

## **TERMS AND CONDITIONS OF THE SAFARICOM PURCHASE ORDER**

### **1. VALIDITY**

This Purchase Order is not valid unless in writing and signed by two (2) authorized signatories of Safaricom Limited ("Safaricom") and Safaricom shall be under no obligation to pay any invoice for which an official written Purchase Order has not been issued.

### **2. ACCEPTANCE**

2.1 Every Purchase Order shall remain open for acceptance for three (3) days after the receipt thereof by the Supplier, and if not accepted within the three days, then Safaricom shall have the right to cancel the Purchase Order.

2.2 Goods and/or services shall be supplied not later than the delivery date indicated on the face of the Purchase Order. Notwithstanding the above provision, Safaricom reserves the right of acceptance for all goods and/or services supplied after the expiry of the delivery date mentioned therein.

### **3. DOCUMENTS**

3.1 Every invoice and shipping document shall show the Purchase Order Number specified in the Purchase Order. Every parcel or tag shall be marked with the Item Number of Safaricom.

3.2 The invoice relating to the goods and/or referred to in this Purchase Order shall be sent by mail to Safaricom within 24 hours of shipment under separate cover.

3.3 All invoices are to be addressed to Safaricom Limited.

### **4. FITNESS AS TO QUALITY AND QUANTITY**

The goods and/or materials referred to in this Purchase Order shall be subject to inspection by Safaricom within a reasonable time after receipt thereof by Safaricom. Safaricom reserves the right to return the said goods and/or materials at the supplier's expense if Safaricom's specifications have not been met.

### **5. RIGHT OF INSPECTION**

5.1 Safaricom retains the right of inspection and approval of all goods and/or services and to reject any or all of the said goods and/or services

5.2 Goods rejected for whatever reason remain the property of the Supplier whether kept at Safaricom's premises or not and no liability whatsoever for loss or damage shall be preferred against Safaricom.

### **6. DISCOUNT**

The amount of any discount shall be calculated from the date on which an invoice, conforming in all respects to the provisions of this Purchase Order, is received by Safaricom, or the date on which proof of shipment is received by Safaricom, whichever is later.

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### 7. DRAFTS AND/OR SAMPLES

Drafts and/ or Samples relating to the goods and/or materials and/or referred to in this Purchase Order shall not be accepted by Safaricom unless otherwise agreed. Safaricom shall be under no obligation to pay cash on delivery on such drafts and/or samples.

### 8. CARTAGE

Safaricom shall be under no obligation to pay any charges in connection with shipping or packing in excess of the charges that Safaricom has agreed to pay, and which result from the performance by the Supplier of the terms and conditions contained herein.

### 9. TAXES

The Supplier shall pay those taxes imposed by law upon or in connection with the goods and/or services and/or material referred to in this Purchase Order. In the event that Safaricom shall be required by law to make any deductions or withholding tax then Safaricom shall, at the cost and expense and for the account of the Supplier, comply with such applicable legislation and remit the amounts to the appropriate authorities.

### 10. TOOLS AND EQUIPMENT:

10.1 The Supplier shall insure and maintain in good repair any tools and/or equipment provided by Safaricom to the Supplier in connection with the production of goods by the Supplier for use by Safaricom. Safaricom reserves the right to recall the said tools and/or equipment at any time upon which the Supplier shall return the said tools and/or equipment in good repair forthwith.

10.2 In the event that the Supplier is, for any reason whatsoever, unable to return the said tools in good repair at the date of recall or at such other date agreed with Safaricom, the Supplier shall provide replacement tools with specifications identical to those of the tools originally provided by Safaricom within a reasonable time.

### 11. SHIPMENT

11.1 The Supplier shall ship the goods and/or materials referred to in this Purchase Order on the date specified by Safaricom. In the event that the supplier fails to ship the goods and/or materials on the said date for any reason whatsoever, Safaricom shall have the right to obtain such goods and/or materials from any other source.

11.2 The Supplier shall compensate Safaricom for any loss suffered by Safaricom in connection with the failure of Supplier to ship the goods and/or materials referred to in this Purchase Order on the said date.

### 12. DELIVERY

12.1 Delivery of goods must be evidenced by a Goods Received Note (GRN) and delivery of services must be evidenced by a Service Received Note (SRN).

12.2 The Purchase Order must be quoted on all invoices and other correspondence regarding the supply or otherwise of the said goods or services.

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### **13. PATENTS**

The Supplier shall hold and indemnify Safaricom, its officers, agents, servants and users of its products harmless from liability for the infringement of any patent relating to any goods and/or material supplied by Supplier.

### **14. PRICE**

14.1 Safaricom shall be under no obligation to pay a price higher than the price agreed with the Supplier before the date of shipment. In the absence of express agreement as to price, Safaricom shall pay to the supplier the price last offered by the Supplier to Safaricom for identical goods, materials or services or the market price of identical goods, materials or services at the date of receipt thereof by Safaricom, whichever is lower.

14.2 Unless subject to a separate agreement, the supplier will be paid within a separate agreement, the supplier will be paid within thirty (30) days of statement date. All Supplier invoices and statements should be sent to the Finance Department, Safaricom Limited.

### **15. COMPLIANCE**

The Purchase Order is placed by Safaricom on the understanding that the Supplier's acceptance hereof serves as a warranty that no statute or any other legal regulation has been violated in the manufacture or sale of the goods and/or materials or the provision of services referred to in this Purchase Order.

### **16. ENTIRE AGREEMENT**

16.1 This Purchase Order contains the entire agreement between the Parties with respect to the goods and/or materials hereof and, unless replaced in accordance with this clause or varied by mutual consent of the Parties contained in a contract issued by Safaricom, supersedes all previous understandings, commitments, agreements or representations, whether oral or written, express or implied, in relation to the subject matter between them.

16.2 Safaricom reserves the right to vary the terms and conditions of this Purchase Order as a direct result of new legislation, statutory instrument, Government regulations or licenses, amendments or recommendations from regulatory bodies, changes to its internal business rules or similar events provided that such variations or new terms and conditions shall be limited to the extent necessary for these purposes.

### **17. GOVERNING LAW**

17.1 The terms and conditions of this Purchase Order are governed by the Laws of Kenya. Any dispute arising out of or in connection with this Purchase Order or the material and/or goods supplied hereunder shall be referred to arbitration by a single arbitrator to be appointed by Agreement between the Parties or in default of such Agreement within fourteen (14) of the notification of a dispute, upon the application of either party, by the Chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitrators of the United Kingdom.

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17.2 Such arbitration shall be conducted in Nairobi in accordance with the Rules of Arbitration of the said Institute and subject to and in accordance with the provisions of the Arbitration Act 1995.

17.3 To the extent permissible by law, the determination of the Arbitrator shall be final and binding upon the Parties.

17.4 Notwithstanding the Arbitration provisions, the Parties shall not be precluded from seeking urgent injunctive relief, in which case the Parties submit to the exclusive jurisdiction of the High Court of Kenya.

### 18. CORRUPT PRACTICES

Safaricom requires that the Supplier as well its subcontractors, employees, directors, shareholders and officers to observe the highest standard of ethics during the procurement and execution of this Agreement. In pursuit of this, Safaricom:

18.1 Defines, for the purposes of this clause the following terms:

- (i) "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party including offences listed under all applicable laws, regulations and sanctions relating to anti-bribery, and anti-corruption including but not limited to the Anti-Corruption and Economic Crimes Act and the UK Bribery Act;
- (ii) "Fraudulent practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) "Coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a party to influence improperly the actions of a party;
- (iv) "Collusive practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

18.2 Will terminate this Agreement with immediate effect if it determines at any time that representatives of the Supplier engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of this Agreement; and

18.3 Will sanction the Supplier, its shareholders, directors and other officers including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Safaricom contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing this or any other Agreement entered into with Safaricom.

18.4 Reporting: Where suppliers suspect corrupt or fraudulent acts involving Safaricom they are encouraged to report such instances to an independently managed hotline using any of the following channels;

Toll free number: 0800 720 009

E mail: [Safaricom@ethics-line.com](mailto:Safaricom@ethics-line.com)

Website: [www.safaricomethicsline.com](http://www.safaricomethicsline.com)