

MULTICHOICE STANDARD TERMS AND CONDITIONS APPLICABLE TO THIS PURCHASE ORDER

1. DEFINITIONS

- 1.1 "*Affiliate*" means in relation to any person, any other person who, directly or indirectly, (i) is Controlled by the first-mentioned person, (ii) Controls the first-mentioned person, or (iii) is under common Control with the first-mentioned person.
- 1.2 "*Control*", as used in the preceding sentence, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise;
- 1.3 "*Applicable Law*" in relation to a Party, shall include any and all; statutes, by-laws, rules, regulations, orders, ordinances, protocols, codes, standards, guidelines, treaties, policies, notices, practices, administrative interpretations, directions, decrees, judgments, awards or requirements which have been duly enacted, issued or promulgated by any authority having jurisdiction in the Territory;
- 1.4 "*Business Day*" means any day other than a Saturday, Sunday or official public holiday in the relevant Territory;
- 1.5 "*Claims*" means all claims, losses, damages, expenses, causes of action, events, suits, judgments and liability of every kind, including without limitation all expenses of litigation, court costs and reasonable attorney's fees arising from this PO or the Goods or Services provided hereunder;
- 1.6 "*Goods*" includes the equipment, materials or other items specified in the PO, including design, delivery, installation, inspection and testing required to be completed or performed in connection with the goods;
- 1.7 "*Incoterms*" rules or International Commercial Terms are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. Incoterms rules are intended primarily to clearly communicate the tasks, costs, and risks associated with the transportation and delivery of goods. Incoterms inform sales contract defining respective obligations, costs, and risks involved in the delivery of goods from the seller to the buyer.
- 1.8 "*MultiChoice*" is MultiChoice Support Services (Pty) Limited, MultiChoice South Africa (Pty) Limited and MultiChoice Africa Limited, and all their Affiliates, and their respective officers, directors, employees, and contractors, with an interest in the Goods or Services;
- 1.9 "*Purchase Order ("PO")*" is the standard MultiChoice document describing the Goods or Services to be provided by the Supplier and stipulating the price payable by MultiChoice to the Supplier within the contracted payment terms;
- 1.10 "*Services*" includes the work, services or other items specified in the PO, including design, delivery, installation, inspection and testing required to be completed or performed in connection with the services;
- 1.11 "*Supplier*" means the company executing this PO with MultiChoice or providing Goods or Services to MultiChoice. The Supplier shall include its parent or affiliated companies and their respective officers, directors, employees, and subcontractors;
- 1.12 "*Taxes*" means all forms of taxes, duties, imposts, charges, withholdings, rates, levies and any other governmental impositions of whatever nature and by whatever authority imposed, assessed

or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition; and

- 1.13 “*Territory*” means the territories in Africa and the adjacent Indian Ocean Islands in which MultiChoice operates from time to time, where the Goods or Services are required and delivered.

2. INTRODUCTION

- 2.1 This PO shall become a binding agreement on the Supplier and MultiChoice either upon the Supplier signing this PO or delivering, providing and/or shipping the Goods or Services and/or otherwise commencing performance/delivery of the Goods or Services described herein, whichever occurs first.
- 2.2 These terms and conditions are applicable to this PO and exclude any other terms and/or conditions from the Supplier except that these terms and conditions shall NOT apply where there is a valid agreement between MultiChoice and the Supplier pertaining to the Goods or Services as set out herein. Any written confirmation in relation to this PO by the Supplier containing additional or different terms from this PO shall be of no effect, unless MultiChoice agrees in writing to such additional or different terms.

3. EXCLUSIVITY

- 3.1 This PO is non-exclusive. The Supplier acknowledges and agrees that MultiChoice may engage any other party to supply Goods or Services of a similar nature to the Goods or Services being supplied by the Supplier in terms of this PO.

4. PRICE

- 4.1 Each PO will be regarded as a separate and individual PO. The price for the Goods or Services shall include all requirements specified in this PO. The price is fixed and not subject to adjustments unless otherwise mutually agreed between the Supplier and MultiChoice in writing and noted on the PO.
- 4.2 *For physical Goods*, the PO will specify the nature and quantity of the Goods, price, point(s) and date(s) of delivery. The price includes all applicable Taxes and/or duties, packaging, loading and securing the goods on the carrier’s equipment at the shipping point. The Supplier shall ensure that the Goods are packaged as per the instructions on the PO. Should there not be any instructions to the contrary on the PO, the Supplier shall meet the packaging standards as is customary in the industry to ensure adequate protection for the Goods to prevent damage. MultiChoice’s count of the Goods shall be final and conclusive on shipments not accompanied by a Supplier’s itemised packing list. MultiChoice shall not accept more of any Goods than the quantity specified on the PO. Any excess Goods delivered shall be removed by the Supplier from MultiChoice’s property within 7 (seven) Business Days, at the Supplier’s own cost. Title and risk for these Goods shall remain with the Supplier until delivery.
- 4.3 *For Services*, the price agreed will be indicated on the PO along with a full description of Services including term of Services, completion date, and all Taxes and duties applicable. MultiChoice shall not accept any more Services than that specified in the PO.

5. OWNERSHIP/TITLE

5.1 The Supplier warrants good title to all Goods, free and clear of any and all liens, restrictions, reservations, security interests, encumbrances and claims of others. Ownership to all Goods shall pass to MultiChoice on delivery made by the Supplier. Irrespective of the earlier passage of title, the risk of loss shall not pass to MultiChoice until physical delivery of the Goods has been made to MultiChoice at MultiChoice's specified point of delivery and acceptance of the goods by an authorised MultiChoice representative or as per agreed Incoterms. Acceptance of the delivery by MultiChoice shall not constitute a waiver of any warranty.

6. PAYMENT

6.1 Unless specific alternate payment terms have been agreed to in writing, the Supplier's performance under this PO will not be considered complete nor will payment be made until MultiChoice is in receipt of all Goods and/or Services specified in the quantities ordered on the PO and all other properly completed documents that may be required from time to time. MultiChoice may withhold payment, without loss of its right to a discount, until the Supplier meets all requirements set forth herein. Payment will be due and payable within 30 (thirty) Business Days of receipt of a valid and correct tax invoice (supported by valid statement) after receipt of the Goods or Services from the Supplier. Tax invoices in support of the statement must be in a format that complies with the requirements of Applicable Law in the relevant Territory and MultiChoice's requirements from time to time and will include, as a minimum the:

- (i) Relevant PO number;
- (ii) Quantity of Goods or the nature of Services to be supplied and the amount owed by MultiChoice; and
- (iii) The Supplier's registered company name, registered address and VAT number or the equivalent of a VAT number, as the case may be, failing which MultiChoice shall be entitled to withhold payment of the relevant tax invoice until such time as it has received a replacement tax invoice.

6.2 MultiChoice shall not be liable for any interest for late payments unless expressly agreed in writing by MultiChoice. MultiChoice may refuse payment if it contests the validity of an invoice or statement or if MultiChoice is dissatisfied with the Goods or Services supplied or any part thereof. The Supplier indemnifies MultiChoice against all losses, claims, liabilities, damages or expenses which MultiChoice may incur or be exposed to as a result of, or which may be attributable to any liability of the Supplier for any and all Taxes in respect of payments made in terms of the PO.

7. WITHHOLDING TAXES

7.1 MultiChoice may, in relation to any payment it is required to make to the Supplier, withhold from that payment any amount it is required to withhold as Tax under the Applicable Law of the Territory concerned.

7.2 If any consideration paid to the Supplier by MultiChoice under or in connection with this Agreement is paid free of withholding tax, and at any time after such payment, MultiChoice becomes aware (either by notification from a regulatory authority or otherwise), that an amount of Tax should have been withheld from such payment, MultiChoice will be entitled to recover from the Supplier that amount of Tax and any subsequent amount MultiChoice may be required to pay to a regulatory authority for failing to withhold (including any amounts required to be withheld). Such payments must be paid to MultiChoice within 30 (thirty) days of receipt of notice from MultiChoice.

8. DISPUTE RESOLUTION

8.1 Separate, divisible agreement

8.1.1 This clause is a separate, divisible agreement from the rest of this PO and will:

8.1.1.1 not be or become void, voidable or unenforceable by reason only of any alleged misrepresentation, mistake, duress, undue influence, impossibility (initial or supervening), illegality, immorality, absence of consensus, lack of authority or other cause relating in substance to the rest of this PO and not to this clause. The parties intend that any such issue will be subject to arbitration in terms of this clause; and

8.1.1.2 remain in effect even if this PO terminates or is cancelled.

8.2 In the event of any dispute arising between the parties relating to or arising out of this PO, including the implementation, execution, interpretation, rectification, termination or cancellation of this PO, the dispute shall in the first instance be referred to the senior management of the parties for resolution. In the event of the dispute not having been resolved within 10 (ten) Business Days of the date of such referral (or such longer period as the parties' senior management may agree to in writing), the dispute will be referred for arbitration.

8.3 Subject to clause 8.2, any dispute arising out of or relating to this PO shall be referred to arbitration in accordance with the commercial arbitration rules of the:

8.3.1 Arbitration Foundation of Southern Africa;

8.3.2 United Nations Commission on International Trade Law ("UNCITRAL"); or

8.3.3 Leading commercial arbitration foundation in the Territory,

as elected by MultiChoice (the "**Arbitration Body**"), in its sole discretion, at the time of the dispute arising.

8.4 Any award will be final and not subject to appeal.

8.5 Arbitration will take place in the location specified by MultiChoice in writing at the time the dispute is referred to arbitration.

8.6 Notwithstanding the foregoing, nothing in this clause shall be construed as precluding either party from applying to court for an interim interdict or other relief of an urgent nature.

9. DELIVERY

9.1 The Supplier will notify MultiChoice in writing within 48 hours of receipt of a PO if it cannot comply with any part of the PO and state the reasons therefore. In such event, MultiChoice will be entitled, but not obliged to withdraw the PO in whole or in part, and the Supplier will have no claim of whatsoever nature against MultiChoice. If the Supplier does not notify MultiChoice as aforesaid, the Supplier will be bound to supply the Goods or Services in accordance with the PO and these terms and conditions as well as any direction by MultiChoice in relation to the PO.

9.2 The Supplier shall complete its obligations in terms of this PO by the delivery dates specified, or within 7 (seven) days of MultiChoice's written demand after a reasonable time has elapsed if no delivery date is specified in the PO. Delays in the Supplier's performance or delivery due to defaults of MultiChoice in meeting its obligations under this PO as a result of acts of God, or, strikes or other similar causes beyond the Supplier's control ("**force majeure occurrence**"), which the Supplier could not have reasonably prevented or foreseen, shall be excused. In such event, the Supplier shall promptly notify MultiChoice of any such delay and at no additional cost

to MultiChoice, the Supplier shall take all reasonable steps to honor this PO. The date of delivery or performance will be extended for a period equal to the duration of the delay, but the Supplier shall not be entitled to any additional compensation for such delay. In the event that *force majeure* delays delivery more than 30 (thirty) days from any scheduled delivery date, MultiChoice shall have the right to cancel the PO or any part thereof. In the event that the time of delivery is not affected by a *force majeure* occurrence or MultiChoice's default, then the failure by the Supplier to deliver the Goods or Services, by such specified delivery date or within 7 (seven) days of MultiChoice's notice if no such delivery date is specified, shall permit MultiChoice to cancel this PO or any part thereof without any cost to MultiChoice.

10. CHANGES

10.1 MultiChoice shall have the right to make changes to the requirements for the Goods or Services. If such changes affect either the delivery date or price of the Goods, an equitable adjustment to the price and/or delivery date shall be mutually agreed between MultiChoice and the Supplier to reflect such change. The Supplier shall continue work during any discussion concerning such change and shall implement such change if directed to do so in writing by MultiChoice. Additional compensation or changes to the delivery date shall only be made if agreed to in writing by MultiChoice. If the Supplier believes a change has been made (that was not mutually agreed upon), the Supplier shall give MultiChoice notice of such change within 7 (seven) days after it has occurred (or the Supplier became aware of the change), failing which it shall be deemed that the Supplier has waived any claim for an adjustment in price or delivery time for the Goods or Services.

11. WARRANTY

11.1 The Supplier warrants that all Goods or Services will:

- (i) Meet the specifications, drawings and other requirements set out on the face of the PO;
- (ii) Be of new materials, best quality workmanship, free from defects in design, workmanship and material; and
- (iii) Be fit for the purpose intended or represented and will conform with all relevant requirements of any statute, law, regulation or legal requirement which may be in force in the Territory.

11.2 If within 3 (three) months from date of delivery or within 6 (six) months from date of first intended use, whichever occurs first, MultiChoice discovers any breach of any warranty as to the Goods or Services, then the Supplier shall promptly repair or replace the Goods or Services in question after MultiChoice's written notice of breach, without cost to MultiChoice. If the Supplier fails, after 7 (seven) days' notice, to promptly proceed with the repair or replacement of the defective Goods or Services, then MultiChoice may repair or replace such Goods or Services and charge all related costs to the Supplier without prejudice to any warranties herein. In addition, if emergency repairs are required, not allowing time for the Supplier to make such repairs where defective goods will affect operational capabilities, MultiChoice may nevertheless proceed and make such repairs or replacements and charge the cost to the Supplier. The Supplier warrants for a period equal to the end of the initial warranty period, to correct defects in the Goods or Services that the Supplier has repaired or replaced. MultiChoice shall have the right to inspect the Goods or Services at any time. MultiChoice's failure to inspect the Goods or Services shall not: affect its right to reject non-conforming or defective Goods or Services; and/or constitute acceptance of the Goods or Services if MultiChoice reasonably determines that all or a portion of the Goods or Services are non-conforming or defective or of low quality and standard and not fit for purpose.

12. ETHICS & COMPLIANCE

- 12.1 MultiChoice is committed to the highest standards and complies with the Naspers group companies' Code of Business Ethics and Conduct, which policy is available on the MultiChoice website and upon request. MultiChoice requires the Supplier to conduct all business dealings with MultiChoice on a basis of respect for the law and proper regard for ethical business practices. The Supplier represents and warrants that:
- (i) It shall not take unfair advantage of anyone through misuse of privileged information, misrepresentation of material facts, or any other illegal trade practice; and
 - (ii) It shall comply with all Applicable Laws related to anti-bribery, anti-corruption, anti-kickbacks and anti-money laundering.
- 12.2 The Supplier is not permitted to engage in price fixing, bid rigging, allocation of markets or customers, or similar illegal anti-competitive activities. The Supplier is prohibited from offering, promising, giving to, or demanding or accepting any illegal payment or other undue advantage from anyone in order to gain, retain or direct business or to secure any other improper advantage in the conduct of business. The Supplier agrees to fully comply with all economic sanctions and export control laws and regulations.
- 12.3 If MultiChoice, in its sole discretion, determines that the Supplier has breached any of the foregoing provisions, such breach shall constitute cause for immediate termination of this PO. The Supplier agrees to indemnify and hold harmless MultiChoice for the Supplier's non-compliance with this provision. This provision shall survive termination or cancellation of this PO.

13. AUDIT

- 13.1 MultiChoice shall have the right to audit the Supplier's books and records, including but not limited to business expenses at all reasonable times for the duration of this PO and for a period of 5 (five) years thereafter, for the purpose of auditing and verifying that the charges or costs presented by the Supplier to MultiChoice for payment are in accordance with this PO and in compliance with these terms and conditions.
- 13.2 Costs of any audits conducted under the authority of this right to audit clause will be borne by MultiChoice unless the audit identifies (1) overpricing or overcharges of any nature by the Supplier to MultiChoice in excess of one-half of one percent (.5%) of the total contract billings or (2) substantive findings related to fraud, misrepresentation, or non-performance, MultiChoice shall recoup the costs of the audit work from the Supplier. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Supplier's invoices and/or records shall be made within a reasonable amount of time (not to exceed 60 days) from presentation of MultiChoice's findings to Supplier.

14. CONFIDENTIALITY

- 14.1 All information and data acquired ("**Confidential Information**") directly or indirectly by the Supplier from MultiChoice relating to this PO or in connection with the performance of this PO, excluding information or data in the public domain through no default of the Supplier, shall be held strictly confidential and not be reproduced or used for any purpose unrelated to the PO or disclosed to any third party without MultiChoice's written consent.

15. INDEMNITY

- 15.1 The Supplier indemnifies and keeps indemnified MultiChoice from and against any claim, legal suit, liability and losses of whatsoever nature suffered or incurred by MultiChoice under contract, delict, breach of duties (statutory or otherwise) or any other basis and howsoever arising as a result of:

- (i) A negligent, fraudulent or wrongful act or omission by the Supplier under or in relation to this PO;
- (ii) The Supplier breaching or failing to comply with any Applicable Law (or MultiChoice being held liable or deemed to have breached or failed to comply as a direct result of a breach or failure by the Supplier);
- (iii) Any breach by the Supplier of any of the terms, conditions, representations or warranties contained in this PO; and
- (iv) A claim that the manufacture, use or sale of any Goods or Services, or any part thereof supplied, constitutes infringement of any patent, trademark, copyright or other proprietary right of others.

15.2 The foregoing provision shall not apply to any Goods or Services, or any part thereof, to the extent of being manufactured to designs furnished or required by MultiChoice or to the extent that the loss, damage, liability, cost or expense is directly attributable to the fraud, wilful default or gross negligence of MultiChoice.

16. LIMITATION OF LIABILITY

16.1 MultiChoice will not in any manner whatsoever be liable to the Supplier in respect of any losses which may be suffered and/or incurred by the Supplier arising from or in connection with the supply and/or delivery of Goods or Services or in any other way related to this PO, except to the extent that such losses are due to the fraud, wilful default or gross negligence of MultiChoice. Notwithstanding anything to the contrary herein contained, MultiChoice shall under no circumstances whatsoever be liable to the Supplier for any consequential, incidental, indirect, punitive or special damages in connection with or arising out of this PO, howsoever caused, including without limitation loss of business and loss of profits.

17. TERMINATION

17.1 This PO may be terminated in writing by MultiChoice: if the Supplier breaches any provision hereof and fails to remedy such breach within 30 (thirty) days of written notice to do so (or if it is not reasonably possible to remedy the breach within the period stipulated herein, within such further period as may be reasonable in the circumstances and agreed to with MultiChoice); or immediately, if the Supplier becomes insolvent or is declared bankrupt or is placed under provisional or final liquidation (other than for the purposes of a *bona fide* corporate restructuring) or under provisional or final receivership or judicial management. In addition to the foregoing, MultiChoice reserves the right to terminate this PO for its convenience at any time for any reason on written notice to the Supplier. In such event, the Supplier will be paid for all Goods or Services authorised and satisfactorily performed, delivered or received prior to said termination. Upon termination each party will immediately cease any and all use of any Confidential Information and/or marks and will return to the other party all Confidential Information of that party in its possession or under its control which is capable of being so returned and each party will immediately delete, erase or destroy (and certify such deletion, erasure or destruction) all Confidential Information and/or marks of the other party in its possession which is not capable of being returned to the other party.

18. APPLICABLE LAW

18.1 This PO shall be interpreted, construed and enforced in accordance with the Applicable Laws of the Territory.

19. JURISDICTION

19.1 Subject to the provisions of clause 18, the parties to the PO irrevocably submit to the non-exclusive jurisdiction of the High Court (or similar institution of competent jurisdiction) in the Territory for the determination of any dispute arising out of or in connection with this PO. The parties will keep confidential and not disclose to any non-party the existence of the dispute, non-

public information discussed during the dispute or the outcome of the dispute, except to the extent necessary to enforce the outcome. This confidentiality provision survives the termination of this PO.

20. ASSIGNMENT

20.1 The Supplier shall not be entitled to cede, delegate, assign, or in any other manner dispose of any of its rights or obligations in terms of this PO, without the prior written consent of MultiChoice, which consent will not be unreasonably withheld or delayed. MultiChoice shall be entitled to cede, delegate, assign or in any other manner dispose of any of its rights or obligations in terms of this PO to its Affiliates, without the prior written consent of the Supplier.

21. SEVERABILITY

21.1 In the event any provision, clause, sentence or part of this PO is inconsistent with or contrary to any Applicable Law, same shall be deemed to be modified to the extent required to comply with said law (it being the intention of both parties to enforce to the fullest extent all terms of this PO) and as so modified, this PO shall continue in full force and effect. In the event any such provision, clause, sentence or part of this PO cannot be modified to comply with the Applicable Law, then said provision, clause, sentence or portion of the PO shall be deemed to be deleted from the PO and the remaining terms and conditions shall remain in full force and effect.

22. SUBCONTRACT

22.1 The Supplier shall not subcontract the whole or portions of this PO without the prior written consent of MultiChoice. The Supplier shall be responsible for the acts or defaults of any subcontractor, his agents or employees, as if they were the acts or defaults of the Supplier.

23. NON-WAIVER

23.1 No failure by a party to enforce any provision of this PO will constitute a waiver of such provision or affect in any way a party's right to require the performance of such provision at any time in the future.

24. RELATIONSHIP

24.1 It is specifically recorded that the business operated by each party is separate from that operated by the other and the only relationship between the parties will be that of supplier and customer. No agency, employment, partnership, or joint venture will be deemed to exist between the parties by virtue of this PO and neither party will have the authority to act for or by the other, unless otherwise provided for by this PO (and if so provided, to the extent provided for in these terms and conditions).

25. INTELLECTUAL PROPERTY

25.1 Nothing contained in this PO will confer any right of ownership in, lien, or right of use in and to the marks of a party or any of its intellectual property (in the case of MultiChoice, this includes without limitation intellectual property incidental to the products) to the other party. A party's marks will not be used in advertising material of any kind by the other party, without the prior written consent of the relevant party in respect of each such advertisement. A party will be entitled to withdraw such consent at any time by prior written notice to the other party. Neither party will challenge the marks or use the marks of the other party in any modified form or represent in any way that it has any right, title or interest in and to the ownership of the marks or the use thereof. Each party will immediately notify the other party of any actual or threatened infringement of any of the marks of the other party which may come to its notice; and at the request and cost of the other party, cooperate fully and promptly in all such matters as the other party will from time to time consider reasonably necessary for the protection of the marks of the other party.

- 25.2 These terms and conditions will prevail for the entire period that business is conducted. You agree upon receipt of this PO to be bound by its terms and conditions set out above, as amended from time to time.
- 25.3 All Intellectual Property Rights (IPR) belonging to a party prior to the effective date of the PO shall remain vested in that party. MultiChoice shall retain all Intellectual Property Rights arising after the effective date of the PO from the performance of in terms of this PO For avoidance of any doubt, MultiChoice shall grant to Supplier a non-exclusive and non-transferable license to use MultiChoice Intellectual Property to the extent necessary for the performance of the Services in this PO. Any modifications to pre-existing material which are inseparable from the pre-existing material shall remain the property of the party which owns such pre-existing material.

MultiChoice (Pty) Ltd

is an authorised financial services provider.

Reg Number - 1994/009083/07, FSP licence number 11514

Directors: FLN Letele (Executive Chair and Acting CEO), C Mawela, U Raman.

Company Secretary: CC Koopman

MultiChoice Support Services (Pty) Ltd

is an authorised financial services provider.

Reg Number - 2007/014131/07, FSP licence number 44883

Directors: FLN Letele, C Mawela, U Raman.

Company Secretary: CC Koopman

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