

# General Conditions of Purchase of EVN Macedonia Group



Unless otherwise determined in the Contract/Order/Agreement, the following General Conditions of Purchase apply, regulating rights, obligations and relations between the Supplier (Contractor) and the Buyer (EVN Macedonia AD or company in which EVN Macedonia AD is founder or shareholder). Both, the Supplier (Contractor) and the Buyer, should be understood as contractual parties. General terms and conditions of the Buyer are an integral part of the Contract/Order/Agreement, even if they are explicitly excluded in order related documents of the Supplier (Contractor). Any conditions of the Supplier (Contractor) that are contradictory or contrary to this General Conditions of Purchase shall not be applied, even in cases when the performance of the Supplier (Contractor) has been previously indisputably accepted and regardless of the Buyer's awareness of the Supplier's previous conditions. These General Conditions shall be published on the Buyer's web site, as well as any changes of the General Conditions entering into force upon the date of publishing.

## General Contractual Terms

1. Orders and any amendments of the Contract/Order/Agreement, require the written form to be effective. Unless otherwise agreed under a Contract/Agreement or in the Order, only duly signed Orders and/or Contracts/ Agreements in written form, as well as electronic formats that include a valid electronic signature or valid electronic approval by authorized persons of the Buyer, shall be fully effective and binding for the Buyer.

Verbal agreements are legally effective only if they are confirmed in writing by the Buyer.

General Conditions of Purchase without Contract/Order/Agreement shall only be valid in case, a Contract/Order/Agreement with the Supplier (Contractor) has not been previously signed or if some of the conditions have not been defined in the Contract/Order/Agreement.

The rights, obligations and conditions defined in the Contract/Order/Agreement with the Supplier (Contractor) shall preclude the provisions defined in the General Conditions of Purchase defined herein.

The acceptance of the Contract/Order/Agreement by the Supplier (Contractor) is understood as an acceptance of the conditions and the provisions stated in this General Conditions of Purchase, as well as the data and orders included in the specific Contract/Order/Agreement. Any discrepancies and amendments in other documentation of the Supplier (Contractor) with reference to the General Conditions of Purchase stated herewith shall be deemed unacceptable, as long as they are not accepted by the Buyer in written form.

The commencement of the delivery or performance of services or works, in part or completely, as requested with the Contract/Order/Agreement, shall be understood and deemed as an acceptance of all provisions and conditions defined in this General Conditions of Purchase and the Contract/Order/Agreement, regardless whether or not the Supplier (Contractor) has confirmed the acceptance of the Contract/Order/Agreement.

2. If the Contract/Order/Agreement is based on a bid/quote submitted by the Supplier (Contractor), whereas such bid or quote constitutes an integral part of the Contract/Order/Agreement, unless otherwise stipulated in the Contract/Order/Agreement and unless not contrary to these General Conditions of Purchase.

## Pricing

3. The prices stated in the Contract/Order/Agreement are fixed prices, until complete implementation of the procurement, including also delivery to the Buyer's central warehouse or designated location/facility of the Buyer, as stated in the

Contract/ Order/ Agreement. The price shall include transport, insurance, packaging and all other expenses which may arise in the course of the delivery/performance of works/services/putting into operation at the Buyer's location, unless otherwise agreed in written.

Contract/Order/Agreement concluded with domestic Supplier (Contractor), i.e. a company with business seat in R. N. Macedonia, has to be concluded in Macedonian denars (MKD).

Contracts with foreign Supplier (Contractor) should be concluded in EUR,USD or GBP or similar currency.

4. Goods are delivered free place of delivery/performance, packed, insured and unloaded, unless otherwise stipulated in the Contract/Order/Agreement. Additional services charged on a time basis may be only provided with Buyer's prior consent. Timesheet and/or proof of delivery of the equipment and materials used shall be submitted to the Buyer for written approval. Additional services, works, or materials that have not been commissioned or confirmed will not be paid. If the bill of quantities/bid provides for a certain number of additional services/works, this does not give right to a claim on behalf of the Supplier (Contractor) for the performance of such services/works. If the Supplier (Contractor) deems an amendment of the agreed scope of supply and services/works necessary, the Supplier (Contractor) shall notify the Buyer, in the form of a supplementary bid as soon as possible. The respective supply or service/work may only be provided upon explicit written commissioning by the Buyer, by means of supplementary order/amendment/contract.

The contracted price shall include all costs/expenses for any mounting/installations/integrations and the works/performance of subcontractors (if any) of the Supplier (Contractor), incl. all the costs which may be required by the Supplier (Contractor).

The price stipulated in the Contract/Order/Agreement shall also incorporate the submission of adequate instruction for use, operation, maintenance and/or list or spare parts and/or similar user documentation, as well as all other documents required for the proper use of the delivered equipment/goods/services, in Macedonian and/or English language.

Unless otherwise agreed, the Supplier (Contractor) shall be responsible for the obtaining and payment of all import and export permits or licenses necessary for the implementation of Contract/Order/Agreement.

5. If the Buyer uses services of a foreign Supplier (Contractor) for which withholding tax is to be paid, the Buyer shall be obliged, from the gross price, to withhold and pay the withholdings tax for the account of the Supplier (Contractor), provided that there is Double Tax Treaty signed by both countries, and if under the Double Tax Treaty, it is permissible to reduce the withholding tax, the Supplier (Contractor) shall submit the necessary documentation in original to the Buyer at the time of signing of the Contract/ Agreement and update it each calendar year, so that the Buyer can refrain from deducting the withholding tax in whole or in part.

## Invoicing & Payment

6. Invoices shall be issued in a single copy and sent to the invoice address specified in the Contract/Order/Agreement, indicating the Contract/Order number. The invoice shall comply with the Law on Tax, in particular specifying the VAT number and itemizing tax. Invoices that do not meet these requirements will be rejected by the Buyer. The claim for payment does not become due until the Supplier (Contractor) issues an invoice in

# General Conditions of Purchase of EVN Macedonia Group



accordance with the statutory and contractual provisions.

7. The payment shall be proceeding 30 days upon the receipt of the invoice in the archive of the Buyer (address St. Lazar Lichenoski No. 11, 1000 Skopje, Republic of North Macedonia), upon delivery of goods/competition of services/works. The day of receipt of the invoice in Buyer's archive is to be considered as starting date for calculation of payment deadline. The invoice has to be accompanied with a delivery note for delivery of goods or signed construction book for works or document for delivery/submission/final acceptance of performed services.

In case the Contract/Order/Agreement has a foreign currency clause, such clause prescribes that the value of goods/services/works can be expressed in EUR, USD, GBP or similar currency, however the medium exchange rate of National Bank of N. Macedonia at the date of concluding Contract or issuing Order, shall be applied.

The Supplier (Contractor), if it is domestic legal entity, agrees that in event of any debt to the Buyer, the Buyer can make compensation of such debt with the invoice of the Supplier (Contractor), with minimal consent such as Supplier (Contractor) compensation details.

8. The Supplier (Contractor) can neither partly nor in whole, cedes any receivables referring to the Contract/Order/Agreement to third entities, without a written consent thereon. Any notice of assignment shall be addressed to the Buyer in writing in order to be effective, and comes into effect upon written confirmation of the Buyer.
9. Acceptance of a goods/service/works requires Buyer's written confirmation to be effective. The risk is transferred to the Buyer only upon acceptance of the goods delivery/service/works at the place of performance, in accordance with the Contract/Order/Agreement.

## Penalties

10. The Supplier (Contractor) is obliged to fulfill the delivery deadline. In case of not fulfillment the delivery deadline, contractual penalty of 1% per day of the value of the Order or Contract, up to maximum 15% of the total value of the Contract/Order is applied. The basis for calculation of the contractual penalty is the value of the Contract / Order, i.e. its total amount, excluding VAT.

## Obligations & Liabilities

11. The Supplier (Contractor) is obliged to compensate any damage caused to the Buyer, triggered by not fulfillment of the Supplier's (Contractor's) obligations deriving from the Contract/Order/Agreement and this General Conditions of Purchase.
12. The Supplier (Contractor) shall ensure that its personnel and any subcontractors assigned by him, comply with the statutory provisions regarding the protection of the employees life and health and environment protection, as well as using energy efficient technology/products/processes. The staff deployed by the Supplier (Contractor) may only access the areas assigned to them by the Buyer. If the Supplier (Contractor) is responsible for the incurred damage based on its liability for defects in the materials, the scope of the procurement (product liability), the Supplier (Contractor) has to indemnify the Buyer in the event of any claims by third parties.
13. The Supplier (Contractor) is liable for the goods/services/works until the transfer of the risk. The risk until the delivery of goods/services/works at defined delivery place is on the

Supplier's (Contractor's) account, whereas the risk upon the realization of the services is on the Buyer's account. The risk cannot be transferred to the Buyer, if the Buyer has terminated the Contract/Order/Agreement or has requested the goods/services/works to be replaced/repaired due to faults therein.

14. The Supplier (Contractor) is also liable for those failures that will be noticed even after the transfer of the risk, if it occurs as a consequence of the reason that existed before the transfer of the risk.

The Supplier (Contractor) is responsible for all caused material and non-material damages as a consequence of the non-fulfillment of this General Conditions of Purchase or Contract/Order/Agreement terms.

If the Buyer suffers damages exceeding the value of the contractual penalty, the Buyer can claim the difference from the value of the contractual penalty up to the value of the damage.

15. The Supplier (Contractor) is obliged to comply with the Law on pension and disability insurance and the Law on foreigners, with respect to any foreign national employed by the Supplier (Contractor) or their subcontracts. The Supplier (Contractor) shall prove compliance with its obligations to the Buyer, without prompting before commencing work, by submitting the complete corresponding documentation (residence permit, work permit etc...) and to indemnify the Buyer, their executive bodies and employees and hold them harmless from and against any damage and/or liability arising from the breach of these obligations.
16. The Supplier (Contractor) shall ensure that the goods/services/works correspond to the state of the art and comply with the statutory provisions. The Supplier (Contractor) shall warrant that the contractual goods/service/work are free of defects. The warranty is subject to the relevant statutory provisions, unless otherwise stipulated in the Contract/Order/Agreement. The warranty also covers any defects occurring during the warranty period. The proof of performance in accordance with the contract and free of defects is incumbent upon the Supplier (Contractor). If curing a defect gives rise to dismantling and installation costs and ancillary expenses, such costs and expenses shall be born by the Supplier (Contractor). The Supplier (Contractor) is obliged to either remedy any defects occurring during the warranty period as quick as possible, or to replace the goods/services/works with new goods/services/works, at the Buyer's discretion, in line with the time period requested by the Buyer or as agreed in the Contract/Order/Agreement. The Buyer might accept the goods/services/works under reservation and without inspection of the goods/services/works; the inspection is carried out at the latest. However, if the Supplier (Contractor) fails to fulfill its warranty obligations and/or the defect has to be remedied by a third party, the Supplier (Contractor) shall bear the costs of such substitute performance.
17. The Supplier (Contractor) is liable for any damage caused by acts or omissions on the part of the Supplier (Contractor), its personnel, its subcontractors, or its other vicarious agents within the framework of or in connection with the supply or service or works, and for any damage caused by materials used by them or parts thereof. The Supplier (Contractor) is also liable for any materials, components or other items provided to the Supplier (Contractor) by the Buyer or other companies for installation or storage. In any case, the Supplier (Contractor) shall prove that the damage was not due to any fault on behalf of the Supplier (Contractor) or its personnel, its subcontractors or its other vicarious agents. This applies for both slight and gross negligence. The Supplier (Contractor) shall indemnify and

# General Conditions of Purchase of EVN Macedonia Group



hold the Buyer harmless from and against any claims raised by an employee or a third party against the Buyer for any damage incurred in the course of the execution of the Contract/Purchase Order/Agreement.

18. The Supplier (Contractor) is obliged to take out an appropriate liability insurance that covers all liability risks arising from statutory provisions and from the Contract/Order/Agreement at their own expense. The insurance coverage shall also include the liability of the Supplier's (Contractor)'s personnel, subcontractors and other vicarious agents that the Supplier (Contractor) employs during the execution of the contract/order.
19. If the Supplier (Contractor) does not meet its obligations, the Supplier (Contractor) has been on time and duly informed for the not fulfillment of the contractual terms, the Buyer has right to ask the Supplier (Contractor) to repair the not-fulfilled part of the Contract/Order/Agreement or to proceed with new delivery of goods/services/works free of defects or to request reduction in the value of the invoice or to terminate the Contract/Order/Agreement.

## Proprietary rights

20. The Supplier (Contractor) is completely responsible and shall protect the Buyer for all activities, questions, requests, reasons for requests, losses, reasons that could cause damages to the Buyer, court processes and all costs of whatever type and nature that could arise to the Buyer, if the Supplier (Contractor) is breaching the protected right of industrial/intellectual property/patent protection/trademark rights to third party, i.e. the Supplier (Contractor) is completely responsible for the protection of the industrial/intellectual property/patent protection/trademark rights towards third persons. The Supplier (Contractor) accepts this and is completely liable towards the warranty for the legal requirements of the goods/services/works.

The Supplier (Contractor) shall pay indemnification to the Buyer regarding all initiated procedures and damages arising out of court decisions, taxes, attorney fees, from any breach of industrial/intellectual property/patent protection/trademark rights, upon first request of the Buyer.

## Confidentiality & Personal Data Protection

21. During the execution of the Contract/Order/Agreement, the Supplier (Contractor) cannot disclose, without prior written consent by the Buyer, the Contract/Order/Agreement or any provision thereof, or specification, information etc., submitted by the Buyer in relation to the Contract/Order Agreement, to third parties, apart from persons authorized by the Buyer and they shall be treated as trade secret, apart from the EVN AG companies.

The Supplier (Contractor) and the Buyer, shall treat with confidentiality all information, documents, official letters, technical plans and operative details related to the fulfilment of the provisions of the Contract/Purchase Order/Agreement, as well as all other data regarding the other party, its composition, organization and financial operation, the working technology, business relations, marketing plans and services, including copies of data in all means received by the other contractual party, or obtained in any other manner during the validity of the Contract/Order/Agreement (hereinafter Confidential Data). Confidential data, regardless of the media and form in which they are exchanged, verbal, written or electronic, shall be deemed as trade secret and with limited use between the contractual parties with a sole purpose of undertaking actions aimed at fulfilment of the delivery/service subject of the Contract/Order/Agreement. Confidential data shall be solely available to their employees and responsible persons, based on

their authorizations to perform specific tasks according to delegated work and working assignments, and only to the extent necessary for those persons to fulfil their assignments under the Contract/Order/Agreement, and those employees shall be contractually bound to keep the data confidentiality.

Contractual parties shall be particularly bound

- not to reveal, without prior written consent or instruction by the other party, any confidential data to third parties. The term 'reveal' in the context of this article shall mean allow access to those data to third party, regardless of the form, whether it is direct or indirect insight into the data or by verbally transmitted information, regardless of the extent, that is, whether they are partially or fully revealed and regardless whether they are revealed intentionally or due to negligence.
- directly or indirectly, not to use any confidential data for personal gain, or in favour of third party;
- to return or, if ordered, to destroy all confidential data, that is, materials and assets containing confidential data on the other agreement party, including all copies, regardless of the form they are provided in, upon the request made by the other party, or immediately after the finalization of assignments for which such confidential material may be used.

If contractual parties engage subcontractor as partner in the fulfilment of the scope of the Contract/Order/Agreement, then the subcontractor would be legally bound to respect the data confidentiality and the already agreed conditions of this Contract/Purchase order. Furthermore, the contractual party which engaged a subcontractor shall be deemed responsible towards the other contractual party to protect the confidentiality of data exchanged for the purposes of the realization of the scope of this Contract/Purchase order, as well as compensate any damage caused by violation of the mentioned responsibility.

The contractual parties shall cooperate mutually to identify any suspicious, illegal, false or improper activities and technical failures within the system, and they shall undertake any necessary measures to overcome them.

The contractual parties may perform certain activities within the authorizations envisaged for this Contract/Order/Agreement and legal restrictions, and they may not be processed for any other purpose, or submitted to third parties.

22. The obligation for personal data protection and maintenance of the business secret shall be obligatory from the moment of receipt of that type of data, and shall be in force for the period of validity of this Contract/Order/Agreement, as well as after termination of its validity. When processing personal data, the agreement parties shall act in accordance with the Macedonian Law on Personal Data Protection and their internal acts governing the personal data protection. Each contractual party shall be responsible to compensate any damage incurred due to violation of contractual obligations related to confidentiality and personal data protection set forth with this Contract/Order/Agreement.

When contractual relation is terminated on any ground, the parties are mutually obliged to return to the other party the personal data without any delay. Following the completion of the purpose personal data were collected for, they need to be erased from the data collection.

Contractual parties shall be obliged to apply appropriate technical and organizational measures to protect personal data from being unintentionally or illegally destroyed, lost, modified, disclosed or accessed without authorization.

The contractual parties shall agree to act solely in accordance with the instructions received by the other contractual party when processing personal data of their end users.

# General Conditions of Purchase of EVN Macedonia Group



The contractual parties shall be obliged to apply appropriate technical and organizational measures to protect personal data, in accordance with the Buyer's procedure for personal data protection and the Buyer's Rulebook on the protection of the individual right to privacy when processing personal data within the Buyers and documentation containing description of technical measures to ensure secrecy and protection of personal data processing subscribed by the Directorate for Personal Data Protection.

If the Supplier (Contractor) commissions subcontractor as partner in the fulfilment of the Contract/Order/Agreement, then the Supplier (Contractor) shall obligate the subcontractor to implement such technical and organizational measures for personal data protection. Data confidentiality obligation shall be valid for 2 (two) years upon the termination day of concluding the Contract/Purchase order.

## Transfer of obligations

23. The Supplier (Contractor) shall not transfer to third party, partially or in complete, its agreement obligations, without Buyer's written consent. Such transfer of obligations is not releasing the Supplier (Contractor) from any responsibility, warranty or other contractual liability. Contracting parties may move, deviate, leveled or otherwise dispose with all or part of the rights and obligations under the Contract/Order/Agreement only upon its entry into force, and only with the prior written consent of the other contracting party which should be given within 30 days after receipt of the relevant application for it, and if consent is not given within that period shall be deemed rejected.

The Supplier (Contractor) shall ensure that any sub-agreement which it concludes, contains relevant provisions of the Contract/Order/Agreement. Any transfer or conclusion of subcontract that is contrary to this provision shall be deemed invalid, void and of no effect to the Buyer and will be ignored by the Buyer.

The Supplier (Contractor) will protect, provide and keep the Buyer from all claims, demands, actions, processes, actions, damages, losses, taxes and costs suffered, incurred or in connection with such transfer or concluding sub-contracts.

The Buyer is entitled to transfer the contractual relationship, including all the rights and obligations arising therefrom, to an affiliated company pursuant to the Law on obligations and the Law on trading companies.

## Termination

24. The Contract/Order/Agreement can be terminated:

- with a consent, upon request of either one or both of the contractual parties
- if the Supplier (Contractor) does not fulfill the Contract/Order/Agreement obligations, upon a prior notice with a period of at least 10 (ten) days of sending such notice
- in case of bankruptcy, starting of the Supplier's (Contractor's) liquidation procedure, or if the Supplier (Contractor) has become insolvent due to any other reason
- by the Buyer, without any cause, with a notice period of 30 (thirty) days upon the date of receipt of the request for termination of the Contract/Order/Agreement by the Supplier (Contractor)
- if the Supplier (Contractor) does not fulfill any other contractual obligation, that can significantly influence Buyers operation, immediately without prior notice period.

25. If the Supplier (Contractor) defaults in the contractual performance, the Buyer is entitled to either insist on the performance owed in accordance with the contract, or to give written notice of their rescission of the contract, setting

an appropriate grace period, if the performance owed is not completed within the mentioned grace period. The Supplier (Contractor) shall furthermore pay damages to the Buyer. If legally admissible pursuant to the provisions of the Law on Obligations, the Buyer is entitled to rescind the contract with immediate effect in the case of insolvency, over-indebtedness or material deterioration of the Supplier's (Contractor's) financial situation, or if insolvency proceedings against the Supplier (Contractor) are rejected due to insufficient assets to cover the procedural costs. The Buyer is also entitled to rescind the contract in the case of a change in the Supplier's (Contractor's) ownership structure by more than 50%, or in the case of another de facto change of control. In case of such rescission, the Buyer shall only pay appropriately for the goods deliveries/services/works already provided by the Supplier (Contractor), provided that they can be used by the Buyer in accordance with the agreed contractual purpose. In no case shall the Buyer be liable to pay more than the proportionate fee.

## Applicable Law/Place of Jurisdiction

26. The Law on Obligations, as well as the other valid laws and regulations of R.N. Macedonia shall be applied on the guarantee and other provisions defined in these General terms of Purchase and/or Contract/Order/Agreement.

27. The sole place of jurisdiction for both contractual parties is the Civil court Skopje, R.N. Macedonia responsible for commercial matters. However, the Buyer is entitled to file a claim against the Supplier (Contractor) at the later 's general place of jurisdiction as well. Substantive Macedonian law applies; the UNCITRAL CISG and the conflict of laws principles of the Rome I Regulation are excluded. The contract language is Macedonian, unless otherwise stipulated in the Contract/ Order/ Agreement.

## Other provisions

28. If individual provisions of the current General Conditions of Purchase of the EVN Macedonia Group are or become ineffective, invalid or unenforceable, in part or in their entirety, the validity of the remaining provisions remains unaffected thereby. Instead of the ineffective, invalid or unenforceable provision, the contractual parties shall agree on a regulation that comes as close as possible to the purpose of the ineffective, invalid or unenforceable provision as it was intended by the parties in accordance with the intent and purpose of the agreement concluded.