

## GENERAL TERMS & CONDITIONS *MOBILITY EDENRED*

The special conditions set forth in the Sales Contract ("**Special Conditions**") and these general terms and conditions of sales for *Mobility Edenred* ("**General Conditions**" or "**GTC**"), the former taking precedence over the latter in case of divergence, together form the contract ("**Contract**") between Edenred and the Client. They apply to the Client, in addition to any general or special conditions applicable to any kind of product or service offered directly or indirectly on the Application, per e-mail or per telephone as the case may be, and shall overrule any other terms and conditions that do not originate from Edenred or its partners. By accepting these GTC, the Client equally expressly accepts the terms and conditions of the mobility service providers ("**Mobility Merchants**") offering their mobility services and/or products ("**Mobility Services**") on the Application and the terms and conditions of the card issuer, the Banking Partner.

These GTC are applicable from November 1<sup>st</sup>, 2020 onwards and replace all previous terms and conditions related to *Mobility Edenred*. They are available on the Application, also in pdf-format.

### SUBJECT-MATTER

EDENRED BELGIUM SA/NV (« **Edenred** »), with registered office at 1160 Brussels, boulevard du Souverain/Vorstlaan 165, BCE/KBO nr. 0407.034.269 (RPM/RPR Brussels) offers to its Clients a web- and mobile application called *Mobility Edenred* ("**Application**"), including, as the case may be, a payment card ("**Card**") allowing the employees of the Client ("**User**") to search, book and pay for all types of Mobility Services.

The Application has been developed and is managed by SKIPR SA/NV ("**Skipr**"), with registered office at 1050 Brussels, rue du Belvédère/ Belvédèrestraat 29, BCE/KBO nr. 0712.537.551 (RPM/RPR Brussels), partner of Edenred. The Card is issued by the Banking Partner, for which Skipr acts as an agent. Except if mentioned otherwise, all references in those GTC to Edenred include and do also refer to its partner Skipr.

### 1. DEFINITIONS

1.1. Defined terms hereinunder shall have the meaning as ascribed to them in this Article 1 or the meaning indicated where they are used.

- **Account:** the personal *Mobility Edenred* user account created on the Application by the User upon subscription to the Application.
- **Application:** the website and mobile application called *Mobility Edenred*, offered by Edenred but developed, maintained and managed by Skipr, offering to Users (i) to search, book and pay Mobility Services and (ii) to check, on his/her Account the amount of their Mobility Budget and his/her usage thereof.
- **Banking Partner:** the French simplified joint stock company Treezor SAS, with a capital of 2,250,000 euros, registered in the Nanterre Trade and Companies Register under the number 807.465.059, having its registered office at rue de Prony 41, 75017 Paris (France), acting as an electronic money institution and approved by the French Prudential Control and Resolution Authority under number 16798. The Banking Partner acts as the payment card issuer allowing the execution of card payment transactions with the Card, according to the terms and conditions of the Banking Partner which shall be explicitly accepted by the Client.
- **Business Day:** a day (other than a Saturday or Sunday) when banks are open for normal business in Belgium.
- **Card:** means the *MasterCard* payment card, both the Plastic Card and the Virtual Card issued by the Banking Partner and delivered to the User.
- **Client:** the person or company as indicated in the Special Conditions, employer of the User, that buys the Services from Edenred.
- **Contract:** the agreement between Edenred and the Client, encompassing the Special Conditions and these GTC, setting out the terms and conditions for the provision of the Services.

- **Effective Date:** the effective date of the Contract that is, except if otherwise provided in the Special Conditions, the date on which the Client accepted (signed) the Contract.
- **Event of Force Majeure:** any event, which occurs after the Effective Date and which is beyond the reasonable control of the affected Party, to the extent such an event prevents and/or delays the affected Party from fulfilling its obligations under this Contract and the affected Party is not the direct or indirect cause of such an event and is unable to prevent or remove such an event at reasonable cost.
- **Information:** all information, data, reports, intellectual property, know-how, process and trade secrets, in whatever form, provided by or on behalf of one Party to the other Party or information of one Party otherwise received by the other Party under or in connection with the Contract, including the information relating to the Party and its businesses, operations, finances, planning, facilities, products, techniques and processes. For example but without limitation, the Information may include inventions, products, processes, technical methods, formulas, projects, developments, plans, research data, financial data, personal data, software, client listings, suppliers listings and any other data relating to clients or the knowledge of existence of clients or the prospects of the concerned Party (and its affiliated companies).
- **Intellectual Property Rights:** patents, utility models, designs (whether or not capable of registration), chip topography rights, database rights and other like protection, copyrights, trademarks, trade names, trade dresses, trade secrets, inventions and/or any other industrial and/or intellectual property rights, and applications, divisions, continuations, renewals, re-exams and reissues thereof.
- **Mobility Budget:** the periodic mobility budget (*budget mobilité, mobiliteitsbudget*) granted by the Client to (part of) its employees (Users), according to the Mobility Budget Act.
- **“Mobility Budget Act”** means la *Act of 17 Mars 2019 regarding the implementation of a mobility budget (Loi concernant l’instauration d’un budget mobilité, Wet betreffende de inrichting van een mobiliteitsbudget)* and all its amendments, ordinances, decrees or any other related regulation today and in the future.
- **“Mobility Merchants”** mean authorized merchants and service providers of mobility services as defined in the Mobility Budget Law with whom the Card may be used to pay for purchases of Mobility Services. The Card should automatically block the majority of payments to unauthorized third parties, being understood however that Edenred is not able to guarantee that the User’s transactions are only made with authorized Mobility Merchants.
- **Mobility Services:** sustainable goods and services related to mobility offered by the Mobility Merchants and that can be bought by the Users with their Mobility Budget, according to the Mobility Budget Act.
- **Personal Data:** means all information provided by a User to or collected by Edenred during the User’s use of the Application and during the Services provided by Edenred as set out in the Privacy Policies, Edenred and Skipr acting each as controller for the Personal Data that it treats;
- **Privacy Policy:** the privacy policies applicable to the treatment of Personal Data: <https://mobility.edenred.be/legal.php?lng=en&id=privacy>, <https://www.skipr.co/resources/privacy-policy> and <https://www.skipr.co/resources/cookie-policy>
- **Party:** Edenred and/or the Client.
- **Services:** means the services provided by Edenred through the Application and the Card to enable Users to search, book, order and pay for all types of mobility solutions, in accordance with the Contract;
- **User:** any employee of the Client who uses the Application and the Card, after (i) having been selected by the Client as eligible to the Mobility Budget, (ii) whose identity and driving license have been verified by the Client and (iii) who has accepted the User Conditions.
- **User Conditions:** the general terms and conditions of the Application and the Card T&C’s, available on the Application, as shall be accepted by each User before using the Application and the Card.

## **1.2. Interpretation**

- The singular shall include the plural and vice versa.
- Where in this Contract a French or Dutch term is given in italics after an English term, and there is any inconsistency between the French or Dutch and the English, the meaning of the French or Dutch term shall prevail. English language words used in this Contract intend to describe Belgian legal concepts only and the consequences of the use of those words in English law or any other foreign law shall be disregarded.
- The words “include”, “including”, “includes” and all forms and derivations thereof shall mean including but not limited to.
- The titles and headings used in this Contract are only inserted to facilitate the reading of this Contract and do not express in any way the intended understanding of the Parties. They shall not be taken into account for the interpretation of this Contract.

## **2. SERVICES**

### **2.1. Principle**

- 2.1.1. Edenred shall give access to the Application to the Client and the Users. Each User shall have access to his/her own Mobility Budget through his/her Account, it being understood that the synchronization between the payments made by the Card and the Application can take several days. The Client shall have access to aggregated information on a specific platform.
- 2.1.2. Each User can use any Mobility Service available on the Application at any time during the duration of the Contract and pay such use with their Mobility Budget, it being understood that Edenred is not responsible for any Mobility Services operated by the Mobility Merchants.

### **2.2. Registration and accounts**

- 2.2.1. The Client shall make sure that each User registers on the Application, it being understood that the User shall not be able to use their Mobility Budget on the Application before being validly registered.
- 2.2.2. The registration may require from the User to provide some Personal Data, necessary to create his/her Account on the Application. Such Personal Data shall be processed according to the Privacy Policies and all applicable law.
- 2.2.3. As of the Effective Date, at the latest five (5) Business Days after the registration process has been completed by all the Users of the Client, Edenred shall create the Account for each User, enabling them to use the Application. Further registration by a new Users shall in principle be done instantaneously or, at the latest, five (5) Business Days after the registration process has been completed by said User.
- 2.2.4. All Users wishing to use the Application and the Card shall be deemed to have accepted the User Conditions and Privacy Policies upon first use of the Application and the Card.

### **2.3. Mobility Budget**

- 2.3.1. Each User is allocated a Mobility Budget as decided solely by their employer, the Client, and the amount thereof is communicated to Edenred at the same time as the procedure referred to in Article 2.2.
- 2.3.2. The Application can be used to handle the Mobility Budget and a fixed yearly maximum budget can be determined for each User, it being understood that Edenred does not interfere with, is not affected by and does not bear any responsibility in relation to the relationship between the Client and its employees (Users) regarding the determination of each personal Mobility Budget, its terms and conditions, and its compliance with the law and in particular with the Mobility Budget Act and other tax and social legislation in relation with the Mobility Budget. As such and where applicable, the Client is the sole responsible to ensure that its Users are entitled to a Mobility Budget under the terms of the Mobility Budget Act.

## **2.4. Modifications**

- 2.4.1. The Client can modify directly on a platform or, should it not be available, can request Edenred, at any time, to
  - 2.4.1.1. modify the Mobility Budget or the fixed maximum budget mentioned, as the case may be, on the Application, for each User;
  - 2.4.1.2. grant access to the Application for a new User; or
  - 2.4.1.3. remove access to the Application for an existing User.
- 2.4.2. When requesting access to the Application for a new User, the Client shall at the same time provide Edenred with the amount of the Mobility Budget to be set and shall request the new User to register on the Application.
- 2.4.3. Should a modification pursuant to this Article not be possible, Edenred shall explain the reasons of the impossibility to access the Client's request, as the case may be, and both Parties undertake to negotiate in good faith to implement the modification or a reasonable equivalent as soon as possible.

## **2.5. Payment cards**

- 2.5.1. The Client can request, at any time, a Card (virtual or physical) for all or some of its Users. Edenred undertakes to answer said request within fifteen (15) Business Days, provided that this is materially possible. Edenred shall explain the reasons for the impossibility to access the Client's request, as the case may be.
- 2.5.2. The Client will register to a special payment account. Before the opening of the payment account the Client shall explicitly accept the terms and conditions regarding the Card and related payment services, on the Application.
- 2.5.3. Each Card is personal to each User and can only be used by said User in accordance with the User Conditions.
- 2.5.4. The Card can only be used to pay for Mobility Services.
- 2.5.5. The funds are loaded on the Card based on the balance of the User's Mobility Budget and as periodically prepaid by the Client, it being understood that no funds shall be loaded on a Card without having first being transferred by the Client to Edenred. Once Edenred has loaded the funds on the Card, the responsibility for the funds remains exclusive with the Banking Partner. Edenred cannot be held liable for any loss of funds once it has loaded the funds on the card.
- 2.5.6. Any payment transaction made with the Card by a User will be deducted from the User's Mobility Budget as available on the Account.
- 2.5.7. Users can use the Card up to the remaining balance in their respective Mobility Budget up to the maximum specified by the Client. The Client is solely responsible for specifying to each of its Users how and under which conditions the Card may be used. Edenred assumes no liability for misuse of the Card or for any payment transactions done beyond the scope agreed upon between the Client and its User.
- 2.5.8. The Client shall communicate to Edenred upon its request all the information related to it and/or its Users, when such information is necessary or useful to enable Edenred to deliver the Services and/or to comply with applicable law.
- 2.5.9. The Parties acknowledge and accept that the Cards are issued by a certified third party and that Skipr shall only act as an agent of said third party in relation with the Cards, it being understood that the Client shall nevertheless communicate directly with Edenred for issues in relation to the Cards.

## **2.6. NMBS/SNCB ISA**

As per request of the NMBS/SNCB, the Client acknowledges and accepts the ISA conditions of the NMBS/SNCB as attached as Appendix 1, to enable its Users to use NMBS/SNCB services on the Application.

### 3. INDEPENDANCE

Each Party is operating, and will continue to operate, on its own behalf, in its own name, with its own trade name, for its own account and at its own risks and nothing in the Contract is intended or shall be construed to authorize either Party to create or assume any liability or indebtedness of any kind in the name of or on behalf of the other Party or to act for or be responsible for the performance of the other Party in any manner whatsoever.

### 4. COLLABORATION

- 4.1. Each Party undertakes to collaborate in good faith with the other with a view to the due performance of the Contract. Each Party shall provide the other with the necessary information to enable the proper performance of the Contract and shall provide support if needed.
- 4.2. Edenred shall not be responsible for any obligation existing between the Client and its employees.
- 4.3. Edenred shall provide access to statistical reports to enable the Client to monitor the use of the Mobility Services by its Users, it being understood that the Client confirms having obtained from its Users all the necessary authorizations to access these data, including Personal Data.

### 5. PRICE – PAYMENT TERMS

- 5.1. The price for the Services ("Price") is set forth in the Special Conditions. All Prices are VAT excluded.
- 5.2. The Price is linked to upward variations in the AGORIA labor cost index (national average). In the event of an increase, the Price will be adapted at most once within a period of twelve months, based on the following formula:  $P = P0 (0.2 + 0.8 \times S / S0)$  where:
  - P = adapted Price
  - P0 = Price mentioned in the Special Conditions
  - S = the Agoria labor cost index (national average) in effect on the first day of each quarter
  - S0 = the Agoria labor cost index (national average) in force on the Effective Date
- 5.3. Without prejudice to the provisions of article 5.2., Edenred is entitled to modify the Price at any time, subject to 3 weeks' written notice. If the Client does not accept the new Price, the Client will be entitled to terminate the Contract through written notice at least 15 days before the effective date of the new Price and by respecting a notice period of 90 days starting on the effective date of the new Price. During the notice period the Price will be the last Price agreed between the Parties. In the absence of termination notification sent by Client at least 15 days before the effective date of the new Price, the new Price will be considered accepted by the Client.
- 5.4. Invoices for the Price are sent on a monthly basis, in advance for the next month.
- 5.5. Payment of the Price and applicable VAT is made via SEPA bank transfer or SEPA direct debit, prior to the delivery of the Services. In the absence of payment prior to delivery, Edenred reserves the right to cancel the order without prior notice. In the absence of payment via SEPA transfer or SEPA direct debit, invoices are payable 30 days after invoice date. Any late payment of invoices at due date results, without notice, in the payment of late payment interest, calculated at the rate provided in Article 5 paragraph 2 of the Law of 2 August 2002 concerning the fight against late payment in commercial transactions. In the event of cessation of payment, liquidation, bankruptcy, or any other situation of competition between the creditors of the CLIENT, all EDENRED's invoices and claims vis-à-vis the CLIENT will become immediately due and payable.
- 5.6. Should there be a disagreement on the amount of any invoice, the Parties shall work together in good faith to settle it. The monthly reports attached to the monthly invoices shall prevail unless the Client notifies its disagreement to Edenred in written, with sound prove and not later than ten (10) days following the reception of the disputed report or invoice. After such period, any invoice and/or monthly report shall be firm and deemed being accepted by the Client.

5.7. Edenred blocks any payment transactions requested by a User if his/her Mobility Budget has been entirely used. If, at the end of each year, there should nevertheless be some expenses incurred by a User which exceed his/her Mobility Budget, these expenses shall be invoiced to the Client.

## **6. WARRANTIES**

Without prejudice to Article 10, the Client, including its officers, employees, agents or other representatives represents and warrants that:

- 6.1. it shall make its best efforts to perform its obligations under the Contract in a timely and diligent manner and with professional diligence, skill, prudence and foresight;
- 6.2. it shall make its best efforts to comply at any time with any relevant Belgian, European or international legislation or regulation whatsoever applicable for the performance of the Contract, and notably the Budget Mobility Act and the legislation relating to Personal Data, applicable to the performance of the Contract;
- 6.3. it has the powers and capacity to perform its obligations under the Contract.

## **7. CONFIDENTIALITY**

- 7.1. Without prejudice to Article 9, neither Party shall disclose to third parties and/or use any received Information, including pieces of Information received prior to the signing of the Contract without the prior written permission of the other Party, except to its affiliates, subcontractors, suppliers, agents and advisors working on the execution of the Contract, on a strictly *need to know* basis and provided that such third parties are bound by confidentiality obligations similar to those contained in the Contract.
- 7.2. Each Party shall only use any Information whatsoever for the strict purpose of executing its obligations under this Contract.
- 7.3. Information (as defined) shall not, however, include information for which the concerned Party can establish:
  - 7.3.1. is in the public domain at the time of disclosure or later becomes part of the public domain without breach by the Party of the confidentiality obligations contained herein; or
  - 7.3.2. was rightfully in the possession of the Party prior to disclosure hereunder and is not subject to confidentiality obligations between the Parties; or
  - 7.3.3. was or is disclosed to the Party by a third party who is not, to the best of Party's knowledge, bound by any obligation of confidentiality to the other Party; or
  - 7.3.4. was or is independently developed by the Party without use or reference to the Information.
- 7.4. A Party shall have the right to disclose Information of the other Party pursuant with a judicial or other governmental order but shall inform the other Party prior to it.
- 7.5. Each Party shall use appropriate efforts no less restrictive than used for the Party's protection of its own Information, to safeguard the Information of the other Party and keep it secure.
- 7.6. Each Party shall return or destroy upon written request of the Party owning the Information all material embodying Information of the other Party that is subject to confidentiality obligations under the Contract, including all copies of any kind. However, the Party receiving request may retain such Information that is required by mandatory laws or to perform its obligations under the Contract subject to all confidentiality obligations herein.
- 7.7. This Article 7 shall survive the end of this Contract for a period of five (5) years.

## **8. PERSONAL DATA**

- 8.1. The Personal Data is processed according to the Privacy Policies. The Parties represent and warrant that they comply at any time during the term of the Agreement and after its termination with the applicable law related to Personal Data, i.e. the EU 2016/679 General Data Protection Regulation ("GDPR").

- 8.2. Each Party takes at its own costs and expenses adequate technical and organizational measures as notably required by article 32 of the GDPR, against loss or any form of unlawful processing (such as accidental or unlawful destruction, loss, unauthorized deterioration, alteration, access to or disclosure of personal data) in connection with the processing of personal data under the Agreement. To the extent and as required by applicable law, Parties shall inform the relevant data subjects (e.g. the Users) about the processing activities under this Agreement in accordance with the requirements under applicable law.
- 8.3. Nothing in the Contract or the effects envisaged by it is intended to qualify either Party as a data processor or joint controllers, as defined in the GDPR, regarding Personal Data shared by one Party with the other except in relation with the Cards for which Skipr shall act as a processor of the Banking Partner who shall be the controller.
- 8.4. If the Client or a User has questions, requests or complaints concerning the processing of their Personal Data they may at any time contact the data protection officer, at [dpo.belgium@edenred.com](mailto:dpo.belgium@edenred.com), or lodge a complaint with the Data Protection Authority ("APD").

## **9. INTELLECTUAL PROPERTY RIGHTS – MARKETING**

- 9.1. All right, title and interest in and to all Information and to all Intellectual Property Rights, whether or not specifically recognized or protected under applicable law, shall worldwide and in perpetuity vest in and be the sole and exclusive property of the Party owning it on the Effective Date and of the Party creating it after the Effective Date, as the case may be.
- 9.2. Under no circumstances shall the Contract involve a transfer of Intellectual Property Rights between the Parties. Any Intellectual Property Right announced or created during the duration of the Contract shall remain the sole ownership of the Party responsible for the announcement of the creation thereof.
- 9.3. Each Party can use the trademarks, trade names and logos of the other Party for marketing and communication purposes relating to the Contract, provided that said use is not able to harm in any way whatsoever the image and commercial reputation of the other Party or the Application and can, in its own name and on its own behalf, make publicity on, press release of and reference to the existence of the Contract and the nature of the cooperation between the Parties. Said use and communications can be realized without a prior written approval of the other Party to the extent it is done without disclosure of the details regarding the Contract or the execution thereof and without impair public order and morals and the commercial reputation of the other Party.
- 9.4. Each Party can request the other Party to stop any use or communication that is, in its reasonable opinion, contrary to the abovementioned.

## **10. LIABILITY**

- 10.1. The Client undertakes to hold Edenred and its affiliates harmless from any and all liabilities, damages, losses, costs and expenses (including without limitation attorneys' fees) which arise from the actions or omissions of its Users or from a failure to properly select Users.
- 10.2. Neither Party shall under any circumstances be liable towards the other Party for any indirect damages, expenses, costs or other losses incurred by the other Party or its affiliates arising under or in connection with the Contract.
- 10.3. The liability of Edenred under the Contract shall in any event be limited to the maximum amount between (i) the amount provided by the applicable insurance to cover the liabilities, damages, losses, costs and expenses in such case or (ii) 5% of the yearly Contract value causing damage to the Employer or its Qualifying employees, in a yearly aggregate.
- 10.4. Any limitation of liability provided in this Article shall not apply to breaches of Article 7, to the liability mentioned in Article 10.1. or in cases of fraud, willful misconduct or gross negligence by the defaulting Party, committed in relation with the performance of this Contract.

10.5. Edenred shall not be liable for any Event of Force Majeure or any technical problem that might arise and the consequences thereof, the quality, delivery and/or variation of the Mobility Services displayed on the Application, the modification of prices decided by the Mobility Merchants or the impossibility to access the Mobility Services for any reason. Furthermore, Edenred shall in no case whatsoever be liable for any damages, expenses, costs or other losses resulting from the actions or omissions of third parties involved in the execution of this Contract, including the Banking Partner.

## **11. TERM – TERMINATION**

11.1. Except if otherwise provided in the Special Conditions, the Contract shall start on the Effective Date and shall remain in force for a period of 12 months.

11.2. This Contract shall be renewed automatically for succeeding 12 month-periods and under the same conditions unless either Party gives written notice by registered mail to the other Party at the latest ninety (90) days prior to the anniversary date of the Contract.

11.3. Each Party may terminate the Contract by registered mail, with immediate effect, without incurring any liability and without prejudice to the right of indemnification of that Party, in the event that (i) the other Party commits a material breach and fails to remedy such breach within ten (10) Business Days after having been given written notice in respect thereof; or (ii) the other Party is declared bankrupt, is dissolved, or goes or is put into liquidation (otherwise than solely for the purpose of amalgamation or reconstruction) or if a receiver is appointed over any part of such other Party's business or if any event occurs which under the laws of any jurisdiction has a similar or analogous effect to any of the above events; or (iii) as otherwise set forth in the Contract.

11.4. The termination of the Contract under article 11.3., entitles Edenred to claim from the Client liquidated damages as a compensation for the damage suffered by Edenred as a result of such a wrongful early termination. The liquidated damages are set at 50% of the Price which would have been received by Edenred during the remaining term of the Contract, calculated on the basis of the Price invoiced to the Client during the entire Contract term preceding the wrongful early termination, without prejudice to the right of Edenred to claim any higher amount, that it will be able to demonstrate.

11.5. Termination of the Contract shall be without prejudice to the rights and obligations of the Parties which have accrued up to the date of termination.

## **12. MISCELLANEOUS**

### **12.1. Entire Contract and general terms and conditions**

The Contract forms the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior communications, written or oral, between the Parties. The Client renounces without any reservation to its own general conditions, whatever be their denomination or the moment of transmission to Edenred.

All amendments and modifications to the Contract shall be made by a written document signed by both Parties.

### **12.2. Assignment and Transfer**

No Party shall be entitled to assign or transfer all or any of its rights, benefits and obligations under the Contract without the prior written consent of the other Party, except to a successor of all or substantially all of the assets of such Party if the successor expressly assumes in writing the terms, conditions and obligations of said Party hereunder and warns the other Party in writing.

Subject to the foregoing, the Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Any attempted assignment other than in strict compliance with this clause shall be void.



### **12.3. Severability**

If one or several provisions of the Contract shall be held to be void, illegal, or unenforceable, this nullity, illegality or unenforceability shall not affect the validity, the legality or the enforceability of the other provisions. Each Party shall negotiate diligently and in good faith a valid provision replacing the void, illegal or unenforceable provision.

### **12.4. Waiver**

The default or the delay of a Party to avail itself of a right or a faculty given by the Contract or a breach of the other Party cannot, in any case, be considered as or have the effect of a definitive waiver of that Party to avail itself of that right or that breach subsequently.

### **12.5. Disputes – Applicable law**

For any question, request complaint or claim Edenred's customer service may be contacted on [mobilityedenred.zendesk.com](http://mobilityedenred.zendesk.com). The Parties shall try to settle any complaints, claims or disputes in good faith through negotiation or via <http://www.ombudsmanvoordehandel.be> or through a mediator acknowledged by Belmed (<https://economie.fgov.be/nl/themas/online/belmed-onlinebemiddeling>)

If no settlement can be found under alternative dispute resolution, any dispute related to the conclusion, the validity, the interpretation or the performance of the Contract, or of contracts or subsequent transactions that might result from it, as well as any other dispute concerning, or related to, the Contract, shall be submitted to the exclusive jurisdiction of the courts of Brussels.

The Contract shall be governed by and construed in accordance with the laws of Belgium.

### **12.6. Appendices**

The following Appendices are attached to this Contract and form an integral part herewith:

Appendix 1 – NMBS ISA;

## NATIONALE MAATSCHAPPIJ DER BELGISCHE SPOORWEGEN

### OVEREENKOMST BETREFFENDE DE INDIRECTE VERKOOP VIA EEN MULTIMOBILITEITSPROVIDER

#### *Organismenummer voor indirecte verkoop: gegeven door NMBS*

Hierna de **'Overeenkomst'** genoemd

**Tussen enerzijds:** de Klant/werkgever, zoals gedefinieerd in het Contract met Edenred

Hierna genoemd **'Contractant'**

**En anderzijds:** De Nationale Maatschappij der Belgische Spoorwegen, naamloze vennootschap van publiek recht, met ondernemingsnummer 0203.430.576 en met maatschappelijke zetel te 1060 Brussel, Frankrijkstraat 56

Hierna genoemd **'NMBS'**

Hierna afzonderlijk **'Partij'** en gezamenlijk **'Partijen'** genoemd.

#### **VOORWOORD**

Steeds meer ondernemingen maken voor het vervoer van hun Personeel gebruik van de diensten van een Multimobiliteitsprovider. Deze laatste biedt een Platform voor Multimodale Mobiliteit aan waarop verschillende vervoersmodi zijn geïntegreerd, waaronder het treinvervoer van NMBS.

De Multimobiliteitsprovider verkoopt via zijn Platform voor Multimodale Mobiliteit onder meer Producten van NMBS, in naam en voor rekening van NMBS.

Om toegang te krijgen tot de Producten van NMBS op dit Platform, moet een onderneming eerst een toegangssleutel verkrijgen van NMBS in de vorm van een uniek Organismenummer.

Door ondertekening van deze Overeenkomst, verkrijgt de Contractant het nodige Organismenummer, vermeld op het voorblad van deze Overeenkomst, dat geldig is bij alle door NMBS erkende Multimobiliteitsproviders.

#### **Werd overeengekomen wat volgt:**

##### **Artikel 1 Definities**

Ten behoeve van deze Overeenkomst, wordt gespecificeerd dat:

**'Contractant'**: de onderneming of de zelfstandige die beschikt over een ondernemingsnummer, evenals de publieke rechtspersoon of vereniging, die een contract wenst af te sluiten met een door NMBS erkende Multimobiliteitsprovider of met één van haar Partners, zodat haar Personeel toegang krijgt tot diens Platform voor Multimodale Mobiliteit waarop verschillende vervoersmodi zijn geïntegreerd, waaronder de Producten van NMBS.

**'Indirecte Verkoop'**: de verkoop die indirect tot stand komt tussen NMBS en de Contractant, wanneer deze laatste via haar Personeel een Vervoersbewijs van NMBS aankoopt via het Platform van de Multimobiliteitsprovider, en waaruit de in deze Overeenkomst vermelde rechten en plichten voortvloeien.

**'Multimobiliteitsprovider'**: de vennootschap die een Platform voor Multimodale Mobiliteit aanbiedt dat verschillende vervoersmodi integreert, waaronder het openbaar treinvervoer van NMBS. De Multimobiliteitsprovider verkoopt via zijn Platform in naam en voor rekening van NMBS, de Producten van NMBS.

**'Organismenummer voor Indirecte Verkoop', hierna 'Organismenummer'**: verwijst naar het contractnummer bestaande uit vier alfanumerieke tekens, dat op het voorblad van deze Overeenkomst is vermeld. Het Organismenummer is uniek en vormt de toegangssleutel tot de Producten van NMBS op het Platform van de Multimobiliteitsprovider. Dit Organismenummer is geldig bij elke door NMBS erkende Multimobiliteitsprovider en dient door de Contractant voorafgaandelijk aan de sluiting van het contract met de Multimobiliteitsprovider te worden meegedeeld aan deze laatste.

**‘Partner(s) van de Multimobiliteitsprovider’:** de commerciële partner van de Multimobiliteitsprovider die het gebruik van het Platform van de Multimobiliteitsprovider aan Contractant ter beschikking stelt en die voorafgaand door NMBS goedgekeurd werd.

**‘Personeel’:** verwijst naar werknemers, vertegenwoordigers, directeurs, consultants en/of medewerkers die van de Contractant het recht hebben verworven om als Reiziger het Platform van de Multimobiliteitsprovider te gebruiken.

**‘Platform voor Multimodale Mobiliteit’, hierna ‘Platform’:** de systemen, de servers, de databases en mobiele applicaties of website van de Multimobiliteitsprovider, waarop verschillende vervoersmodi worden verkocht, waaronder Vervoersbewijzen van NMBS, en waarop andere vervoersgerelateerde diensten en producten worden aangeboden.

**‘Product’:** de producten die NMBS in het kader van een distributieovereenkomst aan de Multimobiliteitsprovider ter beschikking stelt om via diens Platform voor Multimodale Mobiliteit verkocht te worden. De Producten worden uitsluitend afgeleverd onder de vorm van een digitaal en gedematerialiseerd Vervoersbewijs (“Mobile Ticket”).

**‘Reiziger’:** verwijst naar elke persoon die reist met een via de Multimobiliteitsprovider aangekocht Vervoersbewijs.

**‘Vervoersbewijs’:** het digitaal en gedematerialiseerd vervoersbewijs van NMBS (“Mobile Ticket”), dat de betekenis heeft die eraan gegeven wordt in artikel 7 van Appendix A – Uniforme regelen betreffende de overeenkomst voor internationaal vervoer van reizigers en bagage (CIV) volgens het Verdrag betreffende het internationale spoorwegvervoer (COTIF) van 9 mei 1980, zoals gewijzigd op 3 juni 1999 en in de Verordening 1371/2007 betreffende de rechten en verplichtingen van reizigers in het treinverkeer.

**‘Vervoersvoorwaarden van NMBS’:** de algemene en de bijzondere vervoersvoorwaarden van NMBS die via de website van NMBS vrij raadpleegbaar zijn.

## **Artikel 2 Voorwerp van de overeenkomst**

Door deze Overeenkomst te ondertekenen en tijdens de duur van de Overeenkomst zoals bepaald in Artikel 9 verwerft de Contractant het recht op toegang tot de Producten van NMBS op het Platform van een Multimobiliteitsprovider, door het verkrijgen van een uniek Organismenummer dat vermeld wordt op het voorblad van deze Overeenkomst.

De Contractant aanvaardt de rechten en plichten zoals bepaald in Artikel 3, die voortvloeien uit de Indirecte Verkoop die tot stand komt tussen NMBS en de Contractant.

## **Artikel 3 Rechten en plichten van de Partijen**

1. Onverminderd het recht van de Contractant om een rechtstreekse koopovereenkomst met NMBS af te sluiten, is de Contractant vrij een overeenkomst af te sluiten met één of meerdere door NMBS erkende Multimobiliteitsproviders.
2. De Contractant zal NMBS onmiddellijk informeren wanneer de samenwerking met één of meerdere Multimobiliteitsproviders beëindigd wordt. In dergelijk geval behoudt de Contractant het recht om een rechtstreekse koopovereenkomst met NMBS af te sluiten.
3. Het afsluiten van deze Overeenkomst vormt geen garantie ten aanzien van de Contractant tot het afsluiten van een contract tussen de Contractant en een Multimobiliteitsprovider.
4. NMBS behoudt zich het recht voor om de samenwerking met een Multimobiliteitsprovider of één van haar Partners conform de tussen hen geldende contractuele stop te zetten.
5. Het Organismenummer, vermeld op het voorblad van deze Overeenkomst, vormt de toegangssleutel tot de Producten van NMBS op het Platform van de Multimobiliteitsprovider en dient door de Contractant voorafgaandelijk aan de sluiting van het contract met de Multimobiliteitsprovider te worden meegedeeld aan deze laatste.

6. De Contractant erkent en aanvaardt de Vervoersvoorwaarden van NMBS, die onder meer bepalen dat:

- het Personeel, bij de aankoop van een Vervoersbewijs via het Platform van de Multimobiliteitsprovider, de volgende gegevens dient mee te delen: naam, voornaam, geboortedatum en e-mailadres van de Reiziger.
- enkel de Reiziger eventuele rechten op vergoeding ten aanzien van NMBS zal kunnen doen gelden in geval van treinvertraging of afgeschafte treinen, met uitsluiting van ieder andere betrokkene bij de distributie van Vervoersbewijzen en dit met inbegrip van de Contractant zelf of van de Multimobiliteitsprovider.
- in het geval de reis bestaat uit verschillende trajecten waarbij elk traject verzekerd wordt door een aparte vervoerder, ongeacht of verschillende keren hetzelfde vervoermiddel (trein + trein) of verschillende vervoermiddelen (trein + bus/tram/metro/andere) gebruikt worden door de Reiziger, elke vervoerovereenkomst juridisch op een autonome manier wordt behandeld en elke vervoerder slechts aansprakelijk zal zijn ten aanzien van de Reiziger voor het deel van de reis dat hij op zich heeft genomen. De identiteit van de uitgever of de verdeler van het vervoerbewijs heeft hierbij geen enkele invloed.
- het Vervoersbewijs is in regel niet omwisselbaar, noch terugbetaalbaar.

In afwijking van deze Vervoersvoorwaarden kunnen volgende gevallen aanleiding geven tot annulatie of terugbetaling:

- dubbel bestelde Vervoersbewijzen als gevolg van technische haperingen aan het verkoopsysteem van NMBS
- in geval van aangekondigde algemene staking: vóór de aankondiging van de staking bestelde Vervoersbewijzen

In deze gevallen rekent NMBS geen administratiekosten aan. De annulatie geschiedt via eenvoudig verzoek door de Multimobiliteitsprovider.

7. De Contractant verbindt zich ertoe zijn Personeel, dat houder is van een Vervoersbewijs van NMBS, te wijzen op het bestaan van de Vervoersvoorwaarden van NMBS die door het Personeel geconsulteerd kunnen worden op de website van NMBS ([www.belgianrail.be](http://www.belgianrail.be)) en in haar bemande verkooppunten en er zich van te vergewissen dat zij van deze voorwaarden kennis hebben genomen of minstens hebben kunnen nemen.

8. De Contractant neemt kennis van het feit dat NMBS niet verantwoordelijk is voor de door de Multimobiliteitsprovider foutief geleverde informatie.

9. Voor vragen of klachten in verband met de dienstverlening die op het Platform van de Multimobiliteitsprovider wordt geleverd, zal de Contractant zich rechtstreeks wenden tot de Multimobiliteitsprovider.

Hieronder dient te worden begrepen: informatieverstrekking over de Producten, de dienstregelingen, de gebruiksvoorwaarden en andere informatie die strikt noodzakelijk kan zijn voor de Multimobiliteitsprovider om een Product te visualiseren en te reserveren, informatieverstrekking over het Platform, ondersteuning bij het aankopen, ondersteuning bij technische problemen,...

#### **Artikel 4 Aansprakelijkheid**

De Contractant erkent en aanvaardt dat het uitsluitende voorwerp van deze Overeenkomst er in bestaat om de Contractant het recht te verstrekken op toegang tot de Producten van NMBS op het Platform van de Multimobiliteitsprovider.

NMBS sluit uitdrukkelijk alle aansprakelijkheid uit betreffende diensten en/of producten die niet specifiek het voorwerp uitmaken van deze Overeenkomst zoals beschreven in Artikel 2 van deze Overeenkomst.

De Contractant waarborgt ten aanzien van NMBS dat de leden van haar Personeel de verbintenissen en verplichtingen, voorzien in de bepalingen van deze Overeenkomst, naleven en er voldoende van op de hoogte zijn gebracht. De Contractant wordt persoonlijk verantwoordelijk gesteld voor elk misbruik door het Personeel van alle verplichtingen voorzien in deze Overeenkomst.

Ongeacht enig andersluidend beding en onverminderd alle andere rechten op grond van deze Overeenkomst of van het toepasselijke recht, behoudt NMBS zich het recht voor om een vergoeding te vorderen voor elke schade

die zij geleden heeft als gevolg van een misbruik van of tekortkoming begaan door de Contractant of door zijn Personeel aan één van de bepalingen van deze Overeenkomst.

#### **Artikel 5 B2B Klantendienst**

Elke wijziging van gegevens (onderneming, contactpersonen, administratieve, ...) moet verplicht schriftelijk en onverwijld meegedeeld worden aan:

NMBS NV van publiek recht Business Center  
10-14 B-MS.112  
Halleepoortlaan 40 – 1060 Brussel  
Tel: 02/528 25 28  
E-mail: business@b-rail.be

Voor vragen of klachten in verband met de uitvoering van deze Overeenkomst kan de Contractant eveneens terecht op bovenstaand adres, e-mailadres of telefoonnummer.

NMBS heeft het recht om haar contactgegevens te wijzigen. In dat geval geeft NMBS minstens één week op voorhand schriftelijk kennis van haar nieuwe contactgegevens.

#### **Artikel 6 Vertrouwelijkheid**

Elke Partij verbindt zich ertoe de inhoud van de Overeenkomst en alle uitgewisselde of ontvangen informatie krachtens de Overeenkomst of in het kader ervan vertrouwelijk te behandelen en de vertrouwelijke informatie niet aan een derde te onthullen zonder voorafgaande schriftelijke toestemming van de andere Partij.

De confidentialiteitsverplichting blijft van kracht tot er een periode van twee (2) jaar verstreken is na de beëindiging van de Overeenkomst.

De confidentialiteitsverplichting geldt niet:

- wanneer de vertrouwelijke informatie medegedeeld moet worden krachtens een rechterlijk bevel of krachtens een dwingende wettelijke bepaling;
- wanneer de informatie gemakkelijk of normaal toegankelijk of beschikbaar is voor het publiek (zonder dat de beschikbaarheid mogelijk is gemaakt door een fout of nalatigheid van een van de Partijen);
- wanneer het mededelen door een van de Partijen onmisbaar is om technische of veiligheidsredenen of het mededelen noodzakelijk is voor de correcte uitvoering van de Overeenkomst, op voorwaarde dat de bestemming(en) ervan gebonden is/zijn door regels die gelijkaardig zijn met de in de Overeenkomst beschreven confidentialiteitsverplichting;
- wanneer de informatie wordt medegedeeld in het kader van een gerechtelijke of arbitrale procedure.

De Partijen verbinden zich ertoe de nodige maatregelen te nemen om deze confidentialiteitsverbintenissen in acht te laten nemen door hun werknemers, vertegenwoordigers, directeurs, consultants, medewerkers en uitvoeringsagenten.

Indien de vertrouwelijke informatie openbaar dient te worden gemaakt of ter beschikking van derden dient te worden gesteld op grond van wettelijke voorschriften of op rechterlijk bevel, dient de openbaarmakende Partij de Partij van wie zij de vertrouwelijke informatie bekendmaakt daarvan onmiddellijk en schriftelijk in kennis te stellen.

#### **Artikel 7 Privacy**

In het kader van hun contractuele relaties, verbinden Partijen zich ertoe om de van kracht zijnde wetgeving die van toepassing is op de verwerking van persoonsgegevens en, meer bepaald, de verordening 2016/679 van het Europees Parlement en de Raad van 27 april 2016 betreffende de bescherming van natuurlijke personen in verband met de verwerking van de persoonsgegevens die op 25 mei 2018 volledige uitvoering krijgt, na te leven.

Daarnaast, behandelt de NMBS de persoonsgegevens van de reizigers in overeenstemming met haar privacy policy (beschikbaar op de volgende link: <http://www.belgianrail.be/nl/klantendienst/wettelijke-vermeldingen/privacy.aspx>).

### **Artikel 8 Overdraagbaarheid**

Het is de Contractant niet toegestaan de Overeenkomst of de rechten en verplichtingen die eruit voortvloeien over te dragen aan een derde zonder de voorafgaande schriftelijke toestemming van NMBS.

### **Artikel 9 Duurtijd en opzegging**

Deze Overeenkomst gaat in op de "Effective Date" van de overeenkomst/"Contract" tussen Edenred en de Contractant en is van onbepaalde duur.

Deze Overeenkomst eindigt zodra de distributieovereenkomst tussen NMBS en de Multimobiliteitsprovider beëindigd wordt op grond van één van onderstaande redenen:

- Indien NMBS hetzij de Multimobiliteitsprovider de distributieovereenkomst beëindigt mits objectieve gemotiveerde en gegronde redenen en mits inachtneming van een opzeggingstermijn van één maand gedurende het eerste jaar, twee maanden gedurende het tweede jaar en drie maanden gedurende het derde jaar van de distributieovereenkomst.
- Indien de distributieovereenkomst onmiddellijk wordt beëindigd, zonder tussenkomst van de rechtbank, omdat: (i) één van de partijen één van haar verplichtingen krachtens de distributieovereenkomst niet nakomt en er niet in slaagt om deze tekortkoming te verhelpen binnen de tien (10) dagen volgend op de schriftelijke kennisgeving ervan, met dien verstande dat een dergelijke periode van tien (10) dagen niet wordt toegekend als de tekortkoming niet kan worden verholpen gezien de aard ervan, (ii) het imago van NMBS ernstig en opzettelijk geschaad werd, (iii) een van de partijen insolvent wordt, failliet gaat of failliet wordt verklaard, (iv) een sekwester of curator wordt aangesteld voor een van de partijen of voor een substantieel deel van zijn activa, of (v) de garantie zoals gespecificeerd in Bijlage 3 van de distributieovereenkomst wordt ingetrokken, nietig is of om enig andere reden ongeldig wordt en dit niet binnen de tien (10) dagen door de Multimobiliteitsprovider verholpen werd.

Deze Overeenkomst wordt van rechtswege en zonder rechterlijke tussenkomst ontbonden in geval van herhaaldelijk frauduleus of onregelmatig gebruik van Vervoersbewijzen door de Contractant en zijn Personeel. Indien om technische of andere redenen Vervoersbewijzen worden uitgereikt, nadat NMBS de overeenkomst heeft beëindigd, mag uit die handelingen niet worden afgeleid dat NMBS van de verbreking zou afzien of de overeenkomst zou vernieuwen.

### **Artikel 10 Toepasselijk recht - Geschillen**

Het Belgisch recht is van toepassing op de Overeenkomst.

De Partijen verbinden zich ertoe zich in te spannen om een geschil over de toepassing van de Overeenkomst in der minne te regelen.

Bij gebrek aan een minnelijke oplossing zijn uitsluitend de Rechtbanken van Brussel bevoegd om te oordelen over het geschil.