7) calendar days before OSK implements the amendments. By mutual agreement of the Parties, a shorter notice period may apply.
- 4.3 Orange SK shall pay to xxxxxxxx the Termination Charges as specified in Annex 2 for termination of traffic handed over by Orange SK to xxxxxxxx under this Agreement. These Termination Charges are exclusive of VAT and any other similar sales taxes, duties or levies imposed on xxxxxxxx by law. In case such a tax, duty or levy will be due, the respective amount will be added to the charges payable by Orange SK.
- 4.4 The tariffs set out in Annex 2, Table 1 may be amended only by mutual written agreement of the Parties. The tariffs set out in Annex 2, Table 2 may be amended from time to time by xxxxxxxx by providing Orange SK with seven (7) calendar days prior written notice. By mutual agreement of the Parties, a shorter notice period may apply.

## Article 5 / INVOICING AND TERMS OF PAYMENT

### Registration of Traffic

- 5.1 Both Parties shall register the international telephony traffic routed via each others network under this Agreement per Destination and deliver true and correct monthly invoice including/with details of registrations for payment, to each other no later than in the term stated in paragraph 5.6.
- 5.2 The measurement unit is one second. Traffic data shall be stated in minutes.
- 5.3 In case that one of the Parties fails to collect the data necessary for invoicing (because of an event of force majeure or other serious reason), the relevant data shall be provided by the other Party free of charge. This data shall be used to generate interim invoices until the billing system of the first Party has been restored. The first Party can submit billing records for the interim period, and the interim invoices can be finalised. In the event the first Party cannot submit billing records for the interim period, the interim invoices shall be considered as final. In the event that neither Party can provide data, then invoicing will be delayed until data is restored or as agreed between the Parties.

### Difference in Monthly Reports

- 5.4 Difference between the monthly invoice of one Party for the incoming traffic and the monthly report of the other Party relating to outgoing traffic for the corresponding period of time shall be set as follows:

$$D\% = [(A - B)/((A+B)/2)] * 100, \text{ where}$$

D%: difference in percents

A ... total sum to be invoiced on the basis of the monthly invoice of one Party for the incoming traffic

B ... total sum to be invoiced based on the monthly report of the other Party relating to outgoing traffic for the corresponding period of time

### Terms of Payment

- 5.5 The invoicing Party shall issue the invoice in a mutually pre-agreed structure containing the agreed items. All rates are quoted and invoiced in EURO or as agreed.
- 5.6 The invoice shall be issued till 10th day of the following month. Agreement on mutual settlement of receivables shall be issued and presented by the Party in which favour is the balance till last day of the month when the invoice has been issued and shall be accepted by the other Party within Due Date of that invoice that is due earlier, otherwise the total outstanding amounts of the respective invoices shall be paid within due.
- 5.7 The terms of payment shall be thirty (30) days from the date of invoice (Due Date and payment shall be made in accordance with the instructions stated on the invoice).
- 5.8 If an objection against a monthly invoice has been raised, and the difference between one Party's monthly invoice for the incoming traffic and the other Party's monthly report relating to outgoing traffic for the corresponding period of time equals to or exceeds 1%, only the amount chargeable for such difference may be withheld until the Parties have determined which amount of traffic shall be invoiced. If the Parties cannot reach consensus, the dispute shall be resolved according to Article 6. The undisputed invoiced amounts shall remain payable under the terms of this Agreement. If an objection against a monthly invoice has been raised, and the difference between one Party's monthly invoice for the incoming traffic and the other Party's monthly report relating to outgoing traffic for the corresponding period of time is less than 1%, the invoice shall be fully paid under the terms of this Agreement. The amounts chargeable for the difference between the one Party's monthly invoices for the incoming traffic and the other Party's monthly report relating to outgoing traffic for the corresponding period of time shall only be recoverable depending on the outcome of the dispute resolution procedure of Section 6.
- 5.9 If either Party disputes the accuracy of an invoice, it shall notify the other Party thereof in writing as soon as possible, but in any case before the Due Date of the invoice. After the Due Date of an invoice the accuracy of that invoice can no longer be disputed.
- 5.10 Notwithstanding the provisions of paragraph 5.7, the purchasing party shall be in default, without further notification to that effect, if it fails to make payment by the Due Date. Without prejudice to any of its rights, both Parties may

charge one another the costs incurred in collecting amounts due for payment. In addition hereto the Parties may from the date on which the other Party was in default impose a penalty interest from the date of payment due until full payment is received, rated as of § 369 sect. 1 of the Commercial Code.

- 5.11 The Party with higher expected payment obligation, stated upon forecasts as per Article 3 of this Agreement, shall until 15 days since the efficiency of this Agreement establish in favour of the other Party the guarantee in the form of:
- a) bank guarantee on the first demand, as per § 313 – 322 of Commercial Code or
  - b) payment to the other Party's bank account in the amount  $2 \times (P1 \text{ obligation} - P2 \text{ obligation})$  where P1 obligation is the first party's obligation for the first calendar month after the Service Commencement Date and P2 obligation is the second party's obligation for the same period.

- 5.12 Guarantee as per Pt 5.11 shall be instrumental to safeguard any claim of the Party in which favour it was established against the other Party, provided that the claim originates from this Agreement or from other wholesale electronic communication contract or agreement, concluded between Parties to this Agreement.

- 5.13 The Parties shall reconsider the amount of the guarantee or its abandonment as per Pt 5.17 below
- a) after each calendar quarter, based on average traffic data for the quarter,
  - b) providing that traffic terminated to one Party's System according to this Agreement has increased in the last calendar month by at least 15%, compared to the situation when the guarantee has been calculated in the actual amount or would be calculated in the actual amount, whether the guarantee would be established.

Each Party is entitled to demand in cases ad a) and ad b) above modifications in the actual conditions of the guarantee, which new amount shall be calculated as twice the average difference between payment obligations of the Parties for the last three calendar months. The Party with higher average payment obligation for the last three calendar months shall establish the guarantee in the new amount.

- 5.14 The Party in which favour has been established the guarantee as per Pts 5.11 to 5.13 is entitled to use it to satisfy any of its claims originated from this Agreement or from other wholesale electronic communication contract or agreement, concluded between Parties to this Agreement, provided that the other Party's payment obligation is at least 7 days overdue. The entitled Party shall inform the other Party about the use of the guarantee no later than next working day. If the guarantee has been used by the entitled Party as per this clause, the other Party shall without undue delay, but no later than within 5 working days, re-establish the guarantee up to the amount it was established or modified before the use by the entitled Party.

- 5.15 If bank guarantee duration period as per Pt 5.11 letter a) is limited, the establishing Party shall before its expiration provide for its replacement by a new bank guarantee, established within conditions no less favourable for the entitled Party than the previous bank guarantee.

- 5.16 The Party in which favour has been established the guarantee as per Pt 5.11 letter b) shall post it to the fixed deposit in a bank. It shall be repaid to the other Party no later than within 10 days after the termination of this Agreement.

- 5.17 The Party in which favour has been established or should be established the guarantee as per Pts 5.11, 5.13, 5.14 or 5.15, may temporarily give over, in written, the execution of its right to ask for establishment of the guarantee, if:
- a) an existing contractual relationship as per this Agreement or other similar agreement or contract exists between the Parties for at least 6 previous calendar months one after another, and
  - b) the other Party has during the period as per letter a) paid all of its financial obligations from this Agreement or other similar agreement or contract properly and within due, or
  - c) the submitted documentary evidences guarantees sufficiently, upon consideration of the Party in which favour has been established or should be established the guarantee, that the obliged Party will pay its financial obligations properly and within due.

- 5.18 Except for its right as per Pt 5.13 the Party who has temporarily given over the execution of its right to ask for establishment of the guarantee as per Pt 5.17 shall be newly entitled to execute its right and ask for the guarantee only if the other Party is at least twice in default in any of its financial obligations as per this Agreement.

## Article 6 / DISPUTE RESOLUTION

- 6.1 The Party raising an objection related to the interpretation, performance or modification of this Agreement must provide sufficient evidence to clearly substantiate the dispute within thirty (30) days after raising the objection, or as otherwise agreed.

- 6.2 Both parties agree to use their best efforts to settle the dispute amicably. For this purpose parties shall provide each other with detailed information about traffic records and other relevant information.
- 6.3 At any point during the dispute, either Party shall have the right to seek a final decision from an arbitrator in accordance with Article 14 of this Agreement.
- 6.4 On resolution of the dispute, any Party from which sums of money have been wrongly withheld due to an objection from the other Party, shall be entitled to the rightly due amount.
- 6.5 If an amount is withheld due to an objection based on false grounds, the Party from which the amount has been withheld shall be entitled to the amount increased by an interest of 18% p.a. from the date on which payment is due to the date of full payment. An objection based on false grounds is defined as one that results in no monetary change in the sums due between the parties before and after resolution of the dispute, or change in the quality of service experienced by each Party. This provision shall not be deemed to exclude either Party's right to statutory interest for untimely payment, including but not limited to payment, which is delayed due to a dispute resolution procedure.
- 6.6 In accordance with the result of the dispute settlement, the invoicing Party shall, without any delay, invoice or credit the other Party within fourteen (14) days after the dispute settlement.

#### **Article 7 / SUSPENSION OF SERVICES**

- 7.1 Each Party shall be entitled to suspend the provision of part or all of the Services provided:
- a) if and in so far as it is required to do so by a governmental or regulatory authority in accordance with a statutory or other regulatory requirement or pursuant to an order of a court having jurisdiction;
  - b) if the other Party fails to meet essential obligations under this agreement or separate contract or agreement of the Parties, including but not limited to obligation specified in paragraph 2.6 above and its payment obligations as referred to in Article 6 above, and fails to remedy such failure within fifteen (15) days after receipt of a written notice specifying the non-performance and requiring it to be remedied, provided that a suspension in accordance with this paragraph 7.1 may be implemented without prior notice in case of real emergency.
- 7.2 The right to suspend performance as referred to in paragraph 7.1 letter b) above shall only be exercised if justified by the nature of the non-performance, taking into account all interests of both parties.
- 7.3 Both Parties shall be obliged to pay all charges, if any, payable by it throughout the period of suspension as referred to in paragraph 7.1 above.
- 7.4 The suspension referred to in paragraph 7.1 above shall be lifted as soon as the reason giving rise to the suspension has been lifted.

#### **Article 8 / LIABILITY**

- 8.1 Neither Party shall be liable for any damage incurred by the other Party as a result of the first Party's failure to perform obligations under this Agreement with the exception of gross negligence or intentional breach and in the following cases:
- a) if damage imputed to either Party is caused to the other Party's property, the first Party shall pay compensation up to maximum of 200,000.-- EURO per case;
  - b) if death or physical injury imputed to either party is caused, this Party shall provide to the other Party compensation for consequential damage up to a maximum of 400,000.-- EURO per case.
- 8.2 Each Party shall be responsible for the settlement of, and shall indemnify and hold the other Party harmless from, any claims by third parties howsoever arising out of or related to use of the services specified under this Agreement.

#### **Article 9 / FORCE MAJEURE**

- 9.1 Neither Party shall be held liable for failure in performing any of its obligations under this Agreement if such failure is caused by or arises as a result of an event of force majeure including, but not limited to, explosion, earthquake, lightning, fire, flood, governmental orders, war, civil disturbances, acts of God, or any other causes beyond the reasonable control of any Party whether or not similar to the foregoing.

- 9.2 The affected Party shall promptly notify the other Party in writing of the occurrence of an event of force majeure and the estimated extent and duration of its inability to perform its obligations.
- 9.3 Upon the cessation of the event of force majeure, the affected Party shall promptly notify the other Party in writing of such cessation and shall resume performance of its obligations.
- 9.4 Both Parties shall use best endeavours to minimise the effects of an event of force majeure.

#### **Article 10 / CONFIDENTIALITY**

- 10.1 Both Parties shall keep confidential the terms and conditions of this Agreement and any and all information about the other Party, including but not limited to information about the other Party's tariffs, business operations and customers, with which they become familiar under the terms of this Agreement, which is assumed to be confidential or has been marked by the other party as confidential.
- 10.2 The obligation of secrecy referred to in paragraph 10.1 above shall not apply to information which:
- a) is already in the possession of or is previously known to the recipient Party at the time of its receipt from the disclosing Party other than by breach of the present obligation of secrecy;
  - b) is in or comes into the public domain otherwise than by breach of the present obligation of secrecy;
  - c) is obtained from a third party who is free to disclose such information, or has been generated by the recipient Party without any use of the confidential information received from the disclosing Party.
- 10.3 On termination of this Agreement for whatever reason, the recipient Party shall return to the disclosing Party (or, at the discretion of the disclosing Party, destroy) all copies of confidential information of the other Party, which it has in its possession.

#### **Article 11 / INTELLECTUAL PROPERTY RIGHTS**

- 11.1 The intellectual property rights in respect of all goods (including - without limitation and in the broadest sense - products, services and software) used by the Parties in the context of this Agreement shall remain vested in the Party originating or which has acquired the same. Unless agreed otherwise in writing, nothing in this Agreement shall confer or be deemed to confer on either Party any rights in or licence to use any intellectual property right of the other Party.
- 11.2 Neither Party shall use the trading name, trademarks or logos of the other Party (whether registered or not), without that Party's prior written consent.

#### **Article 12 / DURATION AND TERMINATION**

- 12.1 This Agreement shall become effective on the date it is signed by both Parties, and shall remain effective unless either Party gives at least three (3) months written notice of termination.
- 12.2 Either Party shall be entitled to terminate this Agreement in whole or in part by a written declaration forthwith and without application to a court of law if:
- a) the other Party fails to meet its obligations under the terms of this Agreement, and fails to remedy such failure within thirty (30) days after receipt of a written notice to do so, unless the failure, given its special nature or minor importance, does not justify the termination of the Agreement and the consequences flowing therefrom;
  - b) either Party's authorisation to run its telecommunications system relevant to such Party's performance of its obligations under this Agreement is revoked, expires or is terminated for any reason (and is not immediately replaced);
  - c) the other Party has applied for or has been granted suspension of payments or has been declared bankrupt, or any analogous event;
  - d) the performance of the other Party's obligations under this Agreement is suspended for more than sixty (60) days by an event of force majeure;
  - e) pursuant to paragraph 12.1 above.
- 12.3 Obligations and provisions of each Party under the terms of this Agreement relating to confidentiality of information and dispute resolution shall survive the termination of this Agreement.

**Article 13 / CONTACT PERSONS; NOTICES**

- 13.1 Contact persons of both parties for each particular area, including escalation level, are defined in respective Annexes to this Agreement.
- 13.2 Unless agreed otherwise in writing, all notices required or permitted to be given under this Agreement shall be in Slovak or English, forwarded by hand delivery or sent by mail, e-mail or fax and addressed to the other Party's contact person as referred to in paragraph 13.1 above and confirmed by letter if required so.
- 13.3 Each Party may replace its own contact person at any time by giving prior written notice in accordance with the provisions of this Article 13.

**Article 14 / GOVERNING LAW**

- 14.1 This Agreement shall be governed by the Slovak law.
- 14.2 The Parties shall endeavour to reach an amicable settlement of any disputes that may arise under this Agreement. Any dispute which may arise out of or in connection with this Agreement between the Parties that cannot be settled amicably shall be referred to arbitration in accordance with the Arbitration Regulations of the International Chamber of Commerce (ICC) by three arbitrators appointed in accordance with the said Regulations. The place of arbitration is Bratislava, Slovak Republic. It is agreed that all documentary submissions, presentations and proceedings shall be in Slovak and/or in English languages.

**Article 15 / FINAL PROVISIONS**

- 15.1 If not expressly stated otherwise herein, this Agreement shall not be released, discharged, amended or modified in any manner, except by an instrument in writing, signed by duly authorised representatives of each of the Parties.
- 15.2 None of the rights and obligations under this Agreement shall be assigned or transferred by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.
- 15.3 The annexes to this Agreement:
1. Services and Prices offered by Orange SK
  2. Services and Prices offered by xxxxxxxx
  3. a) Contact Persons xxxxxxxx
  3. b) Contact Persons Orange SK
  4. SLA – Escalation procedures
  5. Technical Framework Document
  6. Ethical and Environmental Practises - Corporate responsibility (CSR) and Anti-corruption Obligation
  7. Orange's Guarantee for Supplier's Unpaid VAT
  8. The provision of the prevention of VAT fraud called carousel

shall be binding on the Parties as if their contents were included in the main body of this Agreement. If there is any conflict between the substance of the annexes and that of the main body of this Agreement, the latter shall prevail.

Annexes 1 and 3b) are subject to one-sided update by Orange SK, provided that all other Terms of this Agreement are fulfilled.

Annexes 2 and 3a) are subject to one-sided update by xxxxxxxx, provided that all other Terms of this Agreement are fulfilled.

Review of Annexes 4 and 5 is subject to approval and signature by both Parties.

- 15.4 All agreements, covenants and undertakings hereunder made and assumed by the Parties hereto are subject to the obtaining and continuance of all necessary governmental licenses, consents, permits, authorisations and approvals. Each Party shall use its best endeavours to obtain and have continued in effect such licenses, consents, permits, authorisations and approvals.
- 15.5 This Agreement is executed in English in four counterparts, each Party receiving two.





**DRAWN UP AND SIGNED ON BEHALF OF**

**Orange Slovensko, a.s.:**

**xxxxxxx:**

Date:

Date:

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Ivan Golian  
Deputy General Director and  
Member of the Board of Directors

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Antoine Guillaume Guilbaud  
Deputy General Director and  
Member of the Board of Directors