**SPECIAL TERMS AND CONDITIONS FOR PROCUREMENT AND MAINTENANCE OF HARDWER (machine and electronic equipment) OF MAKEDONSKI TELEKOM AD - SKOPJE**

1. Area of Application
2. The Special Terms and Conditions (hereinafter referred to as: “Special Terms and Conditions”) set forth below shall apply to the procure­ment and maintenance of machine and electronic equipment (hereinafter referred to as “hardware”), hardware, including the respective included software, provided that such software is intended to be used solely for the operation on the hardware which is being purchased and for the maintenance of such hardware, by Makedonski Telekom AD - Skopje (hereinafter referred to as MKT or the “Purchaser”). In addition to the procurement of maintenance services, additional related activities may be sti­pulated under these Special Terms and Conditions (e.g. installation, system integration, support, training, etc.).
3. The application of the Special Terms and Conditions herein shall be defined in the specific Purchase Order.
4. The Purchase Order shall obligatorily specify the application of these Special Procurement Terms and Conditions, and in such case the General Terms and Conditions shall be applicable only to the part which has not been regulated under the Special Terms and Conditions herein.
5. The acceptance of the Purchase Order by the Vendor shall denote full acceptance of the Special Terms and Conditions herein, the General Procurement Terms and Conditions in the part which is not regulated under these Special Terms and Conditions, as well as the orders and the data in the Purchase Order itself.
6. Any difference or amendment of the Special Terms and Conditions herein submitted by the Vendor shall be inapplicable unless such deviations are agreed and accepted by the Purchaser and the Vendor.
7. Integral parts of the Special Terms and Conditions
8. The following documents constitute an integral part of the Contract, with priority as defined below:

* Purchase Order
* Specifica­tion of the performance (e.g. on the basis of a hardware / maintenance certificate);
* These Special Terms and Conditions for Hardware Maintenance
* General Procurement Terms and Conditions

1. Quality management, environmental protection
   1. The Vendor has to adhere to the Purchaser's requirements for quality management and environmental protection and promotion.

In the course of performance of the scope of the procurement the Vendor shall be obliged to apply a quality management and environmental protection and promotion system in accordance with all valid legal regulations in the Republic of Macedonia and international standards pertaining to the protection of the environment.

1. If so required by the legal regulations pertaining to the protection of the environment, the Vendor shall be obliged to recover, free of charge, the packaging material and to collect and dispose of it properly.
2. Upon a request of the Purchaser, proof of such disposal in compliance with the legal regulations in the area of environmental protection is to be furnished. If the Vendor fails to comply with this obligation, the Purchaser is entitled to conduct the collection and disposal of packing material at Vendor's expense.
3. Readiness for operation
   1. If a performance has been stipulated to be «fully installed at the location of Makedonski Telekom - AD Skopje as the Purchaser», the Vendor shall deliver the hardware to the defined location and make them ready for operation. The Vendor shall verify such readiness for operation by using the stipulated di­agnostic programmes and/or procedures. The Purchaser shall be notified in writing about the readiness for operation, which shall be supported through presentation of appropriate test documents.
   2. The Purchaser shall undertake to create adequate installation conditions by the date of the delivery. Upon request, the Purchaser shall notify the Vendor in due time prior to the expiration of the delivery date in re­gards to the fulfilment of the installation require­ments.
   3. Upon agreement, for the duration of the installation, putting into operation and maintenance of the hard­ware, the Purchaser shall make available to the Vendor adequate space which is necessary for the storage of equipment, tools, spare parts, etc., as well as a rest room and operation room, if applicable.
   4. The Vendor shall make available to the Purchaser without delay any documents and materials necessary for the maintenance (e.g. maintenan­ce instructions, system description, test measurements, test programmes, spare parts lists, spare parts, etc.).
4. Preparation for use, instructions, staff training
   1. Within the agreed period of time, the Vendor shall make the necessary ope­rating instructions available to the Purchaser and shall furthermore transfer any additional stipulated information material.
   2. To the extent that the following has been ordered additionally, the Vendor shall advise the Purchaser through appropriately qualified personnel during the preparation for use (system analysis, organizati­on, programming and program test), shall instruct the operating personnel and during the start-up pha­se shall provide support the Purchaser to the appropriate ex­tent.
   3. To the extent stipulated under the Special Terms and Conditions and if no different period of time has been specified, for a period of three (3) years af­ter the delivery of the hardware, including the soft­ware, the Vender shall provide training for the Purchaser's personnel who require such training to an appropriate extent and shall furthermore provide any material, including any lite­rature, for such training. The place of such trai­ning shall be defined by the Purchaser and the Vendor.
5. Acceptance procedure
   1. In case of installation services, system integration services or in case of a special agreement, an accep­tance check shall be carried out. In such case, the Vendor shall perform the work in accor­dance with the Special Terms and Conditions herein at the

stipulated time for acceptance. The same shall apply accordingly to any stipulated performances by successive stages.

* 1. After delivery for acceptance, the Purchaser shall conduct the acceptance test within a period of 30 (thirty) consecutive cal­endar days, unless a different period of time is stipulated in the Agreement.
  2. At the acceptance of the final performance by suc­cessive functional stages (phases), wherein the acceptance is conducted for each stage (phase) separately, additionally the overall func­tionality of the stipulated performances shall be tested, in particular in respect of their error-free coactions.
  3. If the Vendor's performance is in conformity with the agreement, the Purchaser shall declare the accep­tance after a successful test. If the performance is accepted in spite of any detected defects, such de­fects shall be noted in the statement of acceptance. The acceptance may not be refused due to any minor defect. Several minor defects may in their en­tirety constitute a justified ground for refusal of the acceptance.
  4. If the Purchaser fails to declare the acceptance or the justified refusal thereof within a period of 30 (thirty ) con­secutive calendar days as of the completion of the testing or any other agreed period, the acceptance shall be deemed executed.

1. Maintenance
   1. If maintenance has been stipulated, the Vendor shall be obligated to carry out any maintenance and repair activities that are required for the preservation of the operativeness of the hardware and software set forth in the Maintenance Agreement.
   2. If the hardware or software is not continuously maintained or if maintenance by a third party is not recognized by the Purchaser, the Vendor shall, in agreement with the Purchaser, test the hardware or software within the framework of the unpacking and inspection. The modalities of such testing shall be stipu­lated by the Purchaser and the Vendor separately and in writing prior to the commencement of the works. After the completion of the test, the Vendor shall submit a written offer for such maintenance.

* 1. The Vendor shall carry out the maintenance by using personnel who is familiar with the system or with the devices to be maintained. The Vendor shall at all times hold sufficient numbers and amounts of suit­able personnel and spare parts, tools, measuring equipment and other resources at disposal.
  2. The Vendor shall be notified without delay about any occurring defects, indicating any information which may be useful for the correction of such faults.
  3. Within reason, the Purchaser shall take any measures that facilitate the determination of the defects and of the causes thereof.

1. Duration of the maintenance obligations and maintenance times
   1. If a Maintenance Agreement is concluded, the duration period of such Maintenance Agreement shall be stipulated.
   2. The Maintenance Agreement may be terminated by either the Purchaser or the Vendor in writing by giving one month or three months advance notice, depending whether the maintenance is defined in monthly or quarterly periods. A different notice period may be stipulated.
   3. If new hardware devices or functionalities (if applicable) are added to a system for which a Main­tenance Agreement already exists, the duration of the maintenance obligation for such hardware may be adjusted to that of the system.
   4. If the Purchaser permanently decommissions the hardware to be maintained, the Maintenance Agreement may be terminated effective from the end of the month by giving one month, i.e. three months' notice, depending whether the maintenance is defined in monthly or quarterly periods.
   5. Unless stipulated otherwise, the Purchaser shall be required to give one month notice effective from the start of a month that the Vendor continuously car­ries out the maintenance services during a period of time other than the selected maintenance period, if such period of time is within the framework of the specified maintenance times.
   6. Within the framework of the stipulated maintenance times, a time schedule shall be specified for carrying out the maintenance activities; such time schedule shall be adjusted to the changed operational interests of the Purchaser and the Vendor and/or to the technical requirements.
   7. Any repair activities shall be commenced during the stipulated maintenance period, beginning with re­ceipt of the fault report by the Vendor and within the specified reaction and/or repair times; such activities shall be com­pleted within the restoration period.
   8. Upon request, the Vendor shall furthermore be obligated to continue to carry out any commenced repair activities in excess of the selected maintenance or stand-by period within reason; for the above, no separate compensation may be demanded for the first hour or for any additional hour in case of a re­petition of the repair due to the same cause of the defect within 8 (eight) hours.

(9) Documentation of the repair and maintenance activities

* Records shall be kept about the execution of any repair and maintenance activities; such records shall inc­lude at least the following information:

a. date and time of the commencement of mainte­nance activities;

b. type/model/number of the device subject of the maintenance;

c. duration of the maintenance services.

* In case of repair activities, in addition, the following information shall be included:

a. date and time of the fault or defect report, respec­tively;

b. date and time of the restoration of the operativeness;

c. description of the downtime, in particular of the cause of such downtime.

Such information shall be signed by the authorized persons of the Vendor and the Purchaser. The dates stated in such signed records shall be bin­ding for both the Purchaser and the Vendor.

The details regarding the recording duties, in particular who must provide which information, arise from the contractual provisions.

1. Access to the system
   1. For the purposes of any repair and maintenance activities, the Purchaser shall grant to the Vendor access to the hardware as a whole or to a part of the system or to the devices without any delay, taking in­to consideration the conditions in accordance with the local custom, including the conditions for safety operation. In certain cases, the Purchaser may deliver the hardware as a whole or a part of the system or the devices (for maintenance/repair purposes) to the Vendor's premises, at the expense thereof.
   2. For any other activities on the part of the Vendor, access shall be provided under a separate agreement.
2. Expansion and alteration of the system
   1. If the Vendor in general carries out modification of the type of hardware or of the software version delivered to the Purchaser, the Vendor shall notify the Purchaser in due time about the above.
   2. If during the war­ranty period for the defects or in case of stipulated maintenance for maintenance-related engineering reasons the Vendor deems it necessary to modify the delivered hardware or software, the Purchaser shall permit the above, unless such modification incurs any costs or un­reasonable disadvantages.
   3. If due to the above modifications, further modifica­tions of the hardware or software delivered under the Agreement should become necessary, the Vendor shall carry out such further modifications free of charge.

* 1. If the Purchaser intends to carry out any modifica­tions of the hardware or software during the war­ranty period or in case of stipulated mainte­nance, the Purchaser shall notify the Vendor in due time about the above.
  2. If the Vendor considers the performance of its contractual obligations to be impaired by such modifications or by the connection of the products, the Vendor shall notify the Purchaser without delay in writing about the above.
  3. If the Purchaser carries out any modifications in agreement with the Vendor, this shall not affect the Vendor's obligation in respect of its con­tractual performances.
  4. If the Purchaser uses products of other manufac­turers with the hardware or software supplied or maintained by the Vendor, the Vendor's ob­ligations shall extend to such hardware or software only as far as the interface with the hardware or software supplied or main­tained thereby.
  5. The Vendor shall be obligated to notify the Purchaser when it becomes aware that industrial property rights of third parties are violated by the modifications or by the connection of the products.
  6. If maintenance has been stipulated and if the modifications and connec­tions affect the execution of such maintenance (the hardware volume is decreased or increased) in a way that a redetermination of the maintenance compensation becomes necessary, then such new compensation provision shall be agreed upon, tak­ing into account that if the hardware is decreased (part of the products are excluded) the compensation shall be reduced as well. In case of an increase in the hardware, the compensation shall remain unaltered to a certain increase within reason, whereupon the Vendor shall submit a new written offer for the new increased compensation.
  7. If the Vendor has been commissioned with the system integration and if the delivered hardware or software is to be used in accordance with the Agreement/Purchase Order and the Special Terms and Conditions herein together with the products of other manufacturers as set forth in the specifications, then the Vendor shall guarantee full com­patibility of the hardware and software supplied thereby. The Vendor shall be liable within the framework of the contract terms for any disadvantages, which the Purchaser has suffered because of improper performance of the above stated obligations. The same shall also apply to any damages or defects, which are caused by the hard­ware or software to the above-mentioned products of other manufacturers as well as to any violations of industrial property rights.
  8. None of the modifications pursuant to this Article of the Special Terms and Conditions herein, which the Vendor carries out after the delivery of the Purchaser's hardware or software, may affect the compatibility pursuant to this Article 10.
  9. The Vendor may demand compensation for its performances in the context of the containment of any faults, if such faults were caused by the products connected to the products supplied or maintained by the Vendor, unless the Vendor is obligated to contain the fault for other reasons.

1. Relocation, dismantling of the system
   1. The Vendor shall relocate the hardware and software supplied thereby, if the Purchaser during the warranty period for the defects requests relocation to be performed from the original site to a different site and if the conditions for installation are met at the new site. Any details in respect of the above shall be agreed separately.
   2. If maintenance has been stipulated, in the event of relocation of the system or of the devices, the Vendor shall be obligated to con­tinue the maintenance. The Vendor shall be given prior notification in due time about the relo­cation.
   3. If due to the relocation of the devices, maintenance services are changed in a way requiring a re­determination of the maintenance compensation, a new compensation provision shall be stipulated, taking into account any increased and reduced costs.
   4. The Vendor shall point out any possible risks to the Purchaser.
   5. In the event of a withdrawal pursuant to these Special Terms and Conditions, the Vendor shall take over the dismounting, the packaging and the return transport of the system and of the devices at the expense thereof. Upon a request of the Purchaser, the system or the devices shall be collected without delay by the Vendor, by its authorized representative or by it agent.
2. Spare Parts
   1. Irrespective of any stipulated maintenance, the Vendor shall guarantee the availability of spare parts for the respective devices for a period of no less than 5 (five) years after the manufacturing thereof.
3. Rights of use of the included software
   1. Unless stipulated otherwise, the Vendor shall, without any separate compensation, grant (or ensure that the relevant rights are granted) to the Purchaser the exclusive, irrevocable, unlimited and (together with the relevant hardware, to the extent limited) transferable rights to fully use the software, which has been included with the hardware in accordance with the agreement, on the relevant systems and de­vices and any auxiliary devices connected to the above, wherein the above shall apply in accordance with the agreement irrespective of whether such devices are his or those of other manufacturers. If a correspond­ing agreement has been reached, the Purchaser shall furthermore have the right to copy the software, which has been included in the delivery perform­ance, for operational purposes and, if agreed, to alter it.
   2. If a transfer of the software included with the hard­ware may be passed on to third parties, the Purchaser shall undertake to pass on to such third parties the same obligations in respect of the rights pursuant to item 1 of Article 15, which have been imposed onto the Purchaser.
4. Default, delay in performance, improper performance and determination of contractual penalty
   1. In the event of default in the performance of the obligation/s of the Vendor, the Purchaser shall be entitled:

- to request performance and to provide additional deadline to the Vendor during which period contractual penalty shall be calculated (if such provision of additional deadline does not jeopardise the operation of the Purchaser);

- to terminate the contract (cancel the Purchase Order and the maintenance performance)

In both cases, the Purchaser shall be entitled to seek damage compensation both under the general rules for damage liability in accordance with the Contract Law, and the Special Terms and Conditions herein.

* 1. In the event of delay in the performance of the obligations by the Vendor, the legal provisions, the provisions of these Special Terms and Conditions, i.e. the Contract provisions shall apply.
  2. If the Vendor is in delay in the performance of the obligations (or in the event of improper performance), the Vendor shall pay contractual penalty as penalty for the duration of the delay. The Vendor's request for contractual penalty shall not depend on that whether the damage has occurred, or whether there is actual danger for the occurrence of the damage. The contractual penalty may be defined until the moment of final payment.

The Purchaser shall charge the penalties for the delay in the performance of the obligations arising from these contracting terms and conditions based on a submitted invoice for contractual penalty.

The right of the Purchaser to request the payment of contractual penalty does not affect the right thereof to request the performance of the contracting obligation.

If the contractual penalty is not defined in the Purchase Order, in the total amount or otherwise, in the event of delay in the performance, the contractual penalty shall be charged, as follows:   
  
The Vendor undertakes to pay contractual penalty to the Purchaser in the event of delay in the performance (service delivery/rendering, reaction or restoration times upon the failure of the systems or the devices), in the event of delay in the performance of other obligations (repair and replacement of improper equipment/service) in the amount of 1% (one percent) a day and/or a hour of the value of the Purchase Order, as well as in the event of improper performance of its obligations, but not more than 30% (thirty percents) of the total value of the Purchase Order.   
  
The Purchase Order, i.e. the total amount without VAT shall constitute a basis for the calculation of the contractual penalty.   
  
If the Purchaser has suffered damage which exceeds the amount of the contractual penalty, the Purchaser shall request the payment of the difference to the total amount of the damage in accordance with the liability rules.

* 1. If the maintenance compensation is defined at annual level, the Purchaser shall determine and calculate the contractual penalty in a manner stipulated under this item of the Special Terms and Conditions. If the Vendor exceeds the agreed reaction or restoration times following the downtime of the hardware, i.e. the systems or devices, the Vendor shall be obliged to pay for each completed hour of the excess 0,1% (zero point one percent) of the annual or annualized remuneration, but not more than 10% (ten percents) of the annual or annualized remuneration. The right to initiate further legal claims shall remain unaffected If any defects that are subject to a stipulation of a different period of time are not removed within a period of 10 calendar days, calculated starting from the time when the fault report was made to the Vendor, in such a way that the system or devices can be used as intended, the Purchaser may, upon prior written notification (including by e-mail) to the Vendor, call in another maintenance provider. If the Vendor is responsible for the failure to remove the defect, the commissioning of such other maintenance provider shall be at his expense. Any additional statutory claims shall remain unaffected by the above, within the limits of Article 15. In particular, in such case, under the Special Terms and Condition herein, the Purchaser shall be entitled to terminate the agreement/purchase order without notice. If after such termination any further defects are de­tected, which have been caused by faulty mainte­nance on the part of the Vendor, the removal of the above shall be at the Vendor's expense.

1. Liability
   1. Quality Warranty

If the Vendor performs its services by successive stages, at the acceptance of the final perform­ance, if such acceptance has to take place, the overall func­tionality shall be tested, in particular in respect of the error-free coaction. The performance shall only be considered as free of defects if the overall functional­ity of the successive stages is established. The period of warranty in respect of the overall functionality shall start to run with the acceptance of the last successive stages. Starting with the acceptance the period of warranty of at least 12 (twelve) months, or another longer agreed period, shall start to expire.

Furthermore, the claims come under the statute of limita­tions in the context of warranty of quality in minimum 12 (twelve) months, or another longer agreed period, starting with the receipt of the performance at the place of performance or starting with the accep­tance, if such acceptance has to take place.

The statute of limitation period shall be interrupted for the number of days, on which the Purchaser could not use the services under the agreement because of the de­fect.

The Vendor shall be obliged to eliminate the defect immediately by subsequent performances (replacement, repair or recreation). If the defect cannot be removed in a short time, the Vendor shall - so far as possible and appropriate regarding to the effects of the defect - pro­vide a provisional solution.

If the defect is not removed, even within an adequate time given to the Vendor for subsequent perform­ance, the Purchaser shall be entitled to reduce the price or to withdraw from the agreement and to demand compensation in accordance with the statutory regulations within the defined limitations.

* 1. Liability for Violation of Intellectual Property Rights

The Vendor shall indemnify the Purchaser from all claims by the owner of intellectual property rights if the violation of such rights has occurred as a result of a breach of the contractual performances. In order to enable the further use, the Vendor shall immediately, at the expense thereof, either change or replace the contractual performances in such a manner that the intellectual property right is no longer violated and nevertheless the contractual agreed characteristics are contained or the necessary licenses are procured. If the afore stated alternatives do not lead to success, the Vendor shall, depending on the Purchaser’s choice, take back the contractual performances and refund the money paid by the Purchaser or reduce the consideration by that amount that corresponds to the reduction of use of the Purchaser. The aforementioned obligations of the Vendor shall be valid only if the Vendor is informed immediately by the Purchaser regarding any claims directed against the Vendor, and if all defence measures, including out of court measures remain in the control of the Vendor and if the violation of the intellectual property rights are not caused by changes or use of the contractual performances contrary of the agreement/purchase order and the Special Terms and Conditions herein.

* 1. Other liability

The parties shall assume unlimited liability in the case of wilful intent or gross negligence, personal in­juries, acceptance of a guarantee or if an unlimited liability is obligatorily regulated by law.

For all cases of damage which exceed the amount of the contractual penalty, property or financial damages, the parties shall be liable for an amount of up to 150% of the agreed remuneration, at least to the amount of the agreed remuneration, unless otherwise agreed under a written agreement.

1. Subcontracting

(1) For any engagement of third parties as sub-contractors written consent from the Purchaser needs to be obtained.

(2) Neither the Vendor nor the Purchaser shall assign the rights and obligations arising from these Special Terms and Conditions or the Contract, in whole or in part, without a prior written consent of the other contracting party. Any such assignment shall be null and void and of no force or effect. No permitted or implied assignment of all or any portion of the rights and obligations arising from these Special Terms and Conditions or the Contract shall result with a release of the transferor of its obligations under these Special Terms and Conditions or the Contract without an explicit written release from such obligations by the other contracting party.

1. Transfer of receivables

(1) The Vendor’s receivables towards the Purchaser may be transferred only under an explicit written consent issued by the Purchaser.

1. Final provisions
   1. Regarding all issues that are not regulated in the Purchase Orders and under these Special Terms and Conditions of the Purchaser, the provisions of the Contract Law and the laws of the Republic of Macedonia shall apply. In the event of a dispute the competent court in Skopje, Republic of Macedonia shall rule under the Macedonian laws.
   2. If any of the provisions of the Special Terms and Conditions is not valid in terms of the respective Purchase Order, the other provisions of the Special Terms and Conditions shall remain valid in terms of the Purchase Order.
   3. The Purchase Order, the rights and obligations arising there from may not be assigned, transferred or conveyed to any third party, without a prior written consent from the Purchaser and any attempt for assignment or assigned liability by the Vendor to any third party, without a written consent from the Purchaser, shall be null and void.
   4. The Special Terms and Conditions shall be considered a valid and binding contract between the Purchaser and the Vendor, unless it is stated otherwise in the Purchase Order to the Vendor.
   5. The Vendor shall be obliged to accept or reject the Purchase Order within three (3) working days as of the date of its submission to the Vendor, via e-mail, fax or in writing to MKT’s address, wherein it shall be deemed fully accepted in accordance with the Special Terms and Conditions. The commencement of the delivery of part or the whole Purchase Order by the Vendor shall be considered as acceptance of the Purchase Order, irrespective whether the Vendor has confirmed the acceptance of the Purchase Order.
   6. If the Vendor fails to reject the Purchase Order within the defined deadline it shall be considered that the Purchase Order has been accepted by the Vendor.   
        
      The Special Terms and Conditions herein shall enter into force on the day of its adoption and shall apply as of the day of their publication on the official web site of Makedonski Telekom AD - Skopje.

Makedonski Telekom AD – Skopje

Annex: Definitions

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| Term | Definition |
| Downtime | The period, during which the system or devices do not perform at all or only defectively. |
| Stand-by period | The period, during which availability must be ensured. |
| Operativeness | Unlimited utilizability of the system or the devices. |
| Alternative Solution | System, which - taking into account the Purchaser's configuration - substantially meets the specified performance requirements. |
| Maintenance | Any preventive services, which are re­quired for the retention of the operative­ness of the IT system or devices (meas­ures for the preservation of the planned status, including inspection). |
| Period / hours / time of utilization | The period, during which the system or devices are used effectively in accordance with their intended purpose - excluding the sequences which are nor used due to mainte­nance purposes. |
| Reaction time | Period of time between fault report and latest start of repair. |
| Provisions, special | These are individual contractual stipula­tions between the Parties, e.g. in a frame­work agreement, a call-forward notice or a written order. |
| Software, included | Software, which is permanently saved on the delivered hardware or which within the framework of contractual use may be transferred only together with the relevant hardware (e.g. BIOS, operating software). |

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| Term | Definition |
| Application software shall not constitute included software, except in case of OEM versions. | |
| Support | Support to assist the Purchaser in case of any occurring problems. |
| System integration | Services, where the Vendor must create the overall functionality of the hardware to be installed thereby and of the included software in coaction with the hardware and software platform which is set forth in the specifications and which has already been installed with the net­work neighbourhood. |
| Maintenance and Repair | Services for the maintenance and repair of the hardware. |
| Maintenance times | Date, time and duration of the mainte­nance or repair activities. |
| Maintenance period | Period, during which the maintenance time for the maintenance or repair activities occurs. |
| Restoration period | Period between fault report and restora­tion of the functionality. |
| Time schedule | Duration of maintenance for each system or device. |

Translated by Lingva Ekspert