

## GENERAL PROCUREMENT CONDITIONS OF MAKEDONSKI TELEKOM AD

### 1. Scope of application

These General Procurement Conditions of Makedonski Telekom AD - Skopje (hereinafter referred to as MKT or the "Purchaser") shall refer and apply exclusively to procurements conducted by MKT. Any contradictory or conflicting conditions of the Contractor related with the General Procurement Conditions of MKT shall not apply, even in case when the performance of the work of the Contractor is undisputedly accepted, despite the fact that the Contractor is familiar with such conditions.

Integral part of these General Procurement Conditions could also be the following Special Procurement Conditions depending on the subject of the procurement:

- Annex 1 - Special conditions for procurement of telecommunication equipment;
- Annex 2 - Special conditions for hardware procurement and maintenance equipment (machine and electronic equipment);
- Annex 3 - Special conditions for the procurement of software development services;
- Annex 4 - Special conditions for software maintenance;
- Annex 5 - Special conditions for software licenses;
- Annex 6 - Special conditions for the procurement of training services;
- Annex 7 - Special conditions for the procurement of consulting services.

The application of the Special Procurement Conditions listed above shall be determined for the specific Procurement.

If the Order itself establishes the application of one of the Special Procurement Conditions, those specific Special Procurement Conditions shall apply, and in such case these General Procurement Conditions shall be applicable only to the issues that have not been regulated with the Special Procurement Conditions.

Unless specified otherwise in the Contract<sup>1</sup> or the Order or in the Procurement Conditions (General and/or Special), valid and binding for MKT shall be only those conditions that have been duly signed, i.e. accepted and verified Orders, and other statements or requests that have been submitted accepted or verified in writing or through electronic assets such as fax or electronic mail, by persons authorized by MKT.

The rights, obligations and conditions defined in the Contract, Orders and/or the Special Procurement Conditions shall exclude the provisions of the General Procurement Conditions herein.

The acceptance of the Order by the Contractor shall constitute full acceptance of the conditions and provisions stated in these General Procurement Conditions, as well as the orders and data contained in the order. Any difference or supplement related to these General Procurement Conditions, submitted by the Contractor, shall be inapplicable unless they were previously agreed between and accepted by the Purchaser and Contractor as an exception.

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<sup>1</sup> Legally binding agreement reached between the parties regardless of the form

In the event that the Contractor does not refuse the order within three (3) days, the order shall be considered as fully accepted by the Contractor.

The commencement of the delivery of a part of the order or the full order by the Contractor shall be considered as acceptance of all the provisions and conditions defined in the Contract regardless of the fact whether the Contractor confirmed the acceptance thereof or not.

2. The following components shall be part of the Contract in line with the order and priority of importance determined below:

- The Order;
- The specification and all the agreed technical documents;
- Special Procurement Conditions;
- These General Procurement Conditions.

### 3. Integrity and Cooperation

(1) The Purchaser and the Contractor hereby consent to implement all the rights and obligations arising from the Contract herein, whereas they shall take all measures necessary in order to avoid activities that might cause economic damages.

The Purchaser and the Contractor hereby consent to fully comply with the following:

- 'Integrity and Cooperation Clause' and
- 'Anti-Corruption Clause'.

These clauses which have been established in item 3.1 and item 3.2 shall be binding for the Contractor.

(2) The Contractor hereby guarantees that all the subcontractors to be engaged by the Contractor to perform the activities related with the subject of the procurement on behalf of the Contractor shall be introduced to the Purchaser's principles stated above and fully comply with them.

(3) The Purchaser reserves the right to monitor the compliance with the principles in an appropriate manner with random checks as well as in the event of any suspicion regarding violations of the said principles.

The Purchaser shall exert such control with the subcontractors of the Contractor as well, and the Contractor shall be obliged to communicate this to the subcontractor.

(4) The Contractor hereby undertakes to inform the Purchaser in writing in the event of learning about indications, or in the event of any suspicion regarding the failure to comply with the principles within the Contractor's scope of responsibility or within the subcontractor's scope of responsibility, and particularly to avoid any actions that could endanger the image of MKT and/or endanger the security of MKT in relation with the procurement process. The Purchaser may terminate the Contract (cancel the order) without prior notice if the Purchaser discovers such actions.

### 3.1. Integrity and Cooperation Clause

(1) The Contractor and the Purchaser hereby consent to take all necessary and reasonable steps within the scope of their business operations for the purpose of avoiding and protecting themselves from serious violations of obligations in the course of or in connection with the initiation, submission and execution of the orders. Serious violation of the obligations shall include any deliberate activity or failure to perform an activity which constitutes a violation of an obligation and causes or may cause tangible or intangible losses for the Purchaser (for example, fraud, disloyalty or illegal appropriation).

Regardless of the fact whether the Purchaser is suffering losses, a serious violation of the obligations, for the purposes of this provisions, arises particularly if:

- members of executive bodies, members of the Management Board or other employees of the Purchaser or its affiliated companies – regardless of the legal nature of their employment conditions – who are responsible for the initiation, submission or execution of orders or are assigned to a responsible function;

- persons who work for the Purchaser or a company hired by the Purchaser in the course of or in connection with the initiation, submission or execution of orders (subcontractors, consultants, project managers, etc.), without being employed by the Purchaser;

- holders of public functions in the country or in other countries, elected representatives, members of legislative, executive or judicial bodies, members of political parties or organizations or employees in national and international organizations or persons who have been assigned public authority or who perform public functions;

- have been offered, promised or approved benefits (gifts, invitations, commissions, fees, delays in payments, discounts, etc.) for them or for a third party in the course of or in connection with the initiation, submission and execution of the orders, if and to the extent to which these benefits are intended to or could, based on the object, type and scope of the benefit, have a dishonest effect on the services of such persons.

In addition, regardless of the fact whether the Purchaser is suffering losses, any deliberate violation of the legal regulations intended to protect free and loyal competition, to protect commercial secrets as well as to protect copyrights and rights to industrial property of the Purchaser, such violation committed in the course of or in connection with the initiation, submission or execution of orders, shall represent a serious violation of the obligations for the purposes of this provision.

(2) If members of executive bodies, members of the Management Board, other employees of the Contractor, subcontractors of the Contractor or other third parties who work for the Contractor or a company hired by the Contractor, in accordance with the Contract concluded between the Contractor and the Purchaser, violate the obligation in accordance with paragraph 1 in the course of or in connection with the initiation, submission or execution of orders, the Contractor shall pay penalties to the Purchaser. The penalty shall equal 30% of the value of the order.

The Purchaser shall be entitled to both indemnification and contractual penalty from the Contractor as compensation for the damages incurred by the Purchaser as a result of the violation of the obligations in accordance with paragraph 1.

The penalties stipulated herein shall not be imposed if the violation of obligations in accordance with paragraph 1 was committed by a subcontractor of the Contractor, where the selection of the subcontractor was requested by the Purchaser, and the members of executive bodies, members of the Management Board, or other employees of the Contractor were not involved or unaware of the violation of the obligations.

(3) If the persons/ companies stated in paragraph 2 violate the obligations arising from paragraph 1 herein in the course of or in connection with the initiation, submission or execution of orders, the Purchaser shall have the right to terminate the Contract without providing information about the reasons.

In the event of a founded reason for suspicion regarding a violation of the obligations in accordance with paragraph 1 herein, the Contractor could be banned from participating in calls for collection of bids and implementation of orders for a period ranging between four (4) months and three (3) years. In particularly serious cases, the ban may be extended to seven years. The Contractor may also be prohibited from participating in calls for collection of bids and implementation of orders.

(4) The Contractor consents to cooperate in the defence from and in the identification of any possible violations of obligations in accordance with paragraph 1 herein. The Contractor specifically consents to provide to the Purchaser information available within the scope of its business operation and its scope of responsibility necessary for identifying the problem or to make such information available to the Purchaser if there is sufficient preliminary grounds to believe (preliminary suspicion of violation) that there has been a violation of obligations in accordance with paragraph 1 herein. In the event that the protection of commercial secrets of the Contractor prohibits the Contractor from disclosing or communicating such information to the Purchaser, the Contractor consents to disclose the information or make the information available to a third party selected by the Purchaser which party shall be bound by professional obligation for keeping secrets (for example, auditor, tax consultant or attorney at law).

(5) Should the Contractor become aware of certain facts that give grounds for suspicion of a violation of the obligations in accordance with paragraph 1 herein within the scope of business operations of the Purchaser, the Purchaser needs to be informed thereof without any undue delay. This is particularly valid for cases where the persons identified in paragraph 1 seek benefits of the type stated in paragraph 1 for their services, either for themselves or a third party, or have demonstrated their preparedness to allow to be influenced with the approval of such benefits while performing their services or in connection with the initiation, submission or execution of orders.

(6) In the event the Contractor violates the obligations imposed on the Contractor in accordance with paragraph 4 or paragraph 5 herein, the Purchaser shall have the right to withdraw from the Contract. This does not exclude the right of the Purchaser to claim indemnification and contractual penalty from the Contractor.

### **3.2. Anti-Corruption Clause.**

The Contractor is aware of MKT obligation to comply with the anti-corruption rules relevant to the contracting parties and by concluding the Contract the Contractor represents that it will not use money or other consideration paid by MKT for unlawful purposes, including purposes violating the Law on the Prevention of Corruption of Republic of Macedonia, such

as make or cause to be made direct or indirect payments to any public official<sup>2</sup> in order to assist Makedonski Telekom AD - Skopje or anyone acting on their behalf in obtaining or retaining business with, or directing business to, any person, or securing any improper advantage.

Members, officers, owners or employees of the Contractor are not public officials, and the Contractor did not and will not employ/engage or otherwise compensate or offer to compensate any public officials, or make or cause another to make any direct or indirect offers or payments to any public officials, for the purpose of influencing or inducing any decision for the benefit of MKT.

If any member, officer, owner or employee of the Contractor is a public official, the Contractor undertakes to submit a statement to MKT within three (3) working days upon receiving the purchase order, specifying which member, officer, owner or employee of the Contractor is a public official and their functions in public services for each of them individually. MKT shall confirm or withdraw its purchase order within three (3) working days upon receiving such statement or may request the submission of additional data from the Contractor.

The Contractor will not employ/engage any sub-contractor, consultant, agent or representative in connection with this Contract without a thorough documented examination of his person, reputation and integrity.

The Contractor will not employ/engage any subcontractor, consultant, agent or representative who does not comply with the anti-corruption rules and principles and in case any such violation comes to their attention, the Contractor will inform MKT immediately.

The Contractor will supply information within fourteen (14) days upon a written request from MKT concerning the counterparty's receipt and use of payments under this Contract.

#### **4. Responsibility**

(1) The Contractor shall be held responsible for any material deficiencies to any item that was in the Contractor's possession until the moment of transferring the risk to the Purchaser, regardless of the fact whether the Contractor was aware of it or not.

(2) The Contractor shall also be held responsible for the material deficiencies that would arise after the transfer of risk to the Purchaser if such deficiencies are consequences of reasons that existed prior to the risk transfer.

(3) The Contractor shall be held responsible if a third party had any right to the sold item that would exclude, reduce or limit the right of the Purchaser, and of whose existence the Purchaser was neither informed nor agreed to take the item burdened with such right.

(4) The Contractor may entrust part of the contractual obligations or works to a subcontractor, with a prior notification submitted to the Purchaser, but in such case the

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<sup>2</sup> "Public official" in terms and for the purposes of anti-corruption rules and principles includes: officers, office holders or employees of (i) a government or any department, agency, or instrumentality thereof (legislative, administrative and judicial), (ii) a regional governmental body, or (iii) a public international organization; persons acting in an official capacity or exercising a public function for or on behalf of any such government or department, agency, or instrumentality thereof, regional governmental body or public international organization; officials of a political party (or the political party as a whole); candidates for public office; officials of international public organizations, such as the United Nations or the World Bank; individuals who have functional authority as an official, but are not actually in the employment of the public office; consultants and special advisors to public offices or public officials; officers and employees of state-owned enterprises and institutions, even those operating in a commercial capacity, including hospitals, health facilities and universities.

Contractor shall be responsible for the work entrusted to the subcontractor as if the Contractor performed the work itself.

(5) The liability of the Contractor for deliberate or gross negligence is unlimited.

## **5. Risk transfer**

(1) Until the handover of the item to the Purchaser, the risk of accidental damaging of the item shall be borne by the Contractor, and with the handover of the item, the risk is transferred to the Purchaser.

(2) The risk shall not be transferred to the Purchaser if the Purchaser, due to a certain deficiency of the handed over item, terminated the contract or requested a replacement of the item.

(3) If the handover of the item was not conducted due to the Purchaser being late, the risk is transferred to the Purchaser at the moment the Purchaser became late.

(4) When the subject of the contract are items determined according to type, the risk is transferred to the Purchaser in delay if the Contractor separated the items obviously intended in order to conduct the handover and sent a notification thereof to the Purchaser.

(5) When the items determined according to type are of such nature that the Contractor could not have separated any single part thereof, it is sufficient that the Contractor performed all actions required for the Purchaser to be able to take over the items and sent a notification thereof to the Purchaser.

## **6. Right to patent, protected trade name and industrial property of third party**

(1) The Contractor hereby guarantees that the sale or use of the equipment/ services included in the order does not violate any rights to protection of a patent, trade name and industrial property in the Republic of Macedonia or abroad.

(2) The Contractor shall compensate the Purchaser in relation with any procedures initiated and damages incurred from any court orders, levies, legal fees resulting from such violation of use of a patent, protected trade name and industrial property, following the first written request submitted by the Purchaser to the Contractor.

(3) In the event of sales of equipment/ services with protected rights to a patent, trade name or industrial property of a third party, the Contractor, with prior consent submitted by the Purchaser in writing, is entitled to the following:

- to procure the rights for the Purchaser and give the right to use to the Purchaser, or
- to return the delivered equipment or part of the equipment so it does not violate rights to industrial property of third party, or
- accept the refusal of the Purchaser to accept the equipment/ service and claim the refund of funds paid (if any) and the incurred expenses for transport, installations, etc.

(4) The Purchaser shall not be liable to indemnify the Contractor in any manner, in the event of a violation of rights to industrial property of a third party.

## **7. Regulating the contractual relations**

(1) The Contractor shall perform the contracted services independently and at own responsibility, in accordance with the principles of free regulation of contractual relations.

(2) The Contractor is also solely responsible for the exercising of the rights and obligations in relation with the subject of the procurement by its employees or subcontractors with whom the Contractor has concluded a cooperation agreement or who have been engaged by the Contractor. The Contractor shall have the freedom to organize the manner of service provisioning and schedule its activities within the agreed terms and conditions.

(3) The Contractor shall have the right, to the extent justifying the achieving the goal of the procurement and if that is acceptable to the Purchaser (for each individual case separately), to cooperate with third parties as its subcontractors.

## **8. Prices and terms of payment**

(1) The contractual price stipulated in the order is a fixed price until the full implementation of the procurement, including delivery to the central warehouse of the Purchaser or the facility of the Purchaser, as specified in the order submitted by the Purchaser. The price shall cover the transport, insurance, packaging and all other costs that may arise during the delivery/ preparation for use/ putting into operation at the location of the Purchaser, unless agreed otherwise.

(2) The contractual price shall include the costs of any installations/ integrations and performance of the work of subcontractors of the Contractor that may prove as required and necessary, and that need to be conducted by the Contractor even after regular working hours, without affecting the ongoing operation of the Purchaser.

(3) The implementation of the order shall also include the delivery of the relevant Instruction Manuals for operation, use and maintenance, as well as all the documents necessary for proper use of the equipment, both in Macedonian and English. All the instructions and the entire documentation intended for the Purchaser shall be included in the price of the order, unless otherwise specified and agreed upon in the order.

(4) For each delivery, the Contractor needs to submit an invoice/ bill in two (2) copies, accompanied with a Delivery Confirmation or Warehouse Goods Receipt Note, signed by the responsible persons of the Purchaser and Contractor. The following Purchaser shall be identified on the invoice/ bill as follows:

Makedonski Telekom AD – Skopje, Kej 13 Noemvri No. 6.

The Contractor shall submit its bill/ invoice to the following address:

Makedonski Telekom AD – Skopje  
Archive, Corporate Finance Department  
Kej 13 Noemvri No. 6  
1000 Skopje

(5) The invoice of the Contractor needs to contain the following items, otherwise the Purchaser shall consider it incomplete and return it to the Contractor:

- Data on the Contractor: name, address, tax number and bank account number;

- Data on the Purchaser: Makedonski Telekom AD - Skopje, 1000 Skopje, Kej 13 Noemvri No. 6
- Number of the Purchaser's order, number of the Delivery Confirmation / Warehouse Goods Receipt Note;
- Items prescribed by law (e.g.: invoice date, payment deadline, detailed list of services, quantity, unit price, total price, net amount, VAT amount and percentage, delivery parity – in line with INCOTERMS 2000, etc.);
- Delivery Confirmation or Warehouse Goods Receipt Note enclosed,
- Currency.

(6) The payment shall be effectuated within **90 calendar days (for foreign natural persons and legal entities), i.e. 60 calendar days (for domestic legal entities and natural persons)**, following the performance of the service or the delivery of goods and the reception of the invoice, which must be accompanied with the Delivery Confirmation/Warehouse Goods Receipt Note. As an exception, the payment deadline can be longer than **90 calendar days (for foreign natural persons and legal entities), i.e. 60 calendar days (for domestic legal entities and natural persons), however not longer than 120 days**, if the Vendor and the Purchaser have reached a consent stipulated (i) in a Contract (ii) in a delivered order which has been accepted by the Vendor and based upon which an invoice is issued with accepted different payment deadline and (iii) by means of a special written consent. The date of invoice receipt is the date when the Central Archive of the Purchaser received the invoice. The Archive of the Purchaser must put a seal/stamp on each invoice. The calculation of the payment deadline shall commence on this date.

(7) If the payment deadline falls in a non-working day or a state holiday, then the payment deadline shall be moved to the following working day. The payment shall be considered as effectuated when the Purchaser's account has been indebted or compensation has been made.

(8) Every contract with Contractors who are registered in the Republic of Macedonia should be concluded in denars (MKD). In the event of domestic procurements related with import or domestic lease contracts, the contract may contain a foreign-currency clause in accordance with which the value of the services and/or goods may be stated Euros. The services and/or goods could also be stated in US dollars (USD) if the import is related with a market outside the EU and the contractor insists on expressing the sums in USD, however the contract should in any case stipulate that the invoice of the Contractor should be issued and paid in MKD according to the middle exchange rate of the National Bank of the Republic of Macedonia on the date of issuing the Delivery Confirmation/Warehouse Goods Receipt Note..

All contracts with foreign contractors (i.e. contractors that are registered in other countries) shall be concluded in Euros. A contract may also be concluded in US dollars (USD) if the contractor is outside of the EU market and insists that the contract be expressed in USD.

(8) The interest rate for late MKD payments must not exceed the legally defined interest rate.

The interest rate for late payments in foreign currencies is recommended not to exceed a three-month EURIBOR + 2% (per annum) for payments in EUR, whereas for payments in USD it is recommended not to exceed the interest rate of the three-month LIBOR + 2% (per annum).

(9) If the payment due date falls on a non-working day or a state holiday, the payment due date shall be moved to the following working day. Payment shall be considered as



effectuated when the account of MKT has been debited or when compensation has been performed.

(10) The Purchaser and Contractor hereby consent that the Contract shall establish a possibility to apply the clause for contractual compensation.

## **9. Permits, consents, taxes, and such**

(1) Unless agreed otherwise, the Contractor shall be responsible to obtain and pay for all import and export permits or licenses required for the implementation of the order.

(2) If the Purchaser is using services from a foreign contractor which services are subject to payment of withholding tax, the Purchaser shall be obliged, from the gross contractual price, to withhold and pay the withholding tax, on behalf of the Contractor, if:

- The Contractor is a resident in a country with which the Republic of Macedonia has not concluded a double taxation avoidance agreement;
- The Contractor is a resident in a country with which the Republic of Macedonia has concluded a double taxation avoidance agreement, but the Contractor failed to submit certificate of residence to the Purchaser; or
- The Contractor is a resident in a country with which the Republic of Macedonia has concluded a double taxation avoidance agreement and the Contractor submitted a certificate of residence, but in accordance with the said agreement, part of the revenues may also be taxed in the Republic of Macedonia.

(3) The prices agreed in the order shall be net prices, VAT excluded.

## **10. Delivery, implementation, packaging and documentation**

(1) Observing the delivery deadline is crucial to the order implementation. The Contractor must observe the stated deadline for delivery/ completion of the order.

(2) Prior to the delivery, the Contractor needs to submit to the Purchaser a Delivery Notification, stating the number of the order, subject of the order, name of the Contractor, invoice, loading document, data on freight-forwarding operator.

The packaging should appropriately state the number of the order, subject of the order, and the full address of the Purchaser.

(3) The Contractor shall be free to choose the manner of transport and the shipping agent, as well as the insurance company.

(4) The Contractor hereby undertakes to provide the following documents that should be enclosed with the transport, where applicable:

- a) Loading document (foreign contractor), one (1) original and two (2) copies;
- b) Commercial invoice of the Contractor, one (1) original and two (2) copies;
- c) Loading specification, one (1) original and two (2) copies;
- d) Delivery Note, one (1) original and three (3) copies;
- e) Insurance certificate (foreign contractor), two (2) copies;
- f) Certificate of Origin (EUR 1 or similar), one (1) original (foreign contractor).

(5) Prior to the delivery of the equipment, the Contractor shall send the following documents by fax:

1. Commercial invoice with specification of the prices of the goods;
2. Loading specification.

(6) The Purchaser shall confirm the correctness of the documents as soon as possible, but not later than 24 hours following their reception by fax, if the following 24 hours fall on a working day. The Contractor may not initiate the delivery if the Purchaser has not send a confirmation regarding the delivery documents, as specified in the previous items 1 and 2.

(7) The Contractor shall provide such packaging of the equipment as required to protect it from damaging or deterioration during the transport to its final destination, as indicated in the Order.

(8) The Contractor shall be held responsible for any damages resulting from improper handling of the equipment that is to be delivered.

The price of the packaging, the designations and the documentation placed within and on the external side of the packages shall be included in the price of the Order.

## **11. Contractual penalty and compensation of damages**

(1) Unless otherwise agreed between the Purchaser and Contractor, in the Order or in the Special Procurement Conditions, and if the contractual penalty is not determined according to the findings of the Purchaser, as a total amount or in another manner, in the event of a delay with the fulfilment or irregular fulfilment, contractual penalty shall be charged as follows:

(2) The Contractor undertakes to pay contractual penalty to the Purchaser in the event of delays with the implementation deadlines (delivery/ service provisioning, repair and replacement of inappropriate equipment/ service) or in the event of irregular fulfilment, in the amount of 1% per day and/or hour from the value of the order, as well as in the event of irregular fulfilment of its obligations, and maximum up to 30% of the total value of the order.

(3) The basis for calculating the contractual penalty shall be the Order, i.e. the total amount, VAT excluded.

(4) The Purchaser hereby reserves its right to claim contractual penalties due to a delay even if the Purchaser accepted the fulfilment of the obligation.

(5) Contractual penalty shall not be calculated and charged in the following cases:

- if the extension of the deadline has occurred to due the failure to fulfil or late and incomplete fulfilment of the obligations by the Purchaser;
- if the extension of the deadline was additionally agreed, with mutual consent of the Parties;
- Force Majeure.

(6) The Purchaser shall charge the contractual penalties based on the invoice submitted for the contractual penalty.

(7) If the Purchaser incurred damages exceeding the amount of the contractual penalty, the Purchaser shall also claim the difference to the full compensation of damages.

(8) For the damages caused by the Contractor with the failure to fulfil its obligations defined in the order and these General Procurement Conditions, the Contractor shall be obliged to compensate the Purchaser.

(9) If the Contractor is responsible for the caused damages based upon the liability for material deficiencies of the subject of the order (Product liability), the Contractor undertakes to compensate the Purchaser in the event of claims for indemnification filed by third parties. The Purchaser shall immediately inform the Contractor of such claims for indemnification whereas it will not make payments or verify claims without consultation.

## **12. Failure to fulfil obligations by the Contractor**

(1) In the event of a failure to fulfil obligations by the Contractor, the provisions of law shall apply, unless otherwise agreed.

(2) The Purchaser, after the timely and duly submitted notice to the Contractor regarding the deficiency, may:

- request from the Contractor to clear the deficiency or hand over another item free of such deficiency (fulfilment of the contract);
- seek a reduction of the price;
- declare that it terminates the contract.

In each of the cases above, the Purchaser shall also have the right to compensation of damages.

(3) Despite this, and regardless of this, the Contractor shall also be liable to the Purchaser for the damages that such deficiency of the item caused to other assets of the Purchaser, according to the general rules of liability in accordance with the Contract Law.

## **13. Warranty**

(1) The Contractor guarantees that the products/ services ordered with the order shall be delivered in the quality ordered and that they shall be appropriate for the specific purpose that the Purchaser intends to use it.

(2) The Contractor explicitly guarantees that the ordered and delivered products/ services included herein shall be delivered fault-free from the aspect of design, material and execution, and they shall fully match the specifications, instructions, drawings, data, applicable regulations and samples (if any).

(3) The warranty period provided by the Contractor/ manufacturer shall commence on the day of transfer of risks or if acceptance is required – following the performance of the acceptance by the Purchaser, i.e. following the putting into operation.

(4) The Contractor/ manufacturer shall be obliged to provide and handover to the Purchaser the warranty certificate (whereby the Contractor/ manufacturer guarantees the correct functioning of the item within the defined period of time, starting from the day of the handover or the day of putting into operation) which certificate must contain the following:

- name and headquarters of the Contractor (provider of the warranty);
- data on the product that identifies the product;

- statement on the warranty and the warranty conditions;
- duration of the warranty period;
- name of the Purchaser, date of sale, seal and signature of authorised employee, and in the event of apparatuses, devices, equipment and other assets – name and headquarters of the Contractor, date of putting into operation and signature of authorised employee.

(5) In the event of improper functioning, the Purchaser shall request that the Contractor/ manufacturer performs a repair (within the deadline stated in the order) or replaces the product.

(6) The costs for materials, spare parts, labour, transfer and transport of the equipment/ product to be incurred while clearing the faults, or during the replacement of the product with a new product pursuant to the warranty, shall be borne by the Contractor.

The Contractor shall be obliged, at own expense, to transport the item/ product to the location where it is to be repaired or replaced, as well as to return the repaired item/ product back to the Purchaser.

During that period of time, the Contractor/ manufacturer shall bear the risks of deterioration or damages to the item.

(7) In the event of a complaint (repair or replacement) within the warranty period, the warranty period shall be extended for the period identical with the period of time during which the Purchaser was unable to partially or fully use the equipment / service or the warranty period shall begin again from the performed replacement.

(8) The product (equipment) that has not been accepted by the Purchaser due to the incorrectness of the order, due to low quality or that invokes a complaint within the warranty period, shall be returned to the Contractor, at the expense of the Contractor, including any transport or handling expenses. The Purchaser may request from the Contractor to cover the costs incurred by the Purchaser to inspect the delivered equipment.

Should the delivered equipment/ service fail to fulfil the conditions and the provisions specified in the order, the Purchaser shall reserve the right not to accept the complete delivered equipment/ service or partially accept the delivered equipment/ performed service or fully accept the delivered equipment/ performed service. Regardless of the actions of the Purchaser, the Purchaser shall still reserve all the rights related with the Contractor in the event of irregular deliveries.

#### **14. Protection of the environment**

The Contractor must comply with the rights and obligations regarding the providing of conditions for the protection and improvement of the environment and nature.

In the course of its implementation of the subject of the procurement, the Contractor shall be obliged to apply a system for protection and improvement of the environment and nature in accordance with the applicable legal regulations in the Republic of Macedonia and the international standards applicable to protection of the environment, and accepted in the Republic of Macedonia.

## **15. Confidentiality**

The Contractor accepts that, as a result of or during the performance of the subject of the procurement, in accordance with this Contract or in another manner, the Contractor shall receive or in another manner obtain confidential technical, financial, business and commercial information related to the business ventures, products/ services, premises, technologies, infrastructure and processes/ procedures of the Purchaser (in verbal form, in electronic version or hardcopy) ("Confidential Information").

The Contractor assumes the responsibility to ensure the confidentiality of the Confidential Information at all times and to keep all Confidential Information safe and secured from theft, damaging, loss or unauthorized access. The Contractor undertakes, at all times, whether within the duration of the implementation of the procurement in question, or at any time following the completion of the procurement in question, without previously obtained written consent from the Purchaser, not to use in direct or indirect manner, or disclose, exploit, copy or change any Confidential Information, or to authorize or allow a third party to do the same, for a purpose different from the sole purpose of fulfilment of the rights and obligations arising from the Contract herein. The Contractor may disclose the Confidential Information to a third party only with previously obtained written consent from the Purchaser.

The Purchaser and Contractor may disclose Confidential Information only to the appropriate managers and employees who need the access to the Confidential Information, in accordance with the subject of the specific agreement, as well as to its Partners only to the extent to which the Partners need to know for reasons related with the implementation of the purpose of the specific agreement. Partners of Makedonski Telekom are T-Mobile Macedonia, Magyar Telekom, T-Mobile International and Deutsche Telekom. The Purchaser and the Contractor need to ensure that the persons to whom Confidential Information is disclosed are aware of and comply with the confidentiality obligations specified in this Article.

The existence of this Contract and the terms and conditions thereof are confidential for the Purchaser and the Contractor. The Contract and the terms and conditions thereof may not be disclosed to a third party without the other contracting party's prior written consent, unless such disclosure is based on law, regulation or order of a competent body.

## **16. Personal data protection**

The Contractor hereby guarantees the safety and secrecy of the personal data to which it has access pursuant to the Contract, in accordance with the applicable legal regulations for personal data protection. The Contractor undertakes to comply with the personal data protection principles.

In the course of implementation of the Contract, if the Contractor has access to personal data, the Contractor undertakes not to process them (store, modify, transfer, block or delete) or use them beyond the agreed framework, or make such data available to third parties.

The term personal data shall include any information that applies to an identified physical entity or an identifiable physical entity, and an identifiable person is a person whose identity can be established either directly or indirectly, especially based on the personal identification number of the citizen or based on one or more marks specific for the person's physical, physiological, mental, economic, cultural or social identity.

The term personal data processing shall encompass any operation or a set of operations performed on personal data in an automated or another manner, such as: collecting, recording, organizing, storing, adjusting or modifying, withdrawing, consulting, using, disclosing through transmission, publishing or in another manner making available, matching, combining, blocking, deleting or destroying.

During the collection, processing and use of personal data for the purposes of implementation of the subject of the Contract, the Contractor undertakes to act in accordance with the instructions provided by the Purchaser.

The Contractor shall be obligated to take all the technical and organisational measures required to ensure the secrecy and protection of personal data processing, depending on the categories of personal data that require protection, in order to prevent unauthorised disclosure or access, illegal destruction or loss, making changes or any illegal forms of processing.

The Contractor shall ensure the diligent fulfilment of the technical and organisational measures required to fulfil the goals identified in this Article, and in accordance with the regulations on personal data protection. The Contractor shall be obligated to inform its employees who are going to have authorised access to personal data of the Purchaser, within the scope necessary for the fulfilment of their obligations to comply with the regulations on personal data protection.

The Purchaser shall have the right to conduct periodic inspections of the implementation of the technical and organisational measures required to ensure the secrecy and protect the processing of the personal data by the Contractor.

## **17. Termination or cessation of the Contract due to justified reasons**

(1) The Purchaser may terminate the Contract (cancel the order) in accordance with the legal regulations, and the Purchaser shall have the right to terminate the Contract (cancel the order) at own discretion, unilaterally, without a notice period.

The Purchaser shall have the right to terminate the Contract (cancel the order) in full or in part at any time, without stating the reasons for such actions.

The Contract shall be terminated, or the order shall be cancelled, particularly if the Purchaser comes to the conclusion that the intended purpose of the procurement cannot be achieved.

MKT may terminate the Contract immediately if the Contractor breaches the Law on the Prevention of Corruption of the Republic of Macedonia, or acts contrary to the provisions of the Anti-Corruption Clause defined in Item 3.2, as well as if the Contractor breaches the provisions of the Integrity and Cooperation Clause defined in Item 3.1.

(2) Any party may terminate the Contract (cancel the order), without a notice period, if:

- any of the contracting parties finds itself in situation when it can no longer perform its obligations (bankruptcy or liquidation);
- other terms and conditions for contract termination in accordance with the Contract Law are fulfilled.

## 18. Final provisions

(1) For all issues that have not been regulated in the Orders and/or the Special Procurement Conditions, if the specific procurement is filed under one of the Special Procurement Conditions, or in these General Procurement Conditions of the Purchaser, the provisions in accordance with the Contract Law and the laws of the Republic of Macedonia shall apply.

(2) In the event of a dispute, the competent court in Skopje, Republic of Macedonia, shall rule in accordance with the Macedonian legislation.

(3) If one of the provisions from the General Procurement Conditions proves to be invalid for the order in question, then the other provisions of the General Procurement Conditions shall remain valid for the order.

(4) The order, the rights and obligations arising therefrom, may not be assigned, transferred or ceded to a third party, without the prior written consent from the Purchaser, and any attempt to transfer or a transferred obligation by the Contractor to a third party, without the written consent of the Purchaser, shall be deemed null and void.

(5) Only the terms and conditions stipulated in the General Procurement Conditions herein shall be considered as the valid and binding agreement between the Purchaser and the Contractor, unless otherwise specified in the order of the Purchaser.

The Contractor is obliged to accept or refuse the order within three (3) working days from the date of the submission of the order to the Contractor through electronic means of communication, fax or in writing to the address of MKT, and the order shall be considered as fully accepted in accordance with the General Procurement Conditions, unless the Order stipulates that Special Procurement Conditions shall apply for the subject in question.

If the Contractor does not refuse the order within the defined period of time, it shall be considered that the Contractor accepted the order.

These General Procurement Conditions shall enter into force on the day of their adoption, and shall apply from the day of their posting on the official website of Makedonski Telekom AD – Skopje.