



**1 Definitions and Interpretation**

1.1. In these Terms and Conditions (“**Terms**”):

“**Acceptance**” means the review of and, where appropriate, testing, of the Products and/or Services to ZANTEL’s reasonable satisfaction including any acceptance criteria specified herein and “**Accept**” shall be construed accordingly;

“**Agreement**” means the contract constituted by these Terms as supplemented, amended and or replaced by the terms of a Purchase Order;

“**Code of Conduct**” means Millicom’s current supplier code of conduct policy located at <http://www.millicom.com/our-responsibility/news-publications/>;

“**Confidential Information**” means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

“**Deliverable**” means a any and all items or materials (in whatever form, including all written material and other documentation and any software together with any modifications, interfaces and any training, configuration, implementation or testing works and user guides, together with preparatory materials for any of them) developed, prepared, manufactured and/or delivered by Supplier or its staff which the Supplier has agreed to deliver in accordance with this Agreement;

“**Developed IPR**” means all Intellectual Property Rights created or developed by Supplier under this Agreement, including without limitation any software, tools, specifications, explanations, documents, reports, diagnostic tests, any reports, data or other development work, the results of the Services, modules and any technical solutions;

“**Documentation**” means the documentation relating to the Products described in or otherwise required or delivered pursuant to a Purchase Order which shall be delivered by Supplier to ZANTEL on the terms of this Agreement;

“**Event of Force Majeure**” means events beyond the control of a Party or any of its subcontractors which are not capable of being overcome without unreasonable expense and/or loss of time to the Party concerned. Events of Force Majeure shall include war, civil unrest, acts of government, natural disasters, exceptional weather conditions, fire and explosions

“**Intellectual Property Rights**” means all rights in patents, copyrights, database rights, design rights, trade marks and trade names, domain names, service marks, trade secrets, know-how and other intellectual property rights (whether registered or unregistered) and all applications for the same and all rights having similar effect anywhere in the world;

“**Millicom**” means Millicom International Cellular S.A. or the relevant Millicom Group purchasing entity specified in the Purchase Order as applicable;

“**Millicom Group**” means Millicom together with all of its subsidiary undertakings from time to time.

“**ZANTEL**” means Zanzibar Telecom Limited a limited liability company incorporated under the Laws of Tanzania;

“**Millicom Travel Expense Policy**” means Millicom’s current travel expense policy, a copy of which shall be made available to Supplier from time to time;

“**Products**” means the goods (including Software) and/or Deliverables described in or otherwise required or delivered pursuant to a Purchase Order which shall be

delivered by the Supplier to ZANTEL on the terms of this Agreement;

“**Purchase Order**” means the purchase order detailing, amongst other things, the Products and/or Services, and the Price that together with these Terms form this Agreement;

“**Services**” means the services described in or otherwise required or delivered pursuant to the Purchase Order which shall be delivered by the Supplier to ZANTEL on the terms of this Agreement;

“**Service Credits**” means the services credits relating to the Service Levels which the Supplier shall pay in the event of failing to meet the applicable Service Level as specified in a Purchase Order or otherwise agreed by the Parties in writing;

“**Service Levels**” means the services levels relating to the Services which the Supplier shall comply with when providing the Services as specified in a Purchase Order or otherwise agreed by the Parties in writing;

“**Software**” means the software described in or otherwise required or delivered pursuant to the Purchase Order including any third party software and any Deliverables which shall be delivered by the Supplier to ZANTEL on the terms of this Agreement; and

“**Supplier**” means the supplier supplying Products and/or Services to ZANTEL.

1.2. Words importing the singular include the plural and vice versa. The clause headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.3. ZANTEL and Supplier are hereinafter each called a “**Party**” and collectively, the “**Parties**”

**2 Purchase Orders**

2.1. When ZANTEL so desires, an **authorized representative** of ZANTEL may submit a Purchase Order to Supplier.

2.2. Any Purchase Order placed shall always be governed by these Terms unless otherwise agreed by the Parties in writing.

2.3. A Purchase Order shall be sent to Supplier by email and shall constitute a firm legally binding agreement upon acceptance of the Purchase Order acceptance by Supplier (the “**Purchase Order Effective Date**”), provided that if the Supplier fails to reject a Purchase Order within three (3) working days from the delivery date of such Purchase Order, the Purchase Order shall be deemed accepted by Supplier. An email shall be deemed delivered when sent unless an error message is received by the sender. Notwithstanding Article 2.3, Supplier’s commencement of delivering the Products and/or Services pursuant to a Purchase Order shall constitute acceptance by Supplier of the Purchase Order on these Terms (except to the extent that these Terms are varied by the Purchase Order).

2.4. Supplier shall not be entitled to deliver Products and/or Services or issue invoices for Products and/or Services delivered unless it has received a valid Purchase Order from ZANTEL detailing the quantity and type of Products and/or Services required by ZANTEL and the price payable for such Products and/or Services. Any Products and/or Services delivered by Supplier prior to the issue by ZANTEL of a valid Purchase Order specifying the volume and quantity of Services being purchased will be at the sole risk of Supplier and ZANTEL shall have no liability to pay for such Products and/or Services until a valid Purchase Order specifying such requirements has been issued.

2.5. In case of any inconsistency between these Terms and the Purchase Order, the terms of the Purchase Order shall prevail.

### **3 Supplier's Obligations**

- 3.1. In supplying the Products and/or Services, the Supplier shall co-operate with ZANTEL in all matters relating to the supply of Products and/or Services and shall comply with all ZANTEL instructions.
- 3.2. In case of any disputes between the Parties, Supplier shall not be entitled to, in whole or in part, cease or delay any delivery and/or performance under these Terms.
- 3.3. Supplier and its sub-contractors shall comply with the Millicom Supplier Code of Conduct, as well as the Millicom Health and Safety policy, as updated from time to time.
- 3.4. Supplier shall perform the Services in accordance with the Service Levels. If Supplier fails to achieve a Service Level with a Service Credit associated to it, without prejudice to ZANTEL's other rights and remedies under this Agreement, Supplier must pay or credit (at ZANTEL's option) ZANTEL Service Credits up to any maximum value applicable to such Service Credit. Service Credits are without prejudice to any of ZANTEL's other rights and remedies available to ZANTEL arising as a result of Supplier's failure to achieve the Service Levels (including ZANTEL's right to require Supplier to remedy the failure and/or perform or re-perform Services).

### **4 Prices**

- 4.1. All prices shall be stated in TANZANIA SHILLING (TZS) unless otherwise specified in a Purchase Order.
- 4.2. The prices for the Products and/or Services shall be stated in the Purchase Order.
- 4.3. All prices are valid according to delivery term Delivered Duty Paid (DDP) to Site, in accordance with Incoterms® 2010 unless otherwise specified in a Purchase Order or agreed by the Parties in writing.
- 4.4. All prices are firm and fixed for a period of one (1) year from the Purchase Order Effective Date and shall thereafter be subject to annual re-negotiation. Until new prices have been agreed the current valid prices shall apply.
- 4.5. All fees, charges and expenses, including those related to travel and accommodation, incurred in connection with the fulfilment of the Purchase Order shall be paid by Supplier unless otherwise agreed with ZANTEL. Where ZANTEL has agreed to reimburse Supplier for travel and accommodation expenses, it shall only be obliged to if Supplier has complied with the Millicom Travel Expense Policy.
- 4.6. Standard Documentation related to the Products and Services shall be provided by Supplier to ZANTEL at no additional cost. ZANTEL is entitled to reproduce and use the documentation pursuant to these Terms.
- 4.7. The prices shall include any and all taxes, withholding taxes, duties and levies imposed, levied or assessed, outside and inside of the applicable area (excluding VAT inside the area) as a result of the purchase made by ZANTEL.
- 4.8. Supplier shall be responsible for personal income tax for itself and its personnel and for any and all taxes, social contributions, duties and levies in relation to its personnel.

### **5 Payment and Invoicing**

- 5.1. Payments shall be made by ZANTEL to Supplier within sixty (60) days from receipt of invoice compliant with the Purchase Order and these Terms unless otherwise specified in a Purchase Order or agreed by the Parties in writing.
- 5.2. An invoice compliant with these Terms and the Purchase Order, shall as a minimum specify a reference to the (i) **Purchase Order Number and Lines**, (ii) the Goods or Service Receipt Number (iii) the amount and contain a summary of the content of the Purchase Order, (iv) Supplier's name, address and VAT registration number for

companies registered in Tanzania, (v) bank details for the Supplier account into which payments shall be transferred, and (vii) such other information as may be reasonably requested by ZANTEL. Invoices shall be sent to the email address specified in the Purchase Order or to such other address as may be notified to Supplier from time to time in writing.

- 5.3. Supplier shall invoice one hundred (100) per cent of the Purchase Order price upon Acceptance of the Products and/or Services included in the relevant Purchase Order unless otherwise specified in Purchase Order.
- 5.4. For any overdue payments, Supplier shall as exclusive remedy have the right to demand an interest at a rate of LIBOR (30 days) plus one (1) per cent per annum.

### **6 Delivery, Title, Risk and Insurance**

- 6.1. Supplier shall supply the Products and/or Services in accordance with the timetable, or with the frequencies, set out in the Purchase Order or as otherwise notified by ZANTEL to Supplier.
- 6.2. Supplier shall deliver the Products in accordance with delivery term Delivered Duty Paid (DDP) to Site in accordance with Incoterms® 2010 unless otherwise agreed in the Purchase Order or in writing by the Parties. In case of any inconsistency between these Terms and Incoterms® 2010, these Terms shall prevail.
- 6.3. Supplier shall bear the risk of loss of and damage to, and shall maintain appropriate, sufficient and necessary insurance in relation to the Products until Acceptance of such Products by ZANTEL.
- 6.4. The title to the Products (excluding Software licensed to Millicom or ZANTEL) shall pass to Millicom or ZANTEL upon (i) the respective Acceptance dates, or (ii) upon delivery of the Products to Millicom or ZANTEL if the Products are not subject to Acceptance.

### **7 Licences**

- 7.1. Millicom, the Millicom Group, including ZANTEL are hereby granted a perpetual, non-exclusive, royalty free and irrevocable worldwide license to use any delivered Software and Documentation, for its or their business and for purposes reasonably incidental thereto in accordance with this Agreement.
- 7.2. Except as stated below in Article 7.3, Millicom or ZANTEL does not receive title or ownership rights to the Software or Documentation, and all such rights shall, unless otherwise agreed, remain with Supplier or its sub-contractors.
- 7.3. All Intellectual Property Rights in any Developed IPR shall become the property of Millicom or ZANTEL immediately upon creation. Supplier hereby assigns and, in the case of moral rights, waives in favour of Millicom or ZANTEL, and shall procure that its staff assign to and waive in favour of Millicom or ZANTEL, all right, title and interest in and to the same all such Developed IPR to Millicom or ZANTEL at no additional cost. Supplier further agrees to do, or procure to be done, all such things and execute or procure to be executed all such documents as Millicom or ZANTEL may require to vest in or further assure to Millicom or ZANTEL all such Developed IPR are the property of Millicom or ZANTEL at no additional cost.
- 7.4. Supplier shall indemnify, and keep indemnified Millicom and the Millicom Group, including ZANTEL in full against all cost, claims, expenses, damages, liabilities and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by Millicom or the Millicom Group, including ZANTEL as a result of or in connection with any claim made against Millicom or the Millicom Group, including ZANTEL for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of

the Products and/or Services, to the extent that the claim is attributable to the acts or omission of Supplier, its employees, agents or sub-contractors.

## **8 Delays and Liquidated Damages**

8.1. If agreed delivery dates specified in a Purchase Order are not met, and such failure is not due to circumstances for which ZANTEL is responsible, ZANTEL shall have the right to claim and Supplier shall pay ZANTEL liquidated damages. ZANTEL shall have the right to deduct any liquidated damages from an invoice issued by Supplier under these Terms.

8.2. Supplier shall for each commenced week of delay, pay to ZANTEL as liquidated damages the following percentages of the applicable Purchase Order price relating to the Products and/or Services subject to the delay:

Week	Percentage
1-2	1 %
3-4	2 %
5-6	3 %

8.3. Without limitation to other rights or remedies available to ZANTEL as a result of Supplier's delay, the maximum liquidated damages due to a delay shall be limited to twelve (12) per cent of the relevant Purchase Order Price.

8.4. The payment of liquidated damages shall not relieve Supplier from its obligation to deliver the Products and/or Services ordered by ZANTEL.

8.5. For a delay as stated above, ZANTEL shall have a right, at its option, to require compensation under this Article and/or any other compensation ZANTEL is entitled to under these Terms.

## **9 Termination**

9.1. The contract or purchase order will automatically terminate in case issuance date is pasted for more than 5 years. No renewal or extension is allowed.

9.2. ZANTEL shall have the right to terminate a Purchase Order, with immediate effect and without liability to Supplier at ZANTEL discretion, if Supplier fails to meet the agreed delivery dates specified in a Purchase Order by seven (7) days or more.

9.3. Either Party may terminate this Agreement with immediate effect and without liability to the other Party, by written notice to the other Party, if the other Party goes into liquidation, enters into composition proceedings with its creditors, becomes insolvent or is unable to pay its major debts or the majority of its debts or fails or admits in writing its inability to pay its major debts or the majority of its debts as they become due, makes a general assignment for the benefit of creditors or if a petition under bankruptcy or under any insolvency law is filed by or against the other Party and such petition filed by a third party is not dismissed within sixty (60) days (or such longer period agreed upon between the Parties) after it has been filed or a secured part takes possession of all or substantially all of its assets and such process is not dismissed or restrained within thirty (30) days.

9.4. Either Party may terminate this Agreement with immediate effect and without liability to the other Party, by written notice to the other Party, if the other Party (i) commits a material breach of its obligations under these Terms and/or the Purchase Order which is not capable of remedy or is in material breach of any obligation which is capable of remedy, and that breach is not remedied within ten (10) days after it was served with a notice specifying the breach and requiring it to be remedied, or (ii) repeatedly breaches any of the terms and conditions of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of this Agreement.

9.5. The expiration or termination of the Purchase Order shall not affect or prejudice any provisions under Articles 1, 3, 4, 5, 7, 8, 9 – 17 and 19 which shall survive termination together with any other term or condition of this Agreement which from their nature or context it is contemplated that they shall survive such expiration or termination.

9.6. ZANTEL may terminate this Agreement in whole or in part for convenience at any time. In the event of termination by ZANTEL of this Agreement or any part thereof in accordance with this Article, ZANTEL shall, as the sole and exclusive remedy to Supplier for such termination, pay to Supplier (i) the relevant part of the Products and/or Services that have been delivered as at the date of termination, and (ii) a sum corresponding to the direct and demonstrable costs necessarily incurred by Supplier as a result of such termination, provided that such costs shall be no higher than the applicable Purchase Order price for the applicable Products and/or Services being terminated, less any net cost savings arising from such termination.

9.7. If ZANTEL exercises its rights under Article 9.5 it may do so without further liability to Supplier and ZANTEL shall be relieved from any and all of its purchase, payment and other commitments in relation to the Products and/or Services. For the avoidance of doubt ZANTEL shall not be liable for any loss of anticipated profits or any consequential loss should it exercise its rights under Article 9.5.

9.8. Upon termination or expiry of this Agreement, Supplier shall (i) give all reasonable assistance to ZANTEL and any incoming supplier of Products and/or Services, and (ii) return all requested documents, information and data to ZANTEL as soon as is reasonably practicable.

## **10 Acceptance**

10.1. ZANTEL shall be entitled to Accept Products and/or Services following the delivery of such Products and/or Services.

10.2. ZANTEL shall notify Supplier of its Acceptance or rejection of the relevant Products and/or Services within a reasonable timeframe following receipt of such Products and/or completion of the Services

10.3. ZANTEL's Acceptance of any Products and/or Services shall be without prejudice to any right or remedy which ZANTEL may have in respect of any failure of the Products and/or Services to comply with the requirements of this Agreement.

## **11 Letter of Non-conformity**

11.1. Any defects identified during the delivery inspection and/or the Acceptance tests, shall be reported to Supplier in writing in the form of a "Letter of Non-conformity". In the event ZANTEL submits a Letter of Non-conformity, Supplier shall, at its own cost and without undue delay remedy any and all defects found. Once all items listed in the Letter of Non-conformity have been rectified and Accepted by ZANTEL, ZANTEL shall within fourteen (14) business days, in writing, acknowledge that fact, and at which time the Products and Services, as relevant, shall be subject to additional Acceptance.

11.2. Operational use of the Products and Services prior to carrying out the formal Acceptance procedure does not replace formal Acceptance and does not constitute an implied declaration of Acceptance.

## **12 Warranties**

- 12.1. Supplier warrants, represents and undertakes that (i) it has full clear and unencumbered title to the Products (ii) at the date of delivery of any of the Products it shall have full and unrestricted right, power and authority to sell, transfer and deliver all of the Products to ZANTEL (iii) it has obtained and will maintain for the duration of this Agreement all permissions, licences, permits and consents necessary for Supplier to provide the Services and/or Products, and (iv) when supplying the Products and/or services it shall comply with all applicable laws and will not do anything which causes ZANTEL to be in breach of the same.
- 12.2. Supplier warrants for a period of twenty four (24) months from the respective date of Acceptance or the date of installation where such Products are not subject to Acceptance, that the Products shall (i) conform with and perform the terms and functionality set forth in the Purchase Order and be free from defects in design, material and workmanship (manifest or latent) (ii) be of satisfactory quality and comply with any applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Products (iii) conform with the specifications (including the specification, drawings, descriptions given in quotations, estimates, brochures, sales, marketing and technical literature or material supplied by, or on behalf of, the Supplier, and (iv) be fit for the purpose held out by Supplier or made known to ZANTEL by Supplier expressly or by implication, and in this respect ZANTEL has relied on Supplier's skill and judgement.
- 12.3. Supplier acknowledges and agrees that the approval by ZANTEL of any designs provided by Supplier shall not relieve Supplier of any of its obligations under this sub-Article.
- 12.4. Supplier warrants, represents and undertakes that the Services will be carried out in a competent and professional manner and with all reasonable skill and care, in accordance with good industry standards applicable to suppliers of similar products and/or services and strictly in accordance with the terms of this Agreement. If Supplier's performance of the Services is inadequate, Supplier shall perform the Services again at no extra charge.
- 12.5. Where a valid warranty claim is made by ZANTEL, Supplier shall at ZANTEL's option (i) deliver, free of charge, substitute Products or Services within the reasonable timescales specified by ZANTEL (ii) repair or replace the rejected Products or re-perform the Services where applicable free of charge, or (iii) refund the price of the rejected Products or non-confirming Services (if already paid).
- 12.6. Supplier warrants, during a period of five (5) years from the date of Acceptance or delivery if such Products are not subject to Acceptance, that it shall make available and provide to ZANTEL, Products that will permit the normal expansion of such Products together with spare parts, that are fully compatible with Products already purchased from Supplier, unless Supplier has provided ZANTEL with at least six (6) months written notice prior to ceasing production of the relevant Products.
- 12.7. Any repaired, corrected or replaced Products or Services shall be subject to the warranties set forth in this Article either until the expiration of the twenty four (24) month warranty period stipulated above or for a period of six (6) months from the reparation, correction or replacement, whichever period is longer.
- 12.8. Supplier warrants, for a period of five (5) years from the date of Acceptance of the Products or delivery if such Products are not subject to Acceptance, that any Products purchased for the expansion, enhancement or replacement of the Products, shall be fully compatible, without any need for replacements or major corrections, with any Products already purchased from Supplier, unless Supplier informs ZANTEL by written notice at least six (6)

months prior to ceased production of the relevant Products.

### **13 Data Protection**

- 13.1. Supplier shall comply with all applicable data protection laws regulations, and codes of practice in connection with its data processing obligations and shall not do, or cause or permit to be done, anything which may cause or otherwise result in a breach by ZANTEL of the same. If the performance of Supplier's obligations hereunder involves or necessitates the processing of personal data, it shall act only on instructions and directions from ZANTEL with respect to the processing of such personal data.
- 13.2. Supplier shall take and implement all such technical and organisational security procedures and measures necessary or appropriate to preserve the security and confidentiality of any personal data processed by it hereunder against unauthorised or unlawful processing, accidental loss, destruction or damage and/or otherwise as may be required or directed by ZANTEL from time to time.
- 13.3. The Supplier shall immediately notify ZANTEL of any accidental, unauthorised or unlawful access, loss, destruction, theft, use, disclosure or alteration of personal data.

### **14 Indemnification**

Supplier shall indemnify and hold ZANTEL harmless from and against all (i) damage or injury (including death) to property or person belonging to or employed or engaged by Millicom or the Millicom Group, including ZANTEL and (ii) liabilities to third parties and all losses incurred in connection with claims by third parties (including without limitation, all losses, claims, demands and damages) resulting from the acts or omissions of Supplier, its officers, agents, employees or subcontractors in connection with the performance of this Agreement.

### **15 Limitation of Liability**

- 15.1. Neither Party shall be liable to the other Party in connection with these Terms and/or relevant Purchase Order for any indirect or consequential loss or damages including loss of production, loss of business, loss of revenue and loss of goodwill.
- 15.2. Nothing in this Agreement shall operate to limit or exclude either Party's liability (i) under Articles 7 (Licenses), 14 (Indemnification), 16 (Confidentiality), (ii) for death or personal injury caused by its own negligence, or (iii) for any other liability which a Party is unable to exclude under applicable law.
- 15.3. A Party suffering loss or damages shall take all reasonable measures to mitigate such loss or damage.

### **16 Confidentiality**

- 16.1. The Parties shall treat all Confidential Information in a confidential manner, not disclose it to any other person without the prior written permission of the disclosing Party, and shall not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement.
- 16.2. Notwithstanding Article 17.1, a Party may disclose Confidential Information which it receives from the other Party (i) where the receiving Party is the Supplier, to its staff on a need to know basis to enable performance of the Supplier's obligations under this Agreement provided that Supplier shall procure that any staff to whom it discloses Confidential Information pursuant to this Article 17.2 shall observe the Supplier's confidentiality obligations under this Agreement (ii) where disclosure is required by applicable law or by a court of competent jurisdiction (iii) to its auditors or for the purposes of regulatory requirements (iv) on a confidential basis, to its professional

- advisers, and (iv) in the case of ZANTEL, to the Millicom Group. This obligation to maintain secrecy shall exist prior to the Purchase Order Effective Date and shall continue for a period of five (5) years after termination/expiration of this Agreement.
- 16.3. Supplier shall not make any press announcement or publicise this Agreement or any part of this Agreement in any way, except with the prior written consent of ZANTEL.
- 17 Force Majeure**
- 17.1. Neither Party shall be liable to the other for any delay or non-performance of its obligations hereunder in the event and to the extent that such delay or non-performance is due to an Event of Force Majeure. In the event that the delay or non-performance of Supplier continues for a period of one (1) month due to the Event of Force Majeure, ZANTEL may terminate this Agreement with immediate effect on written notice to Supplier.
- 18 Governing Law and Settlement of Disputes**
- 18.1. The Purchase Order and these Terms shall be subject to the laws of TANZANIA.
- 18.2. Any dispute, controversy or claim arising out of or in connection with the Purchase Order and/or these Terms shall be finally settled through arbitration under the Rules of Arbitration of the International Chamber of Commerce.
- 18.3. The arbitration proceedings shall be held in Dar Es Salaam or another venue nominated by ZANTEL and shall be in the English language.
- 19 Miscellaneous**
- 19.1. The Purchase Order and these Terms shall be binding between the Parties and any successor entity into which either Party shall have been merged or consolidated or to which either Party shall have sold or transferred all or substantially all its assets.
- 19.2. Supplier shall remain responsible to ZANTEL for the performance by any subcontractor, as if the undertakings were performed by Supplier itself.
- 19.3. If individual provisions of the Purchase Order or these Terms should be or become invalid, the remaining provisions shall not be affected thereby. The provision which is or has become invalid shall be replaced by a provision which, with respect to its economic purpose, comes as close as possible to the provision being replaced.
- 19.4. Notices given under this Agreement shall be in writing and may be served by personal delivery, first class recorded or, e-mail to the address of the relevant Party set out in the Purchase Order, or such other address as that Party may from time to time notify to the other Party in accordance with this Article. Notices shall be deemed served on the working day of delivery provided delivery is before 5.00pm on a working day. Otherwise delivery shall be deemed to occur on the next working day. An email shall be deemed delivered when sent unless an error message is received. Notices may only be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in this Article 20.4.
- 19.5. Supplier shall not without the written consent of ZANTEL assign, sub-contract, and novate or in any way dispose of the benefit and/ or the burden of this Agreement or any part of this Agreement.
- 19.6. Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under this Agreement, and that this Agreement is executed by its duly authorised representative.
- 19.7. A person who is not a Party to this Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 19.8. The Agreement cannot be varied except otherwise agreed in writing by both the Parties.
- 19.9. The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them.
- 19.10. Any waiver or relaxation either partly, or wholly of any of the terms and conditions of this Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of this Agreement.
- 19.11. The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.