

# DStv For Business Subscriber Terms

*This document contains the general terms of use which applies to you when you use our Services.*

## Important information

**Some clauses have an important impact on you. There are some clauses that do one or more of the following:**

- **Take away or lessen the risks, Liability and legal responsibilities we have towards you;**
- **Put risk and legal responsibility on you;**
- **Make you Indemnify us (take on our risk and responsibility); or**
- **State that you agree with a statement.**

**We give you an explanation about why these clauses are important in a block underneath them. Please read the clauses and the bold writing carefully and make sure you understand them.**

## 1. Understanding the Agreement

We define words and phrases in the body of the Subscriber Terms and in Annexure A ('Meaning of words and phrases') and all defined terms start with a capital letter. We also include an explanation of some legal terms as well as rules for interpreting the Agreement in Annexure A.

## 2. Agreement start and duration

We may accept or reject your Application based on the information you give us. The Agreement Starts on Activation ('**Start Date**') and the Term of the Agreement depends on the Package Option you choose. We regard Activation as being at Our Premises.

## 3. The Services

- 3.1. **Your Services:** We give you a number of Channels and related Services, depending on your Premises type and the Package Options available to you ('**Services**'). In exchange for paying us the Fees, we give you the right, during the Term, to receive the Services and exhibit the Channels which form part of your Package Option until you or we end the Agreement as set out in clause 14.5 and clause 25.
- 3.2. **Delivery of the Services:** We transmit or arrange for transmission of the Services in various ways. If there is a change in the way Services are delivered which requires you to make changes to your Equipment, we will aim to give you reasonable notice of the change.

- 3.3. **Complimentary Channels and promotional trials:** We may supply bonus Channels or other Free Channels to you for free. We may withdraw or change Free Channels without giving you notice. We may also change any Free Channel into a paid for Channel, but we will give you reasonable notice, about this change and the charges that apply.

## 4. Changing your Package Option

If your Package Option allows, you may change your Package Option at any time during the Term. We may charge you an upfront payment before making the change. We will make the change at the end of your current billing period and your new Fees will apply from the start of your next billing period.

## 5. Our obligations

We will give you access to the Services and Channels based on the Package Option you choose. We also warrant (promise) to:

- 5.1 not knowingly include defamatory material or anything which violates any copyright, right of privacy, literacy or dramatic right of any Person;
- 5.2 obtain necessary licences or approvals from collecting societies or other Persons to broadcast the Channels in South Africa. We do not warrant we will obtain public performance licences or pay public performance fees and this warranty is only as extensive as those given to us by suppliers of Programme material included on our Channels and by the suppliers of third party Channels.

## 6. Credit checks

- 6.1 **Your permission:** By agreeing to these Subscriber Terms, you give us permission to assess your credit history and standing during the Term. We may use information from, and supply information to, outside agencies for this purpose.
- 6.2 **Result of the credit check:** We may refuse your Application or offer you an alternative Package Option based on your credit score. After Activation, we may also apply reasonable practices to manage your account based on the results of the credit check, including applying a different Payment Method to your account.
- 6.3 **Waiver:** As far as the law allows, you give up ('waive') any claims you may have against us for disclosing information about you for the purpose of a credit check.

**This clause is important because it makes you give up certain rights you may have. You will not be able to make any claim against us, because we gave or received information about you to do a credit check on you.**

## 7. Fees and payment

- 7.1 **Fees and other amounts:** The Fees for each Package Option ('Fees') as at the Start Date are set out in your Application Form. You will have to pay Fees even if you do not use the Service during the Term. You are also responsible for all other taxes, duties, levies or charges levied by government authorities, in relation to the Service you choose.
- 7.2 **Payment:** On signature we may ask you to make an upfront payment. After Activation you must pay us a monthly Fee on or before the date set out in your Package Option Terms ('Due Date') using the Payment Method set out in your Package Option.
- 7.3 **Non-Payment and late payment:** If we do not receive payment by the Due Date we may:
- Suspend your Services until you pay us everything you owe us;
  - Charge you an administration fee, calculated from the Due Date until the payment date;
  - Continue to offer you Services and you will be Liable for payment of those Fees for the Services.
- 7.4 **Collecting agents:** We may use third parties to help collect Fees and other amounts you owe us. These third parties are not our employees, sub-contractors, agents, intermediaries or representatives, or otherwise controlled by us.

## 8. Limits to our responsibility

As far as the law allows, we make no warranties (promises) about:

- 8.1 The availability and uninterrupted access to the Services as the quality of your reception may be interrupted or affected for a range of reasons outside our reasonable control;
- 8.2 The quality, reliability or accuracy of the content of the Services.

**Clauses 8.1 and 8.2 are important. They allow us to give up certain obligations which we may have and make you take on risk, responsibility and Liability. Because of these clauses we are not responsible or Liable if the quality of the Service is affected or disrupted, as far as the law allows.**

## 9. Your obligations

*Please read this Clause 9 with the other Agreement Documents which apply to you. You may have specific obligations, depending on the Package Option you choose.*

- 9.1 **Place of use:** You may only receive and use the Services and Equipment at the Premises you chose and only in South Africa and Lesotho. If you wish to receive or use the Service at an address other than the Premises, you must notify us of such address.
- 9.2 **The Premises:** You warrant (promise) that:
- You are carrying on the Business Activity at the Premises at the Start Date;
  - The Premises are in South Africa or Lesotho;
  - You have and will continue to have all the rights, licenses, consents and clearances in place during the Term, to receive and exhibit the Channels in the Premises, including for public performance in the Premises and will give us proof of this if we ask.

**This Clause 9.2 is important because it makes you agree that the statements above are true. If you use our Services, you agree that these statements are true and we (and others) may have claims against you if the statements above are not true.**

- 9.3 **Change of business:** You must immediately notify us in writing (including by email or on our online portal) of any change of Business Activity, which we will review and decide if we must change your Package Option, the Services you receive or your Fees.

9.4 **Content:** We are committed to complying with all laws related to broadcasting of the Channels. We will comply with all regulatory requirements and give you guidance where needed. We will inform you of age restrictions and other conditions which we or our Channel suppliers or the broadcast authority impose on viewing of the Programmes. You must take reasonable steps to:

- Prevent the viewing of restricted material by children below the applicable age restriction; and
- Ensure that all adults who may have access to the Services are informed, of age restrictions and other relevant conditions related to the Programmes.

## 10. Equipment

10.1 **Ownership:** The Decoders installed at the Premises, belong to you, once you have paid us for them in full, but we will always be the owner or licence holder of the software and intellectual property in all Equipment which is proprietary to us.

10.2 **Approved installers:** We suggest that you use installers approved by us ('**approved installers**') to install the Equipment. Each installer who you ask to install your Equipment, including approved installers acts as an independent contractor. They are not our employees, sub-contractors or agents. We and the manufacturers of the Equipment are not Liable for any loss or Damage caused by the conduct of the installer. This includes:

- Any direct, indirect, special or consequential (resulting) Damages you may suffer as a result of any Breach by the installer of any of its obligations to you;
- Any loss or damage to your or another person's property situated in the Premises, because of what the installer did, or did not do.

10.3 **Installation and maintenance Agreement:** You must enter into a separate Agreement with an installer. The Agreement between you and installer regulates the terms around the installation and maintenance of the Equipment on the Premises. We are not responsible for anything they do during installation.

10.4 **Service quality:** As far as the law allows, we are not be Liable for any degradation (decline) of the quality of the Service which may directly or indirectly result from defects to, or the malfunctioning of, or the incorrect installation or maintenance of the Equipment.

**Clause 10.4 takes away certain rights you may have, asks you to take on risk, responsibility and Liability for claims, losses and Damages that we or others may suffer.**

**Because of this clause, we are not responsible for decline in the quality of service caused by malfunctioning of, or the incorrect installation or**

## **maintenance of the Equipment.**

10.5 **Manufacturer's Warranty:** Your Approved Decoder has a Manufacturer's Warranty, in terms of which you may be entitled to have the Approved Decoder repaired or replaced. This Manufacturer's Warranty applies in addition to any warranties implied by law (such as those in the CPA).

10.6 **Keep Equipment connected:** Each Smartcard is matched to a Decoder. We suggest that you keep the Smartcard in the matched Decoder and the Decoder connected to the mains power supply and to the rest of the Equipment to allow us to update the Decoder software by satellite and give you uninterrupted access to the Service.

10.7 **No warranty (promise) by us:** We make no warranty or representation about:

- Any defect or malfunction in Equipment or a part thereof which is the result of a manufacturing fault;
- Defect or damage to the Equipment which is a result of your unauthorised use, tampering, negligence or failure to follow user instructions;
- Any use of a Smart Card with any decoding device not authorised by us;
- Any component of the Equipment; or
- The installation of the Equipment.

**Clause 10.6 makes you accept that we give up some of our obligations which we may have and asks you to take on risk, responsibility and Liability for claims, losses and Damages that we or others may suffer.**

**Because of this clause, we do not make promises about the events, items or other things listed in this clause and you take on risk and responsibility for these.**

## 11. Theft and damage to Equipment

11.1 **Notify us immediately:** You must immediately notify us of a damaged or stolen Decoder and/or Smartcard. We will record the Decoder and/or Smartcard as stolen or damaged and disable the reception and decryption of the signal to them. This action cannot then be reversed and the Decoder and/or Smartcard becomes unusable.

11.2 **Payment of Fees:** Any damage or theft will not affect your obligations to pay us all Fees due for the Services. You can still cancel your subscription, as is set out in these Subscriber Terms or your Package Option.

## 12. Changes we may make

- 12.1 **Changes to Services:** At any time, we may:
- Replace, withdraw or change the content, features or functions of the Services;
  - Introduce new Channels or withdraw Channels to or from Package Options;
  - Inform you about value added services as well as conditions and Fees which may apply to them;
  - Apply restrictions on the viewing of Channels or Programmes including restrictions on viewing in any areas of the Premises;
  - Change the range of Services or composition of Package Options;
  - Change the range, nature and number of features, facilities or services to the Services;
  - Change a feature or function forming part of the Services and any Fees that apply to continue receiving them.
- 12.2 **Change to the Fees:** We can change the Fees, our price bands or our pricing structure, but will give you reasonable notice before we do this. We may also change your Payment Method if your Fees change.
- 12.3 **Changes to the Channels:** We may make any changes to the range, nature, format and content on the Channels, including:
- adding new programming, Channels, services, packages, applications and facilities;
  - changing Channel numbers;
  - changing Programmes on the Channels;
  - changing or reducing the broadcast hours of any of the Channels or encrypt or unencrypt any Channel.
- 12.4 **Changes to the Agreement Documents:** We may make changes to the Subscriber Terms and other Agreement documents by giving you reasonable notice, as far as the law allows. You will be bound by the change from the date in the notice.

**Clause 12.1– 12.4 make you give up certain rights and agree to limits to our duties. They allow us to make certain changes. The risk for you is that:**

- **your rights and obligations may change;**
- **you may have to pay extra amounts;**
- **the Services you receive from us, may change or be taken away; and**
- **you may have to pay the same amounts but receive less or different Services.**

- 12.5 **Consumer's right to terminate:** *Only if you are a "consumer" in terms of the Consumer Protection Act, in that you have an asset value or turnover of less than R1 million at the date we make the changes as set out above, this clause applies to you.*

You may terminate your Service if we make any changes as set out in Clauses 12.1-12.4 above, unless the terms in your Package Option prevents this. Your Agreement will end at the end of your current billing period or the next billing period if we cannot cancel a payment instruction in time. You cannot make any claim against us for costs or expenses caused by us not cancelling a payment instruction in time.

**Clause 12.5 makes you give up certain rights and agree to limits to our duties. If we cannot cancel a payment instruction in time, you will not be able to make any claims against us for the extra Fees which may apply after you have terminated the Agreement.**

- 12.6 **Technical changes:** We may:
- Update and change the systems related to the Services, including changes to the Technical Systems;
  - Change or replace the software in the Technical Systems (including through over the air software downloads); or
  - Recommend that you upgrade, change or swap-out one or more of Equipment components, if not doing so will negatively affect access to the Services.
- 12.7 **Changes to Equipment:** We may recommend that you change or swop out your Equipment. If you do not do so you may not be able to use the Services and will still be Liable to pay the Fees.

## 13. Prohibited Conduct

- 13.1 **General restrictions:** You may only use the Services and Equipment as is specifically allowed under these Subscriber Terms, your Package Option Terms and any other documents we give you. You cannot on-sell the Service or charge users of the Premises any additional fees to watch the Channels or access the Services.
- 13.2 **Unavailable services:** There are certain services we offer to residential subscribers which are not available to Business Subscribers, such as XtraView services or some

PVR value added Services depending on your Package Option. You may not try or access these services or functionalities.

13.3 **Advertising and promotions:** You may not insert advertising or public announcements on or immediately around any Screens. You may also not use the Screens, Channels or services to promote or endorse any other products, services or events.

13.4 **Interfering with Channels or Services:** Display of Channels must be:

- Without interruption, time delay, addition, commercial or other insertion (including insertion of any on-screen prompt or icon or audio insertion) or inclusion of supplementary material or content (including inserting or overlaying any image or visual or audio material on to the Channels or on to the Screens at the same time as the Channels are present).
- In full (no reduction in size or overlaying) on the entire Screen.

13.5 **Other conduct:** You may not:

- Gain (or try to gain) access any Services other than those you chose and we agreed to, in your Application Form;
- Without our prior written permission, allow reception or viewing of Services in the Premises other than as provided in the Agreement (including allowing the reception or viewing of the Services in any cinema or theatre complex);
- Charge a fee or obtain other consideration to view or use any Services;
- Retransmit or rebroadcast any of the Content on the Services or copy any of the Content forming part of the Services;
- Reverse engineer or otherwise compromise or interfere with the security of the Conditional Access System, operating software or encryption software used in the Smartcards and Decoders, try do so or allow, help or allow anyone to do so);
- Use the Services along with third party services or products or use switching or similar technologies on the Services;
- Use the Services to promote or market any other services or products or insert logos, scrolling banners, 'squeeze backs' and other material on or over the Screen displaying the Channels or Programmes;
- Modify, tamper or interfere with the Equipment or reception of the Service;
- Copy, redistribute or relay any of the Channels or any part of them or deal with Channels in any way which is not specified in the Agreement; or
- Duplicate, reproduce, sell, broadcast, distribute or otherwise use or transmit the Services, other than as provided for in the Agreement.
- Permit, help or condone any other person to do any of the things listed above.

## 14. Audit and inspection

14.1 **Right to audit and inspection:** We may, during reasonable hours inspect the Equipment and audit your records or inspect the Premises to determine the correctness of the number of Screens or Rooms on the Premises. You must also give us any documentation we ask for when we do these audits or inspections.

14.2 **Result of audit and inspection:** If we discover any discrepancy in any of the information you gave us or any inappropriate or unauthorised use, we may charge you relevant additional amounts and recover any underpayments you owe us. This will also be regarded as a Breach of the Agreement and will give us the rights as set out in Clause 21 ('Ending the Agreement for Breach') as well as other rights we may have in law.

## 15. Indemnities and limits to our Liability

***This clause only applies as far as the law allows and does not intend to limit your rights in any way which is contrary to the provisions of the CPA.***

15.1 **Limits to our responsibilities:** As far as the law allows we are not responsible for any Damages you or anyone else suffered which is caused by:

- An act or failure to act by us, our directors, our employees or agents, sub-contractors or Affiliates;
- You Breaching your obligations under the Agreement;
- The termination of this Agreement in accordance with its terms; or
- Content on the Channels.

15.2 **Unauthorised acts:** You are responsible for the acts of your employees, agents, contractors, guest or any other persons whom you allow to access the Services, Screens or Equipment. You indemnify us and hold us harmless against any loss, damage or claim which is a result of anything those persons have done or not done and we are not responsible for any.

15.3 **Liability for indirect Damages:** We will not be Liable for any indirect or consequential damages you or anyone else suffers relating to the Agreement, the Content or the Services, including loss of profit and loss of data.

**Clause 15 takes away certain rights you may have, asks you to Indemnify us against loss or Damages and take on risk, responsibility and Liability for claims, losses and Damages that we or others may suffer. We may also have claims against you and you may be Liable to us for further amounts (such as attorney fees we need to pay to defend claims against us.)**

## 16. Intellectual property rights

16.1 **Trademarks:** Certain trademarks and trade names are protected by intellectual property rights which belong to us or other parties including the names of Channels, affiliated companies, names of Channels Suppliers, names of Programmes, the name of Multichoice or third party broadcasters of individual Channels and any name they use ('**Trademarks**').

### 16.2 Ownership and use:

- Trademarks belong to us or to relevant third party broadcasters or their (or our) licensors. You can never own the Trademarks and you may also not use any Trademarks without our permission.
- All materials making up the Services and Equipment are protected by intellectual property rights which we own or license, including copyright and other intellectual property rights to audio-visual, audio or data material we give you ('**Content Rights**'). You can never own the Content Rights.
- You may not claim (expressly or indirectly) that you own any right or title in any Trademark, Content Right or other rights in the Services or use any logos or other materials we give you to create this impression.

16.3 **Rights to the Channels:** We (or the relevant third party broadcaster) will always own all rights, title and interest in and to the Channels and all Programmes, advertising and promotional materials, ideas, formats and concepts in them or used with them (including all copyrights).

16.4 **Copyright and unauthorised use:** Copyright subsists in the works included in the Channels. Any unauthorized copying, reproducing, adaptation, publishing, performance, broadcasting, transmission in a diffusion service, causing the works to be seen or heard in public or letting, offering or exposing for hire by way of trade, of the works constitutes copyright infringement under the South African Copyright Act of 1978.

16.5 **Our rights:** If we have reason to believe that you or your agents are doing any of the abovementioned acts in respect of the works included in the Channels without our express, written authorization, we retain the right to disable features of your Equipment to prevent you from doing so in the future or prevent you from receiving the Service.

## 17. Security

17.1 **Security Framework:** Access to the Services may include or rely on a technological Security Framework designed to protect the Service against unauthorised use. This Security Framework will be automatically implemented, maintained and changed at times.

17.2 **Change of the Security Framework:** We may implement maintain and change the Security Framework, which may include the disconnection or discontinuation of any features of the Equipment which enable unauthorised use of the Service.

17.3 **No waiver:** If we do not implement the Security Framework, this will not mean we waive (give up) of any of our rights against you for unauthorised use of the Service.

## 18. Unforeseeable circumstances (Force majeure)

18.1 **Force majeure:** Force majeure is an event that is beyond your or our control, including industrial dispute, strike or breakdown, government action, state of war, riot or civil disturbance, satellite failure, any other act of God or any other circumstance beyond a Party's reasonable control. The Party who cannot perform their obligations because of such an event is called the '**Affected Party**'.

18.2 **Consequences of force majeure:** As far as the law allows, if either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under these Subscriber Terms because of force majeure, the Affected Party will not have to perform their obligations while the event or its consequences is present, but only to the extent they are unable to do this.

18.3 **Liability for delay:** The Affected Party must notify the other Party in writing about any force majeure and resulting failure. The Affected Party will, as far as the law allows, not be Liable for any delay or failure in the performance of any of their affected obligations or loss or damages which the other Party may suffer because of the delay or failure. This clause does not apply to any payment obligations.

18.4 **Ending the Agreement:** If such an event and its consequences carry on for more than three Months, either Party may end the Agreement.

## 19. Transfer of rights

**Note:** *transfer of rights is known as cession and transfer of obligations (duties) is known as delegation. In this clause transfer means the cession of rights and the delegation of obligations.*

You may not give up or transfer any of your rights or obligations in the Agreement to any other person without first getting our written permission. As far as the law allows, you agree that we may transfer all our rights and obligations under the Agreement to anyone.

**This Clause 19 makes you give up certain rights you may have. Because of this clause we may Transfer our rights and obligations in the Agreement without your permission (as far as the law allows), but you will not be able to do so without our permission.**

## 20. How we contact you

20.1 **Notices and messages we send to you:** We will send you all legal documents as set out in Clause 25 below, but we may send you other notices by SMS, email, messages displayed on your television monitor ('**Text Messages**') or post '**General Notices**'. General Notices may, as far as the law allows, include notices with messages about:

- Activation;
- New Services which become available through us or our suppliers, Affiliates or clients, subject to your right to block or restrict direct marketing under the CPA;
- The Services and operational systems and changes to them;
- Changes to the Agreement terms; and
- The status of your account and amounts you owe us.

20.2 **No Liability for Text-Messages:** As far as the law allows, we will not be responsible to you or anyone else for anything that is a result of or related to the Text-Messages we send you. By entering into an Agreement with us, you Indemnify us against all loss or harm that you or another person may suffer because of the Text-Messages.

**This Clause 20.2 is important. It limits our responsibility and Liability.**

**Because of this clause, we will not be responsible for any loss or damage you or anyone else suffers because of the Text-Messages we send you, as far as the law allows this.**

## 21. How to contact us

21.1 **Authorised persons:** You may authorise anyone to communicate with us on your behalf regarding the Agreement, so long as they comply with our standard security check ('**Authorised Person**'). You are bound by all requests and undertakings Authorised Persons make. Do not give anyone information relevant to our standard security check whom you have not authorised to represent you.

21.2 **Deemed receipt:** When we treat a notice as if you have received it by a certain date and time, it means we do not have to prove you received it on that date. If you claim that you did not receive the notice as we claim, you will have to prove it, as far as the law allows. As far as the law allows, we will treat it as if you have received a notice:

- on the date of delivery, if delivered by hand to your physical address;
- 10 calendar days after posting, if sent by ordinary mail to your postal address;
- on the date and time of sending, if sent to your email address, cell phone number or displayed on your Screen through a Text Message.

21.3 **Notice received:** If you actually receive a notice, it will be a valid delivery even if we did not send it to any of your chosen addresses.

## 22. Ending the Agreement for a Breach

22.1 **Breach:** The following actions or events will be regarded as a '**breach**':

- A Party does not comply with any term of the Agreement and does not fix (remedy) the breach within 10 days written notice from the other Party asking them to do so;
- You or we materially (seriously) breach the Agreement again (within 12 Months after the previous or first breach) after fixing an earlier similar breach and do not fix the breach immediately after receiving notice to do so;
- Anyone takes or enters a civil judgment against you;
- You are placed under an order of Sequestration, Business Rescue or Liquidation (provisional or final); or are subject to a resolution passed to enable you to be wound up or dissolved;
- You make any compromise with any of your creditors;
- You cause a notice of surrender of your estate to be published under the Insolvency Act 24 of 1936; or
- You do any of the things listed in Clause 13 ('Prohibited Conduct'); or
- You commit any criminal act.

22.2 **Consequences of Breach:** When either Party commits a Breach, the other Party ('innocent party') may:

- Cancel the agreement and claim Damages; or
- Claim specific performance of all of the breaching Party's obligations.

22.3 **Administration Fee for Reactivation:** If we cancelled the Agreement for a breach and you have paid us all amounts you owed us, we may agree to enter into a new Agreement with you to give you access to the Services. We may charge you an Administration Fee for Reactivation of your Services. ('**Reactivation Fee**').

22.4 **Certificate as proof of your debt:** As far as the law allows, a certificate signed by one of our managers of how much you owe us for Fees and other amounts will be treated as enough proof of your debt to us, which means:

- You will have to show why the certificate is wrong; and
- We can use the certificate to get judgment or a court order against you.

- 22.5 **Other rights and remedies:** This clause does not limit or reduce other rights and remedies we may legally (or otherwise) have, including claiming Damages.
- 22.6 **Surviving obligations:** Ending the Agreement will not affect, suspend or release any Party from their rights, Liabilities and obligations which must (expressly or by implication) survive after the Agreement ends.

## 23. Your Personal Information

- 23.1 **Your right to privacy:** We respect the right to privacy and take the protection of your Personal Information seriously. We are careful how we collect, use, disclose and process your Personal Information.
- 23.2 **Your consent:** By filling in the Application Form, and in so doing, applying to become a Subscriber, you give us permission to store, protect, use or otherwise Process your Personal Information.
- 23.3 **Allowed use:** As far as the law allows, you agree that we may use Personal Information collected about you to:
- Do credit checks on you to assess your credit worthiness;
  - Open, operate and manage your account;
  - Monitor and analyse your conduct on your account for credit, fraud, compliance and other risk related purposes;
  - Collect information so that we or our Affiliates can analyse the viewing habits and profiles of our Subscribers who use the Services;
  - Carry out statistical and other analysis to identify potential market trends;
  - Develop new products and services;
  - Process your request for Services; and
  - Administer the Agreement, including informing you of changes to it.
- 23.4 **Permission to disclose (give out):** You give us permission to disclose your Personal Information in line with the terms of the Agreement and the requirements of laws that apply. This includes us giving your name, address and other Personal Information to any person:
- Who is an Affiliate of Multichoice to market their services to you;
  - Any company that acquires the whole or a part of our business;
  - When we need to do this to properly perform our functions;
  - To protect your or our interests; or
  - If an official or legal body asks us for your Personal Information.

- 23.5 **Permission to Market:** By ticking the relevant box on the Application Form or other Form/s you give us permission (as far as the law allows) to contact you in person, by telephone, mobile text or email at the contact numbers or addresses you give us so that we or our Affiliates can market our products or services to you.

- 23.6 **Opting out:** You can ask us to stop marketing to you (opt-out) or ask us to start sending you marketing material again (opt-in) at any time. The CPA and other laws also allow you to register a block on marketing from us.

**This Clause 23 is important. It contains terms which make you give up certain rights you may have and limits our risks and Liabilities. You give us permission to Process your Personal Information as set out above. You also give us and our Affiliates permission to market to you. You cannot later claim that you did not give us or our Affiliates the permission to do the things set out above.**

## 24. Compliance with the Consumer Protection Act

If the Consumer Protection Act ('CPA') applies to the Agreement, it is not intended that any of the terms in the Agreement go against or ignore the CPA. All the terms in the Agreement must be treated as if they were drafted to comply with the CPA. Any term or which does not comply with the terms of the CPA, must be treated as not forming part of the Agreement.

## 25. Legal notices

- 25.1 **Legal notices:** Legal documents include letters of demand, summonses, warrants to attach your property and other legal notices. We agree to accept legal documents under the Agreement at **MultiChoice City, 144 Bram Fischer Road, Randburg, 2125, Gauteng, RSA** (This address is known in law as our *domicilium citandi et executandi*).
- 25.2 **Change of our address:** If we want to change the address where we agree to accept legal documents, we will tell you in writing by SMS or email or post. We will give you the new address where we agree to accept legal documents. Any new address must be a physical address in South Africa.
- 25.3 **Address where you agree to accept legal documents:** You agree to accept legal documents at the address you give us in the Application Form. If you want to change the addresses where you agree to accept legal documents, you must tell us in writing, within 10 working days and provide the required supporting documents with the new addresses. Any new address must be a physical address in South Africa or Lesotho.



## 26. General terms

- 26.1 **Other terms:** You must read all other terms and conditions in all of the other documents which apply to your subscription and that we may give you, including your Package Option terms as well as specific terms which may apply to your specific Business Activity, Premises or other activity.
- 26.2 **Whole agreement:** The Application Form, Package Options, Pricing Flyer and these terms make up the whole agreement between you and us relating to the use of the Services. As far as the law allows, neither you nor we are legally obliged to comply with any term, condition, undertaking, representation, or promise relating to the Services that is not written in the Agreement.
- 26.3 **Waiver (giving up rights):** As far as the law allows, neither you nor we will lose any rights under the Agreement if you or we do not exercise them immediately or each time.
- 26.4 **Each provision is separate:** Each provision of the Agreement, and each part of any provision, is removable and detachable from the others. As far as the law allows, if any provision of the Agreement, or part of a provision, becomes unenforceable, illegal or invalid, it must be treated as if it was not included in the Agreement. The rest of the Agreement will still be valid and enforceable.
- 26.5 **South African law applies to the Agreement:** The laws of South Africa will apply to and govern the Agreement.
- 26.6 **Jurisdiction:** You consent to the jurisdiction of the Magistrates Court regarding all proceedings related to the Agreement. We may, however still institute any proceedings related to the Agreement in any Division of the High Court Africa having jurisdiction as far as the law allows.
- 26.7 **CPA dispute resolution:** Nothing in the Agreement will prevent you from enforcing any of your rights under the CPA. This includes making complaints to the relevant Ombud, Consumer Tribunal or the Consumer Commission.

## Annexure A: Meaning of words and phrases

### 1. Interpreting the Subscriber Terms

*When reading and applying (interpreting) these Subscriber Terms, the following rules will apply:*

#### 1.1 References to 'person'

References to a 'person' or a 'party' include a natural person, company, close corporation or any other juristic person or other corporate entity, a charity, trust, partnership, joint venture, syndicate, or any other association of persons.

#### 1.2 Gender

Words in any particular gender include the other genders (male, female and neutral). Reference to a neutral gender (for example 'they' or 'it') include all genders.

#### 1.3 Singular and plural

Words in the singular include the plural and the other way around.

#### 1.4 Different forms of the same word.

Different grammatical forms of the same word have a corresponding (similar or matching) meaning. (For example, 'to pay', 'paying' and 'paid').

#### 1.5 Headings

Headings are aids to reading and understanding. They are not terms or conditions themselves. Headings do not limit or extend the meaning or application of these Subscriber Terms.

#### 1.6 Bold writing

There are terms in bold writing that appear below various clauses in these Subscriber Terms. They are only intended to bring your attention to important parts of these Subscriber Terms and to explain the fact, nature and effect of those parts. The bold writing sections are aids to understanding only and are not terms or conditions themselves. They do not limit the meaning or application of these Subscriber Terms. The parts of these Subscriber Terms discussed in the boxes do not apply only to the situations and facts given in the examples or situations described in the boxes, or to similar examples or situations.

#### 1.7 Interpretation against the drafter

The interpretation rule, that the Agreement must be interpreted against the Party drafting an agreement ('*contra proferentem*' rule) will not apply to the Agreement.

#### 1.8 General words are not limited.

Where there is a list of specific things that belong together to describe a general word or phrase, the general word or phrase can have other meanings and can include others. The general word or phrase must not be interpreted to only apply to those specific things or things similar to them. For example, when we say sellers must comply with all laws, including the CPA, we mean that they must comply with all laws and not only the Consumer Protection Act and not only similar laws or laws that cover the same topics.

#### 1.9 The word 'including'

The word 'including' or 'include' or 'includes' must not be interpreted as limited to the list following the word or excluding other items from a list following the word. The word:

- i. 'including' means 'including but not limited to';
- ii. 'include' means 'include but is not limited to'; and
- iii. 'includes' means 'includes but is not limited to'.

#### 1.10 Calculating days.

Where any number of days is given, those days are counted to exclude the first day but include the last day.

#### 1.11 Reference to laws.

When there is reference to a law or to a section of a law, we mean that law or section of that law as amended, repealed or replaced.

## 2 Legal terms we use

### Important

**The explanations of the legal terms below are only inserted as an aid to understanding the Agreement. They are not definitions which are enforceable in law or as a term of the Agreement.**

- 2.1 **'Breach'** (breaking the Agreement) is when you or we do something that is not allowed under the Agreement, or do not fulfil our duties under the Agreement or do something that is listed in the Agreement as being a Breach.
- 2.2 **'Business Rescue'** is a process that may take place if you are a juristic person and are in financial trouble.
- 2.3 **'Damages'** are amounts that someone may have to pay another to compensate them for loss, damage or injury that may be suffered. In this Agreement Damages includes, direct, indirect and consequential damages.
- 2.4 A **'Delict'** is a blameworthy, wrongful act by a person which causes patrimonial (financial or material) loss to another or which harms their personality. The person committing the Delict must compensate the victim for the wrongful act (pay them an amount as punishment).
- 2.5 To **'Indemnify'** someone is to hold them harmless (secure them) and protect them against Liability. You step into the shoes of the person who should be Liable. You must do what they were responsible for, pay an amount they have to pay or repay them an amount they have paid. You are also responsible to compensate them (repay them) for any loss, damage or injury they suffer. Your agreement to do this is called an 'Indemnity'.
- 2.6 If you are a juristic person and are in financial trouble, a court may place you under **'Judicial Management'**. The court then takes over your affairs for a time.
- 2.7 Being **'Liable'** is when you agree (or are legally required) to be responsible to do something or pay something. It includes having to pay for loss, injury or Damages caused because of something you (or someone else) did. 'Liability' has a similar or consistent meaning.
- 2.8 Being **'Sequestered'** means being legally declared bankrupt because you cannot pay your debts. If you are a juristic person (like a company) this is referred to as being 'Liquidated'.

### 3. List of definitions

In these Subscriber Terms, the words and phrases below have the meaning set out in the column next to them.

| Term                       | Meaning   |
|----------------------------|---|
| <b>Add-ons</b>             | Applications, features or functions which are available to you in addition to the ones which come standard in your Package Option   |
| <b>Activation</b>          | When we accept your Application, and activate your Services on the Start Date   |
| <b>Affiliate</b>           | Any other person who directly or indirectly through one or more intermediary's controls or is controlled by, or is under common control with such specified person                |
| <b>Agreement</b>           | The Agreement between you and us, regulating your use of the Services and other Equipment, which includes all the terms and conditions set out in the various Agreement Documents |
| <b>Application</b>         | Filling in and signing an Application form to receive the Services  |
| <b>Agreement Documents</b> | Your Application Form, these Subscriber Terms, your Price Plan and any other terms and conditions which apply to your specific Package Option                                     |
| <b>Application Form</b>    | The form you complete to request access to the Services   |
| <b>Approved Decoder</b>    | A decoder approved by MultiChoice   |
| <b>Authorised Person</b>   | A person whom you authorise to communicate with us, as is set out in Clause 10  |

| Term                                  | Meaning   |
|---------------------------------------|---|
| <b>Business Activity</b>              | The activity, profession or business you conduct on the Premises, as indicated on your Application Form   |
| <b>Billing Period</b>                 | The Monthly period between: <ol style="list-style-type: none"> <li>1. The date corresponding with the Start Date; and</li> <li>2. The day before the same date in the next month, which is also the monthly Due Date</li> </ol> |
| <b>Business Day</b>                   | A day other than a Saturday, Sunday or a public holiday in South Africa   |
| <b>Channel</b>                        | The Channel(s) we give you access to, to view as part of the Service. The Channel(s) you have access to will depend on the Package Option you choose and we approve for your Premises type                                      |
| <b>Consumer Protection Act or CPA</b> | The Consumer Protection Act, No 68 of 2008  |
| <b>Content</b>                        | All programming and related content on the Channels   |
| <b>Content Rights</b>                 | The copyright and other intellectual property rights to the audio-visual, audio and/or data material provided by us on the Channel(s) and as part of the Service  |

| Term                                | Meaning   |
|-------------------------------------|---|
|                                     |   |
| <b>Business Subscriber</b>          | You and other subscribers who (i) own or operate a place of business including but not limited to multiple occupancy establishments containing rooms ( <i>e.g.</i> hotels, hospitals, prisons, <i>etc.</i> ); and (ii) are authorised by or on behalf of us to view the Channel in unencrypted format in such place and receive other Services, excluding certain residential Services and functionality as set out more fully in your Agreement Documents which apply to you |
| <b>Debit Order</b>                  | Paying by ' <b>Debit Order</b> ' means you give us permission to take money directly out of your bank account every Month   |
| <b>Decoder</b>                      | The piece of Equipment used to receive the Services via satellite or other means. The Decoder receives a signal in an encrypted form and decrypts it so that you may view the Channels and related Programmes   |
| <b>Delivery Means</b>               | Any means we use to provide the Services, Channels and Programmes to you now known or hereafter devised   |
| <b>DStv</b>                         | MultiChoice Digital Satellite Television  |
| <b>Due Date</b>                     | The date by which we must receive payment of your Fees, as is set out in our invoice to you   |
| <b>Electronic Programming Guide</b> | The guide we may make available to you with details of the Channels and other programming available on the system   |

| Term                              | Meaning  |
|-----------------------------------|--|
| <b>Equipment</b>                  | The Equipment required in order to receive and decrypt the Service and relay it to an enabled viewing device, and includes the Decoder, the Smartcard (if applicable), the related satellite reception Equipment (if applicable), the Conditional Access System and cabling  |
| <b>Fees</b>                       | All amounts you owe us for using the Services as set out in Clause 5 ('Subscription Fees'), in the Application Form and in the other Agreement Documents which apply to you  |
| <b>Manufacturer's Warranty</b>    | The warranty which you receive with your Decoder or other Equipment which warrants the functioning of the Decoder and other Equipment and which regulates the repair, replacement and refunds in certain instances   |
| <b>Month</b>                      | A calendar month, meaning any month of the calendar year starting on the first day of that calendar month and ending on the last day of that calendar Month (both days included). For example 1 January – 31 January <b>or</b> the time between the same day in months following each other, for example 5 January to 5 February |
| <b>MultiChoice, we, us or our</b> | MultiChoice Africa (Pty) Limited, a company duly incorporated in line with the laws of South Africa, registration number 1994/009083/07  |
| <b>Our Premises</b>               | The premises of MultiChoice, situated at <b>MultiChoice City, 144 Bram Fischer Road, Randburg, Gauteng, South Africa</b>   |
| <b>Party or Parties</b>           | A ' <b>Party</b> ' means either you or us and ' <b>Parties</b> '   |

| <b>Term</b>                 | <b>Meaning</b>  |
|-----------------------------|---|
|                             | means you, us   |
| <b>Package Option</b>       | Audio, video and data Channels and other value added services which we make available to you under the Service  |
| <b>Package Option Terms</b> | The Package Option Terms and Conditions. These are the terms that apply to the Package Option you choose on the Application Form  |
| <b>Pay Per View</b>         | The exhibition of a Programme on the Premises where a charge is made to the viewer for the right to view the Programme at a time designated by the broadcaster for each viewing.  |
| <b>Payment Method</b>       | The way that you (or we) decide that you pay us the Fees as is more fully set out in your Application Form and other Agreement Documents which may apply to you.  |
| <b>Personal Information</b> | <p>Information which identifies you as an individual or company, and includes:</p> <ul style="list-style-type: none"> <li>• Information relating to the race, gender, sex, pregnancy, marital status and biometrical information (like your fingerprints);</li> <li>• National, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture;</li> <li>• Your language, birth, information about your education or the medical, financial, criminal or employment history;</li> <li>• Any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other</li> </ul> |

| <b>Term</b>              | <b>Meaning</b>   |
|--------------------------|--|
|                          | particular assignment to you   |
| <b>Premises</b>          | The business establishment where you choose to receive the Services  |
| <b>Privacy Policy</b>    | The policy which applies to how we collect, store and otherwise use your Personal Information  |
| <b>Programmes</b>        | Programming which we provide you on the Channels or otherwise through the Services   |
| <b>Public Place</b>      | A pub, bar, restaurant, shebeen, tavern, fast food outlet, shop, conference room, sport facility complex, cinema or other theatre complex, retail space or any other place to which access is open to the public |
| <b>PVR Functionality</b> | The functionality which allows a Subscriber to record programmes through a Decoder and play them back at a later time  |
| <b>PVR Decoder</b>       | Decoder which has PVR Functionality  |
| <b>Reactivation Fee</b>  | A fee payable by you, following suspension of your access to the Service, for reactivation of such access by us, the amount of such fee being ascertainable from the Website or on request to us                 |
| <b>Screen</b>            | A separate television unit, television screen or other type of screen used to display the Channels and/or other Programmes available through the Service   |

| <b>Term</b>               | <b>Meaning</b>   |
|---------------------------|--|
| <b>Services</b>           | Access to the Channels and/or other Programmes available to you as part of your Package Option and all other value adds and services related to this, as set out in the Agreement  |
| <b>Security Framework</b> | Technological security framework designed to protect the Service against unauthorised use  |
| <b>Set-Off</b>            | The right we have to compare amounts we owe you against amounts you owe us and apply any amounts you pay us to settle your debt to us  |
| <b>Signal</b>             | The signal of the Services, as transmitted in encrypted format   |
| <b>Smartcard</b>          | The card we provide to you to insert into your Approved Decoder, which enables you to decode the Signal and access the Services and which incorporates software and intellectual property rights owned by us   |
| <b>Start Date</b>         | The date of Activation, you start receiving the Services you have selected   |
| <b>Subscriber or you</b>  | The Business Subscriber who completed the Application Form to use the Services and whose details are in the Application Form (including anyone that is your successor or Person you transferred your rights to) and all Authorised Persons authorised by you to use the Services or have access to the Equipment |
| <b>Subscriber Terms</b>   | The DStv For Business Subscriber Terms in this document, which forms part of the Agreement between you and us  |

| <b>Term</b>              | <b>Meaning</b>   |
|--------------------------|--|
|                          |  |
| <b>Technical Systems</b> | Technical services, signal distribution and satellite capacity, Conditional Access System, software operating system, software applications, subscriber management services and business systems and other technical systems used to distribute, encrypt or otherwise ensure delivery and/or transmission of the Services, Channels and other Programmes |
| <b>Term</b>              | The term as set out in your Application Form, Package Option or Price Plan, being the term which the Agreement will continue for, unless terminated by you or us   |
| <b>Text-Messages</b>     | The messages which appear on your Screen, which contains information about the Channels, Programmes and the Services   |
| <b>Trademark</b>         | The protection afforded to certain materials or items which are protected by intellectual property rights which belong us or other parties   |
| <b>User Manual</b>       | The document containing the standard operating instructions for your Approved Decoder, copies of which are provided with your Approved Decoder and available on the Website  |
| <b>VAT</b>               | Value-Added Tax, as levied in terms of the Value Added Tax Act 89 of 1991  |
| <b>Website</b>           | The website we use located at: <ul style="list-style-type: none"> <li>• <a href="http://www.dstv.com">http://www.dstv.com</a>,</li> </ul>  |

| Term               | Meaning   |
|--------------------|---|
|                    | <ul style="list-style-type: none"><li data-bbox="607 156 972 181">• <a href="http://www.multichoice.co.za">http://www.multichoice.co.za</a></li></ul> |
| <b>XtraView</b>    | The ability to view two or more Channels at the same time, on separate Screens  |
| <b>You or your</b> | A person (or entity) who has made a request for access to the Services under the Agreement and on these Subscriber Terms                              |