



General Terms and Conditions for Purchasing by the Deutsche Telekom Group (GTC Purchasing)

Part A: Deutsche Telekom Group applicable terms

1. Area of Application

(1) These General Terms and Conditions for Purchasing (further referred to as "GTC Purchasing") and any other contractual terms and conditions indicated in the Order (as defined below) shall apply exclusively to the Order and to the exclusion of any other terms that Contractor seeks to impose, incorporate, or which are implied by trade, custom, practice or course of dealing.

(2) Only orders, calls, contracts, etc. and other declarations of intent which are placed in writing by a procurement unit of Deutsche Telekom AG or a group company within the meaning of section 1, subsection 3 (hereinafter referred to as "Customer") shall be legally valid (hereinafter referred to as an "Order"). The requirement of written form in the sense stated above is also satisfied by communication methods provided electronically, by fax or e-mail or electronic communication methods provided by Customer for handling purchasing transactions, including full integration, web-based applications or declarations transmitted via the Order Management Tool. An electronic declaration of intent is received on the day on which it is available for retrieval by the recipient under its electronic address during normal business hours; otherwise, it is received on the next business day. In the event that a special electronic communications method provided by Customer to handle purchasing transactions is used, the relevant terms and conditions of use of the Deutsche Telekom Group shall apply to such electronic communications methods provided by it (NB e-commerce) published from time to time on www.suppliers.telekom.de under "terms & conditions".

(3) If Customer and Contractor has entered into a frame agreement, Deutsche Telekom AG and all companies affiliated worldwide in which Deutsche Telekom AG, directly or indirectly, holds at least 25% of the shares and/or has management control shall be beneficiaries and thus shall be entitled to place Orders under such frame agreements.

2. Parts of the Agreement, Order of Precedence

The following documents shall be integral parts of the agreement in the order of precedence as set forth below:

- a. the Order;
- b. the specifications;

- c. these GTC Purchasing (consisting of Part A and country specific terms and conditions set out in Part B, while in case of inconsistencies Part B shall prevail); and
- d. the Corporate Social Responsibility and Anti Corruption Clause, published from time to time on www.suppliers.telekom.de under "terms & conditions".

3. Quality Management, Environmental Protection

(1) Contractor is obliged to take back, free of charge, the packaging material and to collect and dispose of it in compliance with the law. Contractor shall upon request provide, proof of such disposal. If Contractor fails to comply with this obligation, Customer is entitled to have the collection and disposal undertaken at Contractor's expense.

(2) Contractor shall adhere to the respective local environmental regulations (e.g. the EU Directives RoHS and WEEE incl. country implementations) and assume Customer's obligations resulting there from. If such obligations are not transferable, Contractor will support Customer in meeting its obligations. In particular Contractor shall, at no extra costs and according to Customer's instructions, mark the products if required with an identification of the producer and the any required symbols.

(3) Contractor will meet all obligations arising from local packaging regulations and provide Customer with proof thereof on request and assume Customer's obligations arising from such packaging regulations. If such obligations are not transferable, Contractor will support Customer in meeting these obligations. Should, by way of exception, Customer be regarded as the initial distributor who puts sales packaging filled with goods and typically arising at the private end consumer into circulation for the first time, Contractor shall be obliged to inform Customer of this fact at the latest at the time of placing the Order.

(4) Contractor will comply at its own expense with all applicable chemical related regulations (e.g. the EU REACH Regulation no. 1907/2006) imposed on Contractor and Customer. If, according to such regulations, such obligations are not transferable from Customer to Contractor, Contractor shall immediately inform Customer thereof and support Customer in meeting such obligations to the maximum extent

possible. If Contractor's registered office is outside of the European Union, Contractor shall, at its own expense, appoint a representative registered within the European Union that shall comply with the obligations under Article 8 of the REACH Regulation and inform Customer about such appointment.

- (5) Regarding further specific rules see Part B: Country specific terms.

4. Integrity and Cooperation, Social Charter

- (1) The Customer has designed core principles and values which demonstrate the Customer's willingness to share its business ethics, the social and environmental commitments with its suppliers. Such principles and values are outlined in the documents "Code of Conduct" and "Social Charter" (published on www.suppliers.telekom.de under "terms & conditions"). The Contractor agrees to take all necessary measures to prevent and to sanction any case of active or passive corruption. Details are set forth in the Corporate Social Responsibility and Anti Corruption Clause which shall constitute an integral part of the agreement in respect of an Order.
- (2) Contractor shall immediately notify Customer in writing as soon as it becomes aware of any actual or likely breach of the Social Charter by Contractor or subcontractor. Contractor shall avoid anything that might harm Customer's brand image or endanger its security of supply.
- (3) Contractor shall comply (and shall ensure their personnel, contractors and vicarious agents are notified and fully comply) with the security provisions of Deutsche Telekom Group. In particular, Contractor shall comply with the "Security Regulations for Building and Property Security of Deutsche Telekom AG and of its Subsidiaries for Contractors and their Employees/Vicarious Agents", as amended from time to time and published on www.suppliers.telekom.de and shall obligate the persons deployed to perform the Order to do the same. Customer may include security provisions in Order(s) or the documents on which such Order(s) are based. In the event of a conflict, the additional security provisions shall take precedence over those set out herein.
- (4) If work is to be performed at Customer's security-sensitive sites, Contractor shall ensure that only staff who have passed the security check in accordance with local security clearance checks are employed.

5. Terms of Delivery, Scope of Services, Prices

- (1) The price agreed upon in the agreement is a fixed price including delivery "free place of destination". The price covers the entire transport, insurance, packaging and other incidental costs and charges through to

delivery/setting-up ready for service at the place of receipt/installation site indicated by Customer, unless otherwise agreed.

- (2) Unless explicitly agreed otherwise, in case of deliveries from abroad the delivery clause "DDP excl. Import VAT" (Incoterms 2010) named place of destination shall apply, so that import VAT shall be borne by Customer.
- (3) The price includes the costs of any installation, integration and transference work which may become necessary and which shall be performed by Contractor without disturbing current operations. If necessary this work shall be undertaken outside normal working hours.
- (4) The relevant instructions for the operation, handling, use and service and other documents shall be delivered in the language customary in the country of Customer's contracting unit. The instructions and documents are included in the price.
- (5) Every consignment shall be accompanied by a delivery note. Delivery notes (and if specifically agreed, dispatch notes) must contain:
- number, reference number and date of the Order,
 - number of any partial consignment;
 - number and date of the delivery note;
 - date of dispatch;
 - any information on the type and size of the consignment along with materials numbers and item numbers specified in the Order; and
 - mode of dispatch.
- (6) Where invoicing on an hourly or daily basis is agreed, no further costs in relation to travel, waiting times and/or travel expenses shall be payable.
- (7) Contractor shall offer Deutsche Telekom AG (and its group companies within the meaning of section 1, subsection 3) Contractor's products, work and/or services at the most favorable terms, conditions and prices which Contractor grants to Deutsche Telekom AG itself and/or any company of its group worldwide with regard to quantity, quality and market conditions for comparable products, work and/or services. Deutsche Telekom AG and its group companies reserve the right to exchange the respective information.

6. Time of Performance

- (1) The agreed time of performance is binding.
- (2) Unless explicitly agreed otherwise, early and/or partial performance requires Customer's express written consent. Any performance effected prior to the agreed

date shall not affect the start of a payment period linked to the date of performance.

- (3) Contractor shall immediately inform Customer in writing if circumstances arise or become noticeable which could result in failure to meet the agreed time of performance.
- (4) The provision of the products, work and/or services in a condition eligible for acceptance shall be authoritative for determining whether the performance has been provided duly on time.

7. Rescission or Termination for Good Cause

Either party may rescind or terminate the agreement if (a) with respect to the other party's assets insolvency proceedings have been initiated or a petition for such proceedings has been filed with the court, (b) the initiation of insolvency proceedings has been rejected due to a lack of sufficient insolvency assets to cover the cost of the proceedings, (c) the other party has suspended payments on a not merely temporary basis, (d) the other party ceases its business operations or the part thereof relevant for the contractual performance, (e) the other party continues to not to fulfil its obligations set forth in this agreement and/ or does not eliminate the consequences of incurred violation within 7 (seven) days after delivery of a written notice stating that violation or (f) if a similar event occurs which corresponds to the aforementioned situations under the laws in effect at the place of business of the affected party.

8. Liability for Defects

- (1) In case of an epidemic failure (frequency of errors significantly above the error frequency rate specified or to be expected normally), Customer shall be entitled to demand that all delivery items in the series concerned be replaced free-of-charge, regardless of whether the defect has already become apparent or not with regard to an individual item of that series. In addition, Contractor shall compensate Customer for any additional costs and expenses that it may have incurred as a result of the epidemic failure (including, but not limited to, the costs and expenses for inspections of incoming goods, logistics, etc.). Customer's other rights and remedies shall remain unaffected.
- (2) Regarding further specific rules see Part B: Country specific terms.

9. Rights of use

- (1) Contractor shall grant Customer the non-exclusive, global, irrevocable, transferable and unrestricted right of use on any number of CPUs of the software to perform the functions included in its scope of service. Customer may at any time obtain further licenses with the same rights of use. Customer may make copies to

the necessary extent for training, back-up and archival purposes.

- (2) To the extent that the performance involves an individual service for Customer, Customer shall obtain an exclusive, irrevocable, transferable right of use which is not limited in time, territory or content and which is covered by the remuneration. Such right of use includes (without being limited to) the right to publish the documents completely or parts thereof, and duplicate, alter or process them including (without being limited to) making further use of them for follow-up agreements with third parties.

- (3) Contractor is obligated to immediately notify Customer in writing if open source software is to be used in the provision of the service.

10. Third Party Right

- (1) Contractor guarantees that no intellectual property rights of third parties exist which conflict with the intended use of the contractual services by Customer and that no further licenses, approvals, consent or payments are required in association with intellectual property rights of third parties so that Customer can use the contractual services as stipulated in this Agreement or in the relevant Order.
- (2) Each party shall immediately notify the other party of any claim related to said third party intellectual property rights made or threatened against the other Party and/ or if it becomes aware of any infringement or alleged infringement of any third party rights in connection with the contractual services.
- (3) On written request, Contractor shall fully indemnify Customer from any and all legal actions, demands, costs, charges, losses, claims and expenses suffered by Customer as a result of the infringement or alleged infringement of any third party intellectual property rights. In addition to these duties, Contractor may, at its own discretion and at its own expense either:
 - (a) modify or replace the services in a way that prevents third party rights from being infringed or allegedly infringed, however which ensures that the services continue to comply with the contractually agreed requirements in all respects; or
 - (b) obtain the right for Customer to (further) use of the services in accordance with the agreement.
- (4) If Contractor fails to cease the infringement of third party intellectual property rights, Customer shall (at its sole discretion) be entitled to withdraw from the relevant Order and to make claims for compensation or for a corresponding reduction of the purchase price and/or the licensing fee.

11. Confidentiality, Data Protection

- (1) Both parties shall treat in confidence all information from the business of the other party of which they become aware through the business relation and which is not generally available. Such information shall not be used for their own or third parties' purposes.
- (2) Contractor shall comply with all secrecy of telecommunications and data protection provisions and, in particular, the protection of personal data.
- (3) All documents made available to Contractor by the Customer shall remain Customer's property. Upon Customer's request Contractor shall return or destroy the documents together with all copies.
- (4) Contractor undertakes to explicitly and demonstrably inform its employees, vicarious agents and subcontractors that Customer collects and processes the following personal data on them for the purposes of guaranteeing statutory regulations and its legitimate business interests: title, surname, first name, date of birth, street, zip code, town and country.
- (5) Any mention of Customer as a reference shall require Customer's prior express consent in writing. Once granted, this consent shall continue to be valid until it is withdrawn. Customer shall be entitled to withdraw such consent at any time without notice and without stating the reasons.
- (6) The obligations in this section 11 shall continue after the expiry of the agreement.
- (7) Regarding further specific rules see Part B: Country specific terms.

12. Performance of the Agreement by third parties

- (1) The deployment of third parties as subcontractors shall require the prior written consent of Customer.
- (2) If Customer gives its consent, Contractor shall ensure that all subcontracts awarded under the relevant Order are drawn up in such a manner that Contractor is fully able to meet its obligations to Customer.
- (3) Notwithstanding any consent, Contractor shall remain full liable for the acts and omissions of its subcontractors.

13. Independent Service Provision

- (1) Contractor shall provide the contractual services independently and on its own responsibility.
- (2) If the project requires the services to be provided, in part, on Customer's premises, Contractor shall be prepared to provide the services to this extent in the relevant facilities. The parties shall agree on the

relevant place of performance, taking the project requirements into account.

- (3) Contractor is solely responsible for providing instructions to its employees and those of the subcontractors it engages. Contractor is free to organize the provision of its services and to schedule its activities. If required by the project Contractor shall cooperate with other parties involved in the project to coordinate activities and meet agreed deadlines.

14. Invoices, Terms of Payment

- (1) Invoices shall be submitted after the service has been provided in full.
- (2) Invoices shall be sent solely to the invoice address specified in the Order.
- (3) Contractor shall submit a verifiable invoice of its services. In particular invoice line items must match order items. Part payments and final payments are to be marked as such and listed individually in numbered sequence. The invoice shall contain Customer's business unit placing the Order, Order number and the place of receipt. The invoice shall be in accordance with the applicable local taxation law. If the invoice does not comply with the aforementioned requirements, Customer reserves the right to return the outstanding invoice in order for Contractor to complete or correct it. In such a case, the payment period shall begin only after the completed or corrected invoice has been received by Customer. Even if Customer does not make use of the aforementioned proviso, Customer shall not be responsible for any delay in payment. The invoice with the address given in the Order shall not be issued before the day of performance in accordance with the agreement.
- (4) Amendments and supplements to the agreement are to be clearly indicated on the invoice and shall only be paid for if agreed upon in writing before being carried out.
- (5) The prices agreed are net prices. If applicable, value added tax to the statutory amount shall be added.
- (6) The invoice shall not be paid before the service has been provided.
- (7) Unconditional payment of the invoiced amount by Customer does not constitute recognition of Contractor's services as being in accordance with the agreement.
- (8) Customer may deduct any withholding taxes which may possibly accrue from the price to be paid and pay them to the fiscal authorities on account for Contractor

unless a valid certificate of exemption is provided by Contractor.

- (9) Regarding further specific rules see Part B: Country specific terms.

15. Assignment of claims

- (1) Customer shall be entitled to assign its rights and obligations arising from the agreement individually or in whole to any group company within the meaning of section 1, subsection 3. Such an assignment shall not require Contractor's consent.
- (2) Regarding further specific rules see Part B: Country specific terms.

16. Set-off

- (1) Contractor has no rights of retention insofar as they are based on counterclaims resulting from other legal transactions with Customer.
- (2) Contractor may only offset such claims which are undisputed or recognized by final and binding judgment.

17. Foreign Trade Regulations

- (1) Contractor shall (at its own expense) comply with all applicable foreign trade regulations in connection with a delivery including but not limited to obtaining all authorizations required under export laws.
- (2) For any delivery of goods, Contractor shall provide Customer with the following information:
 - a. Statistical Commodity Code in accordance with the Harmonized System of the World Customs Organization (WCO);
 - b. Country of origin of the goods (where applicable, in accordance with EU preferential agreements); and
 - c. Any foreign trade information and documents relevant for shipment (weight of the goods, customs number, VAT ID).

The information defined under a. and b. shall be provided as either as separate information prior to shipment or, at the latest, as an annotation on Contractor's invoices.

- (3) If Contractor delivers goods of U.S. origin or primarily of U.S. origin, it shall be obliged to provide Customer with the Export Classification Number (ECCN) and to identify any applicable "license regulations" or "license exceptions" according to U.S. re-export laws.
- (4) To the extent that Contractor has obtained goods and/or services either wholly or partially from third parties, it shall guarantee that they have been obtained from secure sources, and that they have been exported,

imported or introduced under observation of and in compliance with the legal export regulations of the country of manufacture/dispatch.

18. Final Provisions

- (1) The place of performance shall be the place of final destination indicated by Customer.
- (2) Notwithstanding the legal invalidity of individual items, the remainder of the agreement shall remain binding. However, this shall not apply if adherence to the agreement would constitute an unreasonable hardship for one party.
- (3) Regarding further specific rules see Part B: Country specific terms.

General Terms and Conditions for Purchasing by the Deutsche Telekom Group (GTC Purchasing)

Part B: Specific terms for Austria

1. Quality Management, Environmental Protection

Contractor has to adhere to Customer's requirements for quality management and environmental protection as well as workplace safety/labor protection. If stipulated in the specification, Contractor shall document the application of a quality management system in accordance with DIN EN ISO 9001 or TL 9000 and shall provide data with respect to the metrics described in the TL 9000 Quality Management System Measurements Handbook. If stipulated in the specification, Contractor shall document the application of an environmental management system in accordance with DIN EN ISO 14001 and the application of a health and safety management system in accordance with OHSAS 18001.

Plants erected or products supplied by the Contractor shall be equipped with the safety features prescribed and comply with the applicable statutory provisions and safety regulations (in the case of plants or plant units in particular those applicable at the place where they are used). The state of the art and the rules of technology shall be observed in any case. Above all, all relevant EU directives, the Electrical Engineering Act [Elektrotechnikgesetz] and all regulations based thereon (all of them as amended from time to time) and the applicable regulations and standards issued by the Austrian Electrotechnical Association [ÖVE] or the German Association for Electrical, Electronic & Information Technologies [VDE], technical Austrian Standards [Ö-Normen], German Industrial Standards [DIN-Normen], European Standards [EN] and similar regulations shall be complied with. CE labels shall be affixed to plants, systems and products delivered by the Contractor in accordance with EU directives and Austrian laws. Respective declarations of conformity including brief descriptions and, if applicable, assembly instructions and installation rules shall be enclosed with the delivery. Moreover, the Contractor shall inform TMA about changes of materials, production methods and supplied parts and changes in declarations of conformity in time. TMA reserves the right to request evidence of the Contractor's quality assurance system and documentation on quality inspections, if necessary. This also includes TMA's right to carry out an audit in the business of the Contractor.

Contractor shall comply with the provisions of the Regulation on Prevention of Waste and Collection and

Treatment of Electrical and Electronic Waste Equipment (Regulation on Waste Electrical and Electronic Equipment [Austrian EAG-VO] BGBl. [Austrian Federal Law Gazette] II No. 121/2005 including Amendments - each as amended from time to time)

as well as the Regulation on Prevention of Waste and Collection and Treatment of Waste Batteries and Accumulators (Austrian Batterienverordnung BGBl. [Austrian Federal Law Gazette] II No. 159/2008 including Amendments - each as amended from time to time) and to fulfill obligations resulting there from for TMA and to support TMA in the fulfillment of its obligations to the extent that they are not transferable. In this respect, the Contractor undertakes in particular to affix the labelling prescribed by the EAG-VO and the Batterienverordnung to the subject-matter of the contract in co-ordination with and free of charge for TMA. Notwithstanding other obligations the Contractor shall, with respect to products delivered by him, indemnify and hold TMA harmless from and against all claims of third parties arising in connection with the EAG-VO and the Batterienverordnung.

The Contractor shall point out to TMA the possibility of producing hazardous waste or waste oil in connection with the goods delivered by it and shall, in particular, state the type of waste and possible ways of disposal of the same. At TMA's demand the Contractor shall be obliged to accept free of charge the wastes remaining after use of the goods delivered by it or equivalent goods in accordance with their purpose as defined by the Waste Management Statute [Austrian Abfallwirtschaftsgesetz] but limited to the quantity delivered by him. If the Contractor refuses or is unable to accept the waste, TMA may arrange for disposal of the same at the Contractor's cost. The Contractor shall ensure that any disposal arranged by him will be carried out in compliance with all relevant statutory provisions and that he possesses all permits required therefore, if any. Upon request of TMA the Contractor shall provide adequate evidence thereof (in particular demonstrable commissioning of environmentally-sound disposal of the respective waste by the Contractor, written confirmation regarding the legally required approvals, licenses and authorizations to collect and recycle the respective waste to be submitted by the Contractor).

All packaging materials, packaging aids (e.g., boxes, palletes, filling, labels, etc.) delivered to TMA as well as service packaging shall be fully licensed by the Contractor via his ARA licence number or his ARA service agreement until written revocation and shall already be included in the order price of the product. The following mandatory legal text shall be used on invoices and delivery notes of the Contractor issued to TMA: "All products invoiced and/or delivered to TMA are fully licensed via ARA licence number (state the ARA No.) and service number (state the service number)."

All electrical and electronic devices and also any type of battery delivered to TMA shall be fully licensed by the Contractor via his ERA licence number or his ERA service agreement until written revocation and shall already be included in the order price of the product.

All services of the Contractor mentioned in this clause shall already be included in the order price of the product. If the provisions of this clause are not observed by the Contractor, the Contractor undertakes to fully indemnify and hold TMA harmless, in particular in the case of an ARA/ERA audit.

2. Ordering in general, Duty to check, warn and inform, Contractors Terms and Conditions, Delivery

- (1) Purchase orders shall be legally binding on TMA only if made either on the order forms of TMA and duly signed or if TMA places the order by means of an electronic ordering procedure that has been agreed separately between the parties.

Purchase orders from TMA made on order forms and duly signed shall be acknowledged immediately; the acknowledgement shall include information on prices and the delivery date. TMA reserves the right to withdraw the purchase order if a proper acknowledgement of order is not received by TMA within a reasonable period, and at the latest two weeks after receipt of the purchase order by the Contractor. In connection with orders via automatically generated purchase orders the parties agree on separate regulations.

If TMA states no price, purchase orders shall be placed subject to subsequent acceptance of the price by TMA.

Passing on of orders to third parties in whole or in part shall be subject to TMA's express prior written approval. If the Contractor fails to comply with the foregoing provisions, TMA shall be entitled to immediately rescind the contract.

- (2) The Contractor shall check performance requirements of TMA and materials and means made available by TMA for rendering performance without delay and shall

immediately notify TMA in writing of any defects and concerns that are noticeable due to the expertise that may reasonably be expected of him and exercise of due care by him.

- (3) Deviating conditions of the Contractor (e.g., stated on delivery notes, invoices or commercial letters of acknowledgement), in particular General Terms and Conditions of the Contractor, shall not be applicable, not even if TMA unconditionally accepts the delivery being aware of deviating conditions of the Contractor.
- (4) All deliveries to TMA shall be effected free of any reservations of title. Such reservations, in particular if contained in offers of the Contractor, shall be ineffective, even if not objected to by TMA.
- (5) Any damage caused by improper packaging shall be borne by the Contractor. In case of delivery or transport of hazardous goods the applicable statutory provisions, in particular requirements regarding design and labeling of the packaging, shall be observed.

3. Integrity, co-operation, work permit/residence permit

The Contractor and TMA undertake to take measures that are necessary to prevent acts harming the economy, such as, for example, corruption. More details are contained in the integrity and co-operation clause (einkauf.telekom.de), which becomes part of the contract.

Furthermore, the Contractor shall without delay notify the TMA Compliance Address compliance@t-mobile.at of any violations of the rules of conduct stipulated in the integrity and co-operation clause, provided that such violations are related to the business relationship between TMA and the Contractor.

Where employees, vicarious agents or subcontractors without Austrian citizenship are deployed, Contractor hereby assures that all necessary official approvals have been obtained. Under no circumstances may employees, vicarious agents or subcontractors who are not in possession of a valid work permit and a valid residence permit be deployed. Contractor shall indemnify Customer from any legal consequences resulting from failure to comply with these requirements.

As an independent contractor, Contractor shall undertake to properly submit any value-added tax received to the tax office and to independently and properly pay tax on any remuneration received from Customer.

4. Default

- (1) In the event of default ["Verzug"], the statutory provisions shall apply, unless otherwise provided for below.

- (2) In the case of default in delivery Customer shall be entitled to charge a contractual penalty of 0.5% per day of the total net order value for each day of delay in delivery (in case of partial deliveries this regulation shall apply to each partial delivery) but not more than 10% of the total net order value (i.e. the sum total of the value of individual partial deliveries) without proof of the damage suffered. Customer shall be reserved the right to claim additional damages. This shall also apply in the event that a late partial delivery was accepted unconditionally by Customer at an earlier time.

In the case of early delivery and/or invoicing Customer shall effect payment according to the agreed dates.

Any and all additional costs arising out of a delay with respect to dates for which the Contractor is responsible shall be borne by the Contractor. This shall include but not be limited to all costs and expenses to be paid for the new purchase order or in case there is no possibility of replacement, the costs of non-delivery or any re-arrangements.

- (3) Dates stated on purchase orders regarding events or certain special sales (Christmas, Easter, etc.) or on other orders which clearly relate to a certain time shall be fixed dates, even if they are not expressly described as such. Deliveries made after the said dates shall not be accepted by Customer unless otherwise notified in writing.

5. Provision of materials and other accessories

- (1) Materials provided shall remain the property of TMA and shall be stored, marked and managed by the Contractor free of charge and separate from other property of the Contractor. Delivery of the same shall be confirmed to TMA upon request. They shall only be used for orders placed by TMA. In case of a decline in economic usefulness or loss the Contractor shall compensate TMA therefore. Any claims for compensation of the Contractor on grounds of non-timely provision by TMA shall be excluded.

The Contractor undertakes to store data for printed works for at least one year after the first order was placed for supplementary productions, if any. Costs incurred by TMA due to new transmission of such data shall be borne by the Contractor.

- (2) Drawings and engineering calculations shall be supplied by the Contractor for documentation purposes free of charge. Tools, designs, forms, models, profiles, drawings, data sheets, printing formats, instructions and the like which TMA makes available to the Contractor for execution of the order shall remain the property of TMA and shall not be passed on to third parties without TMA's written consent, nor be used for purposes other than the contract; the same shall apply

to items produced according to the same. Tools, designs, etc. produced at the cost of TMA shall become the property of TMA upon payment. All enclosed documents and aids in the broader sense of the word shall be marked as property of TMA in a suitable manner and protected against unauthorised inspection or use and, if applicable, be repaired or replaced. They shall be returned upon delivery or cancellation of the order. Without prejudice to further rights TMA may demand surrender of the same if the Contractor violates the above-mentioned duties or if manufacturing difficulties exist. A right of retention of the Contractor shall be excluded.

6. Product Liability

The provisions of the Austrian Product Liability Act [Produkthaftungsgesetz/PHG] as amended from time to time shall apply. The Contractor shall be strictly liable.

Notwithstanding other obligations the Contractor shall, with respect to products delivered by him, indemnify and hold TMA harmless from and against all product liability claims of third parties. The Contractor shall be obliged to reimburse TMA all costs incurred by TMA from defense of a claim or payment of damages.

With respect to the products delivered by him the Contractor undertakes to advise TMA the name of the relevant manufacturer, importer or upstream supplier immediately upon request and to provide TMA with expedient means of evidence, in particular manufacturing documents and documents showing production and delivery batches, for the purpose of defending product liability claims of third parties. The Contractor undertakes to maintain sufficient insurance coverage with respect to the risk described above and to provide TMA with suitable evidence thereof upon request.

7. Transfer of Risk, Acceptance, Inspection for Defects, Interruption

- (1) For the transfer of risk and title the statutory provisions shall apply, unless otherwise agreed.
- (2) The supply of movables which are to be manufactured or produced as well as installation services require a written acceptance ["Abnahme"] by Customer. The transfer of risk occurs with acceptance. Any implied acceptance, in particular by Customer's use of the products or services, is excluded.
- (3) Apart from that with regard to deliveries, the risk is transferred to Customer upon arrival at the place of receipt and upon counter-signing of the delivery note. Upon delivery, Customer shall inspect the delivery only for obvious defects (identity, completeness and damages in transit). In the case of large-scale

deliveries, Customer shall be allowed to narrow the inspection to random checks. In all other respects, Customer is released from the obligation to inspect and object to defects set forth in Section 377 UGB [Austrian Unternehmensgesetzbuch].

- (4) Acceptance - Taking delivery of the goods (Acceptance) as well as inspection of the same for quantity and obvious defects, if any, shall be made by TMA or by third parties instructed by TMA within a reasonable period of time after receipt of the goods. If, in the course of spot checks, parts of the delivery do not comply with the requirements of TMA or the quality customary in trade, the total shipment may be rejected. Receipts on delivery of goods shall be no statements by TMA on final acceptance of the goods.

If acceptance of a work has been provided for, formal acceptance in accordance with Austrian Standard A 2060 shall be deemed agreed. Unless otherwise contractually agreed, an acceptance date shall be fixed within four weeks of the date of the completion notice. Operational use of the work before formal acceptance shall in no case replace such formal acceptance and shall constitute no conclusive declaration of acceptance.

Noticed defects shall be notified to the Contractor as soon as possible. TMA shall not be obliged to notify defects.

- (5) Interruption - TMA shall have the right to ask the Contractor to interrupt further processing of the order at any time. The Contractor shall not assert any claim on grounds of interruptions of up to three months.

8. Guarantee

- (1) Unless otherwise agreed in writing in a contract, the Contractor shall warrant, from the time of receipt of the shipment or acceptance, that the services he is obliged to render are free from defects, in compliance with the contract and in a faultless condition and that they function properly, irrespective of whether the defect existed already at the time of delivery and/or acceptance or whether it occurred during the agreed guarantee period. The guarantee period shall be a uniform five years for immovable goods; in all other cases it shall be a uniform 24 months.

The Contractor represents that his services are state-of-the-art and, to the extent they are applicable, comply with the relevant Austrian Standards and/or comparable international standards at all times.

If the Contractor purchases upstream supplies from third parties, he shall assure quality of such supplies either by his own means, in particular by inspecting the quality himself or by contractually including the

upstream supplier in these present terms and conditions. Upstream suppliers shall be considered agents [Erfüllungsgehilfen] of the Contractor as defined by Section 1313a of the Austrian General Civil Code [ABGB].

- (2) The Contractor shall, at TMA's option, repair defects at his cost and free place of use or deliver new goods without defects or render new services without defects. TMA shall be entitled to claim compensation for any and all damage from the Contractor, including but not limited to compensation for damage caused by defects, consequential damage and/or pecuniary damage, costs incurred in vain or other handling costs. Costs of inspections shall definitely be refunded to TMA if defects to be repaired by the Contractor are identified in the course of the inspection.

If the matter is particularly urgent, for example if default on the part of TMA is to be prevented, the Contractor shall, in principle, be obliged to otherwise remedy the defect at his own cost and risk. If the Contractor fails to remedy defects, with continued delay also constituting a defect, TMA shall be entitled to cover its demand otherwise or have defective goods repaired at the cost and risk of the Contractor without prior notice to the Contractor being required and at the cost and risk of the Contractor.

Claims for contractual penalties shall not be affected thereby. The costs of such subsequent improvement shall be refunded to TMA in the full amount even if they are higher than those of a subsequent improvement by the Contractor would be.

The aforementioned claims shall become statute-barred not earlier than three years after notice of the defect. This provision shall apply mutatis mutandis to services rendered for the purpose of repairing defects.

- (3) With regard to his services and deliveries the Contractor shall ensure to keep spare parts in stock for at least ten years. Subject to any other rights of TMA the Contractor shall make available the spare parts to TMA within the said period at reasonable market prices.

9. Invoices, Terms of Payment, Taxes

- (1) The invoice shall include all purchase order data (in particular SAP order number and position) and shall be sent to TMA in duplicate after delivery or complete provision of the service as follows:

T-Mobile Austria GmbH
Business Center 777
1000 Vienna

(2) Duplicates of invoices shall be marked as such. Invoices that do not comply with the requirements of TMA, in particular regarding purchase order data, licence declaration in accordance with the Austrian Packaging Regulation or regulations on value-added tax or which, according to TMA's assessment, possess insufficient audit ability shall be sent back by TMA unprocessed. In that case the invoice shall be deemed not issued. Time records confirmed by TMA shall be enclosed with invoices which are based on accounting according to time units (e.g. in consulting, if agreed upon). In case of goods that are subject to export permits invoices shall include all identification features required therefore.

(3) Unless separately agreed in the relevant purchase order and/or contract, i. the price agreed upon shall be a fixed price and shall include delivery DDP pursuant to the Incoterms 2000.

All transport, insurance, packaging and other costs and charges up to delivery/setting-up in an operable condition at the place of receipt stated by the Contractor shall be included in the price.

(4) Any additional services and costs not separately stated shall be borne by the Contractor. The agreed prices are net prices exclusive of statutory value-added tax. The price shall include the costs of installation work, integration work or transfer work that may become necessary, which shall be performed by the Contractor without disturbing normal operation, if necessary also after normal business hours.

(5) The Contractor shall offer TMA and its affiliated companies (Section 15 Austrian Joint-Stock Companies Act [AktG]) its goods and services on the most favourable terms he offers Deutsche Telekom AG or any company affiliated with Deutsche Telekom AG from time to time and on a worldwide basis for goods and services comparable in terms of quantity, quality and market conditions.

Instructions for use, operation and service or other documents relevant to use shall be included in German and/or English by the Contractor and shall be included in the price.

(6) The period for payment of invoices shall commence as soon as the delivery or service is completely accepted by TMA and a properly issued invoice has been received by TMA. To the extent the Contractor is obliged to provide materials tests, test controls, quality documents or other documents, completeness of delivery or service shall also be subject to receipt of those documents by TMA.

(7) Payment shall exclusively be made after proper and complete rendering of the service (and Acceptance) as

agreed in writing. Payments on account shall not be made by TMA without a separate prior written agreement.

Unless otherwise agreed in writing payments shall be made at TMA's option either within 30 days with a 3% cash discount or within 60 days with no discount.

10. Setoff, Retention right

TMA shall be entitled to offset its payment obligations vis-à-vis the Contractor against accounts receivable by TMA from him.

Until defects are repaired TMA may retain payment of the total invoice amount. During the warranty period TMA may utilize a no-interest-bearing warranty security of up to 10% of the order value in the form of an abstract bank guarantee or retain the warranty security from the invoice amount. Such payment shall neither constitute recognition of proper delivery or service nor a waiver of rights to which TMA is entitled. If TMA's bank is instructed to effect the transfer not later than on the due date, payment shall be deemed effected on time. Bank charges of the receiving bank shall be borne by the Contractor.

11. Data Processing

If the order involves transmission / provision of personal data and other information to the Contractor, the Contractor undertakes to comply with the provisions of the Austrian Data Protection Act [Datenschutzgesetz] and the Austrian Telecommunications Act [Telekommunikationsgesetz] as amended. Use, retrieval, processing, transmission and deletion of data shall only be made for the project tasks agreed and/or on the basis of a written order of TMA and/or the proprietor of the data.

The Contractor undertakes to take all precautions necessary for observance of data security in his area of operation. TMA shall have an unrestricted right to control compliance by the Contractor with the provisions of data protection law - if need be also directly at the Contractor's - or to have it controlled by third parties instructed by TMA. In this respect the Contractor shall be obliged to provide information and to co-operate. The Contractor warrants that the results obtained by him from data processing in connection with the order are correct. The Contractor shall be liable vis-à-vis TMA without limitation for all disadvantages arising from non-compliance with this provision.

12. Assignment of claims

In the event that consent is given by TMA a lump-sum handling charge of 2% of the total amount of the claim shall be deemed expressly agreed upon.

TMA shall be allowed to transfer rights and duties under this contractual relationship to a third party. The Contractor may transfer his rights and obligations under this contractual relationship upon TMA's prior written consent.

13. Final Provisions

The laws of Austria shall apply, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods and provisions referring to foreign law. Disputes, in particular over conclusion of a contract or over claims arising out of the contract, shall be exclusively settled by the commercial court in 1030 Vienna. If these GTC contain no regulations, the statutory provisions shall apply.

...