

## **Terms and conditions of subscription to the DStv digital satellite subscription broadcasting service by individuals for their private use**

### **Interpretation**

- 1 In these terms and conditions the following terms will have the following meanings -
  - 1.1 "Advanced Decoder Functionality" means new and developing technological functions supported by your Approved Decoder such as PVR Functionality, the ability to view different channels simultaneously on two different viewing environments, and other existing or future functions;
  - 1.2 "Agreement" means this subscription agreement;
  - 1.3 "Approved Decoder" means a decoder which complies with MultiChoice Nigeria's specifications;
  - 1.4 "Bouquet" means a package of audiovisual, audio and/or data channels;
  - 1.5 "Content Rights" means the copyright and other intellectual property rights to all materials, including the content, constituting the MultiChoice Service;
  - 1.6 "Coverage Area" means the geographic area in which the MultiChoice Service is provided, being the territory of Nigeria;
  - 1.7 "Due Date" means the date specified by MultiChoice Nigeria by when you must pay your fees in terms of this Agreement;
  - 1.8 "Equipment" means the subscriber equipment required for the receipt of the MultiChoice Service, including the Approved Decoder, any hardware related to the Advanced Decoder Functionality, the smartcard and the related satellite reception equipment and cabling;
  - 1.9 "General Amendment" means an amendment of this Agreement by MultiChoice Nigeria of which we inform you together with other subscribers electronically or on our website, or using an alternative method of informing subscribers collectively;
  - 1.10 "HDD" means the hard drive memory of the PVR Decoder;
  - 1.11 "Manufacturers" means the manufacturers of the Equipment;
  - 1.12 "MultiChoice Africa" means MultiChoice Africa Limited, a company registered in Mauritius with registration number 43308 C1/GBL, and any other person (including any legal person) to which that company may transfer its rights, obligations and interest in terms of this Agreement;

- 1.13 "MultiChoice Nigeria" means MultiChoice Nigeria Limited, a company registered in Nigeria with registration number RC234847, its duly authorised agent or representative and any other person (including any legal person) to which we may cede, assign, sub-contract or transfer our rights, obligations and/or interests in terms of this Agreement;
- 1.14 "MultiChoice Service" means one or more of the Bouquets and the associated services, features, facilities and applications provided by MultiChoice Nigeria;
- 1.15 "Nigeria" means the Federal Republic of Nigeria;
- 1.16 "Payment Instruction" means the instruction by you to your bank to pay your fees due in terms of this Agreement by way of a debit order or similar payment method;
- 1.17 "PVR Decoder" means an Approved Decoder with PVR Functionality;
- 1.18 "PVR Functionality" means the function of timeshifting, buffer, copying, memory, replay and any other similar functionality of the PVR Decoder introduced from time to time;
- 1.19 "Subscriber" means a person who requests, or who has authorised another person to request on his behalf, the right to have access to the MultiChoice Service on the terms and conditions of this Agreement, whose request is accepted by MultiChoice Nigeria, and whose subscription to the MultiChoice Service is active;
- 1.20 "System Rights" means the copyright and other intellectual property rights in the Equipment and in the MultiChoice Service, including the software incorporated therein;
- 1.21 "User Manual" is the standard operating instructions for your type of decoder;
- 1.22 "VAT" means Value Added Tax or any similar consumption based tax which MultiChoice Nigeria or our agents may be obliged to levy and/or collect;
- 1.23 "you" means the Subscriber;
- 1.24 "your Request" means your request for access to the MultiChoice Service.
- 2 Any reference in this Agreement to -
- 2.1 to the singular includes the plural, and vice versa; and
- 2.2 to one gender includes the other gender.

## **Preamble**

- 3 MultiChoice Nigeria is the holder of a direct-to-home broadcasting service licence in Nigeria.
- 4 MultiChoice Nigeria has an agreement with MultiChoice Africa as regards the provision of the MultiChoice Service in Nigeria. MultiChoice Africa provides the DStv service to subscribers in numerous countries in sub-Sahara Africa.
- 5 MultiChoice Africa, for MultiChoice Nigeria, acquires pre-packaged channels from channel suppliers and packages them into Bouquets.
- 6 Subscribers may request access to the MultiChoice Service for a minimum period of a number of complete months as determined by MultiChoice Nigeria from time to time.
- 7 MultiChoice Nigeria does not provide subscribers with -
  - 7.1 access to stand-alone programmes, channels, features, facilities or applications; or
  - 7.2 the option to subscribe for a portion of a month,although we reserve the right to do so in the future.
- 8 MultiChoice Nigeria may determine that certain aspects of the MultiChoice Service will only be available in conjunction with certain other aspects of the MultiChoice Service.

## **Terms and conditions of Agreement**

- 9 The terms and conditions on which MultiChoice Nigeria authorises persons to have access to the MultiChoice Service are set out below.
- 10 By subscribing to the MultiChoice Service you agree to be bound by this Agreement.

## **Request for MultiChoice Service**

- 11 Your Request must be made telephonically, in writing, or in person to MultiChoice Nigeria or one of our duly authorised representatives.
- 12 If MultiChoice Nigeria refuses your Request (which MultiChoice Nigeria reserves the right to do), MultiChoice Nigeria will have no obligation to you arising from your Request.

## **Commencement, duration and place of Agreement**

- 13 This Agreement commences on the date on which MultiChoice Nigeria accepts your Request by activating your subscription to the MultiChoice service.

- 14 This Agreement is binding on you and MultiChoice Nigeria unless and until -
  - 14.1 MultiChoice Nigeria notifies you (in any manner, whether verbally, electronically, telephonically or in writing) that it is terminating this Agreement with effect from a specified date; or
  - 14.2 the period for which you have paid, and MultiChoice Nigeria has received, full and valid payment of your fees in terms of this agreement expires and you have not yet renewed your subscription for a subsequent period and your subscription to the MultiChoice Service is disabled by MultiChoice Nigeria.
- 15 Each time you renew your subscription for a subsequent period you do so in terms of this Agreement as at the date of renewal.
- 16 The termination of this Agreement will not affect -
  - 16.1 MultiChoice Nigeria or the Subscriber's rights or remedies for the period prior to termination; or
  - 16.2 those rights and obligations which this Agreement intends, either expressly or by implication, will survive beyond termination.
- 17 Regardless of the place of your Request or of the acceptance of your Request, this Agreement is deemed to be concluded at MultiChoice Nigeria's principal place of business in Nigeria.

#### **Hardware**

- 18 Only you and the members of your household may use the MultiChoice smartcard to access the MultiChoice Service.
- 19 You may not tamper with the smartcard or attempt to use it for any purpose not authorised by MultiChoice Nigeria.
- 20 MultiChoice Nigeria may disable the smartcard, whether temporarily or permanently, if –
  - 20.1 any unauthorised person uses the smartcard;
  - 20.2 the smartcard is damaged, lost or stolen;
  - 20.3 you are in breach of this Agreement;
  - 20.4 the period for which you have paid for your subscription to the MultiChoice Service has expired; or
  - 20.5 it is otherwise reasonable to do so.

- 21 MultiChoice Nigeria recommends that you -
- 21.1 access the MultiChoice Service by using a smartcard supplied by MultiChoice Nigeria in an Approved Decoder and in accordance with the User Manual, if any;
  - 21.2 keep the smartcard in the Approved Decoder; and
  - 21.3 keep your decoder connected to the main power supply and to the satellite reception equipment, at least in standby mode, when not in use, to enable the updating of the software in the decoder via satellite. You acknowledge that in standby mode certain Approved Decoders generate heat and that you will position your decoder with these factors in mind.
- 22 MultiChoice Nigeria cannot guarantee that you will be able to access the MultiChoice Service, or any aspect thereof, either optimally or at all, if you do not act in accordance with the recommendations in clauses 18, 19 and 21.
- 23 If your smartcard is damaged, lost or stolen -
- 23.1 you must inform MultiChoice Nigeria immediately; and
  - 23.2 MultiChoice Nigeria will replace the smartcard subject to the payment by you of a replacement fee.

### **User Manual**

- 24 You agree to comply with the User Manual applicable to the Approved Decoder used by you, if any.
- 25 If there is any conflict between the provisions of this Agreement and the User Manual, this Agreement will prevail.

### **Advanced Decoder Functionality**

- 26 If you own a Decoder with Advanced Decoder Functionality you may request MultiChoice Nigeria to authorise you to use one or more such functions for which you will be obliged to pay the requisite fees. The provisions of clause 27 apply if MultiChoice Nigeria agrees to your Request by authorising you to use such Functionality.
- 27 You acknowledge that -
- 27.1 Advanced Decoder Functionalities are developing technologies;
  - 27.2 part of the memory space in the HDD is reserved for use by MultiChoice Nigeria for future applications, fault reporting and capturing user profiles;

- 27.3 MultiChoice Nigeria is not liable to you for any loss of memory space in the HDD nor for any loss or corruption of content recorded on the HDD;
- 27.4 the memory space available for your use on the HDD is a finite resource and MultiChoice Nigeria will have no obligation to provide you with additional memory space if you exhaust the memory space in your HDD.

### **Restrictions on receipt of and use of MultiChoice Service**

- 28 You may only receive and/or use the MultiChoice Service and the Equipment -
  - 28.1 in a single residential unit;
  - 28.2 for private use; and
  - 28.3 at the address provided by you and as recorded in MultiChoice Nigeria's billing system.
- 29 You may not use the MultiChoice Service in any manner or for any purpose other than as set out in clause 28 above. Nor may you, whether intentionally or negligently, permit any other person to do so. Without limiting the restrictions in clause 28, you may not attempt to or -
  - 29.1 access any aspect of the MultiChoice Service other than those aspects to which MultiChoice Nigeria has authorised you to have access;
  - 29.2 use the MultiChoice Service, or any aspect thereof, for any commercial purpose;
  - 29.3 receive and/or use the MultiChoice Service in a hotel, motel, pub, club, hostel, embassy, office, business or any similar premises;
  - 29.4 exhibit or provide the MultiChoice Service to the public, whether or not admission fees are charged;
  - 29.5 charge any person a fee to access any aspect of the MultiChoice Service;
  - 29.6 copy any of the content of the MultiChoice Service except by using the Decoder Functionality for timeshifting or later private use;
  - 29.7 hire-out, sell, redistribute, relay, retransmit or rebroadcast any of the content of the MultiChoice Service, including any copy thereof that you may have made, whether using the Decoder Functionality or otherwise;
  - 29.8 hack, reverse engineer or otherwise compromise the security of the conditional access system, operating software or encryption software

used in the smartcard and any decoder used to receive the MultiChoice Service, or in the HDD of a Decoder;

- 29.9 permit, facilitate or condone any other person doing any of the prohibited activities in clause 29, whether using your smartcard or your decoder or otherwise; or
  - 29.10 sell or otherwise transfer the Equipment without advising MultiChoice Nigeria immediately of the identity and contact details of the transferee. You indemnify MultiChoice Nigeria against any claim by the transferee in relation to such sale or transfer, including any claim by reason of the non-functionality of the Equipment, including in the case of an Approved Decoder with Advanced Decoder Functionality, the non-functionality of the advanced functions or by reason of offensive content stored in the HDD.
- 30 If you wish to receive and/or use the MultiChoice Service at an address other than the address referred to in clause 28.3, you must request MultiChoice Nigeria's prior consent to do so, which request we may consider.
  - 31 The Subscriber indemnifies MultiChoice Nigeria and its affiliated companies, and their directors, officers, employees, agents and representatives against any claim by a third party in respect of a breach by the Subscriber of clause 28 and/or 29.
  - 32 You acknowledge that a breach by you of the provisions of clauses 28 and/or 29 may constitute criminal activity and will result in considerable prejudice and damage to MultiChoice Nigeria and/or our channel suppliers.

#### **Fees**

- 33 MultiChoice Nigeria provides the MultiChoice Service on a "pre-paid" basis.
- 34 In order for you to receive the MultiChoice Service, you must pay MultiChoice Nigeria the requisite fees and any VAT and all other taxes, duties, levies or charges that may be levied by any government authority directly or indirectly in relation to the MultiChoice Service for the number of months determined by MultiChoice Nigeria in terms of clause 6.
- 35 These payments must be made in advance and in full for the forthcoming subscription period on or before the Due Date.
- 36 MultiChoice Nigeria will only activate your subscription to the MultiChoice Service once you have made, and MultiChoice Nigeria has received, payment in full in terms of clause 34.
- 37 If MultiChoice Nigeria activates your subscription to the MultiChoice Service on a date before the next Due Date, as selected by you or specified by MultiChoice Nigeria, then you must pay, on a pro rata basis, the requisite fees for the period for which your subscription was activated prior to the Due Date plus the requisite fees for the forthcoming subscription period.

- 38 If you do not pay the requisite fees in full for the forthcoming subscription period on or before the Due Date, your subscription to the MultiChoice Service will automatically expire and your smartcard will be disabled at the end of the subscription period for which you have paid.
- 39 You may not deduct from, or set off against, the fees which you are required to pay to MultiChoice Nigeria in terms of this Agreement any amount whatsoever which you claim from MultiChoice Nigeria or which MultiChoice Nigeria owes you.
- 40 MultiChoice Nigeria may from time to time change the fees payable to MultiChoice Nigeria for the MultiChoice Service by way of a General Amendment.
- 41 MultiChoice Nigeria may alter the Payment Instruction under which you pay your fees to MultiChoice Nigeria if the amounts payable by you to MultiChoice Nigeria should change for any reason. MultiChoice Nigeria may also charge and recover from you under that same instruction any other amounts owing by you under this Agreement.

#### **Communications with you**

- 42 MultiChoice Nigeria may communicate with you, amongst other methods, by means of e-mail, on-air communications, or by way of text or other messages to your cellular phone or to your decoder for display on your television screen.
- 43 The nature of such messages will vary, and MultiChoice Nigeria may use such messages, amongst other things, to -
  - 43.1 promote MultiChoice Nigeria's services and/or those of its channel suppliers and clients;
  - 43.2 advise you of the status of your account and any amounts owing by you to MultiChoice Nigeria;
  - 43.3 inform you that your subscription is about to expire unless it is renewed on or before a particular date;
  - 43.4 inform you about the MultiChoice Service and operational systems, and changes to these; and
  - 43.5 provide you with information which MultiChoice Nigeria believes may be of particular interest or relevance to you.
- 44 MultiChoice Nigeria is not liable for any loss or damage that you or any third party may suffer as a result of or in connection with e-mails or text messaging whether by MultiChoice Nigeria, you, or any third party using the MultiChoice Service and Equipment and you indemnify MultiChoice Nigeria against any loss or damage that you or any third party may suffer as a result of any such communications.



## **Access to and disclosure of information relating to you**

- 45 You authorise MultiChoice Nigeria to -
  - 45.1 capture, store, analyse and use for MultiChoice Nigeria's marketing purposes the viewing habits and profile of you and the members of your household, and to retrieve such information from your decoder;
  - 45.2 use data that MultiChoice Nigeria may hold in relation to you for the purposes of -
    - 45.2.1 processing your Requests;
    - 45.2.2 administering this Agreement;
    - 45.2.3 informing you of any amendments to this Agreement;
    - 45.2.4 informing you of any new aspects of the MultiChoice Service; and
    - 45.2.5 informing you of promotional competitions;
  - 45.3 disclose your personal information -
    - 45.3.1 to companies affiliated to MultiChoice Nigeria for purposes of marketing the services of those affiliated companies;
    - 45.3.2 to any company which acquires MultiChoice Nigeria's business or any part thereof; or
    - 45.3.3 if and to the extent that MultiChoice Nigeria is required to do so to comply with any applicable law, including the requirements of statutory authorities.

## **Intellectual property**

- 46 You acknowledge that -
  - 46.1 the Content Rights and the System Rights are either owned by, or licensed to, MultiChoice Nigeria;
  - 46.2 you acquire no right or interest in the Content Rights or the System Rights; and
  - 46.3 you will use your best endeavours to maintain and protect MultiChoice Nigeria's rights and interests, and that of its suppliers and licensors, in the Content Rights and the System Rights.
- 47 You indemnify MultiChoice Nigeria, and its affiliated companies, directors, officers and employees against any claim by a third party in respect of a breach by you of clause 46.3.

### **MultiChoice Nigeria's obligations**

- 48 In consideration for the fees paid by you, and subject to you complying with this Agreement, MultiChoice Nigeria, in accordance with this Agreement, will provide you with access to the MultiChoice Service you have subscribed to.
- 49 Subject to you complying with this Agreement, MultiChoice Nigeria's authorising you to have access to the MultiChoice Service will continue for the duration of your subscription period, provided that MultiChoice Nigeria will have no obligation -
  - 49.1 to ensure that the Equipment is installed correctly;
  - 49.2 subject to the terms of the Manufacturers' warranties and/or the decoder care plan (if that plan is available and you have chosen to be covered by that plan) –
    - 49.2.1 to ensure that the Equipment is and remains functional;
    - 49.2.2 to maintain any component of the Equipment; or
  - 49.3 to ensure the integrity or error-free playback of the content copied to the HDD.

### **Subscriber's obligations**

- 50 Subject to this Agreement, and in addition to any other obligations imposed on you in terms of this Agreement, you must -
  - 50.1 provide MultiChoice Nigeria with your personal information required by MultiChoice Nigeria in order to activate your subscription;
  - 50.2 inform MultiChoice Nigeria in writing within seven days of any change to any of the information provided by you in relation to this Agreement;
  - 50.3 inform MultiChoice Nigeria immediately if you become aware of -
    - 50.3.1 any act or attempt by any party in relation to the Equipment or any aspect of the MultiChoice Service which, if committed by you, would be a breach of this Agreement;
    - 50.3.2 any damage to, loss, theft or unauthorised use of the Equipment;
  - 50.4 use the parental control mechanism on the MultiChoice Service to block your and the members of your household's access to content on the MultiChoice Service which you consider inappropriate or undesirable.

## **No warranties, limitation of liability, and indemnities**

- 51 MultiChoice Nigeria makes no warranty or representation, whether expressly or implicitly, -
- 51.1 subject to the terms of the warranty and the decoder care plan described in clause 49.2, as regards any component of the Equipment nor that you will be able to access, or to continue to access, the MultiChoice Service using the Equipment;
  - 51.2 as to the Coverage Area or that the MultiChoice Service, or any aspect thereof, will be available in all parts of the Coverage Area;
  - 51.3 as to the quality of or uninterrupted or loss of reception by you of the MultiChoice Service, or any aspect thereof, in the Coverage Area to the extent that this results from causes beyond MultiChoice Nigeria's control;
  - 51.4 as to the content of the MultiChoice Service, including as regards the subject, nature, quality, reliability, truthfulness or accuracy of the content.
- 52 Subject only to the terms of the warranty and the decoder care plan described in clause 49.2, MultiChoice Nigeria is not liable -
- 52.1 for any loss or damage suffered by you or any other third party, which arises out of -
    - 52.1.1 any act or omission of MultiChoice Nigeria or its directors, officers and employees, subject to the provisions of clause 52.4;
    - 52.1.2 any act or omission of MultiChoice Nigeria or its consultants, subcontractors or affiliated companies; and
    - 52.1.3 the exercise by MultiChoice Nigeria of our rights in terms of this Agreement; or
    - 52.1.4 any breach by you of your obligations under this Agreement, and you specifically indemnify MultiChoice Nigeria and our affiliated companies, directors, officers and employees against any claim by you or any third party arising out of such breach;
  - 52.2 to any person for the content on and/or the use of materials constituting the MultiChoice Service, whether provided by MultiChoice Nigeria or a third party, and you acknowledge that –
    - 52.2.1 the MultiChoice Service may contain images and/or content that may be regarded as unsuitable or offensive by some viewers;

- 52.2.2 MultiChoice Africa, for MultiChoice Nigeria, mainly acquires complete channels from channel suppliers and packages them into Bouquets and as such MultiChoice Africa and MultiChoice Nigeria have no influence over, and are unable to alter, the content of the channels; and
- 52.2.3 the channels on each Bouquet may vary from time to time, and that the content of each individual channel may, from time to time, change; furthermore, the channels on each Bouquet or content therein may vary from country to country depending on the programming rights for that specific country or for any other reason;
- 52.3 for any delay or failure by MultiChoice Nigeria to provide the MultiChoice Service, or any aspect thereof, to the Subscriber to the extent that such delay or failure results from causes beyond MultiChoice Nigeria's direct or indirect control;
- 52.4 for any delay, interruption, defect or failure in the distribution or reception of the MultiChoice Service, or any aspect thereof, regardless of the nature, duration or cause thereof, in the absence of gross negligence or wilful default on MultiChoice Nigeria's part. If such delay, interruption, defect or failure is due to such gross negligence or such wilful default, then you will be entitled, as your sole and exclusive remedy, to a credit against future payments of subscription fees equal to the pro-rata portion of the fees representing the period of the delay, interruption, defect or failure to the extent caused by MultiChoice Nigeria's gross negligence or wilful default. Without limiting the generality of this clause, MultiChoice Nigeria will not be liable for any loss or damage suffered by you or any other third party, and will not refund you any of the fees paid by you in terms of this Agreement, in the event of interruption to or loss of reception by you of the MultiChoice Service, or any aspect thereof, due to power failures or any other causes beyond MultiChoice Nigeria's control;
- 52.5 for any delay, interruption, defect or failure in the distribution or reception of the MultiChoice Service, or any aspect thereof, regardless of the nature, duration or cause thereof, which MultiChoice Nigeria deems necessary for any purpose related to MultiChoice Nigeria's business, including, without limitation, in order to support the operation, maintenance and security of the MultiChoice Service, or any aspect thereof;
- 52.6 subject to the terms of the Manufacturers' warranties and/or the decoder care plan (if that plan is available and you have chosen to be covered by that plan) for any defect in or failure or malfunction of the Equipment, regardless of the nature or cause thereof.

- 53 Although MultiChoice Nigeria strongly recommends the use of MultiChoice accredited installers for the installation of the Equipment, each installer acts as an independent contractor and is not an employee, subcontractor or agent of MultiChoice Nigeria. Neither the manufacturer(s) nor MultiChoice Nigeria is liable for any loss or damage of any nature whatsoever caused by the conduct of an installer, including as a result of -
- 53.1 any breach by an installer of any of its obligations to you; and
  - 53.2 an act or omission on the part of an installer.
- 54 You indemnify MultiChoice Nigeria and its affiliated companies, directors, officers and employees against any claim by any third party arising from a breach by you of any provision of this Agreement.

#### **Amendments to and variations in MultiChoice Service**

- 55 The nature, composition and content of the MultiChoice Service are determined by MultiChoice Nigeria in its discretion, and may be changed by MultiChoice Nigeria from time to time.
- 56 Without limiting clause 55, MultiChoice Nigeria may –
- 56.1 replace, remove or otherwise amend any aspect of the MultiChoice Service, including but not limited to -
    - 56.1.1 any facets, applications, facilities, features and/or functionality of the MultiChoice Service;
    - 56.1.2 the range, nature and format of the MultiChoice Service;
    - 56.1.3 the content of the MultiChoice Service, including but not limited to the number, nature, composition and content of specific Bouquets and the number, nature, composition and content of specific channels, including (without limitation) adding new programming, channels, services, and/or Bouquets, and replacing, removing or otherwise amending others;
    - 56.1.4 the range, nature and number of any ancillary applications, facilities or services;
  - 56.2 advise you of any additional aspect of the MultiChoice Service which become available, the conditions applicable thereto and the charges therefore, if any, and which, if you request to receive this additional aspect, you will be obliged to pay the additional charge, if any;
  - 56.3 advise you of any aspect of the MultiChoice Service for which you must pay an additional charge if you wish to continue receiving it, and which, if you request to continue to receive this aspect, you will be obliged to pay the additional charge.

- 57 You acknowledge that -
- 57.1 MultiChoice Africa provides the MultiChoice Service in numerous countries;
  - 57.2 aspects of the MultiChoice Service provided by MultiChoice Nigeria and the cost therefore may differ from those aspects of the service provided by MultiChoice Africa in other countries and will not necessarily be available in Nigeria;
  - 57.3 MultiChoice Nigeria cannot guarantee that the MultiChoice Service, or aspects thereof, in whole or in part, will be available at all places within a particular country or in every country in which MultiChoice Africa operates;
  - 57.4 Equipment acquired or used in one country or in the coverage area of a particular satellite might not be able to be used to receive the MultiChoice Service, or aspects thereof, in another country or in the coverage area of another satellite.
- 58 The various systems necessary for or associated with the provision of the MultiChoice Service are determined by MultiChoice Nigeria and are subject to ongoing innovation and change and may be amended by MultiChoice Nigeria from time to time. Without limiting the above you agree that MultiChoice Nigeria may -
- 58.1 update, amend or replace the software of these systems, including by means of "over the air" software downloads, to address any system errors or other problems relating to the software, to improve security, to provide additional features or functionality, to limit any use of the Equipment outside the scope of this Agreement, and to ensure that the decoders used by subscribers are not authorised to decrypt signals other than those authorised by MultiChoice Nigeria;
  - 58.2 recommend that you upgrade, reconfigure, change or replace ("upgrade"), at your cost if applicable, the Equipment used by you to access the MultiChoice Service. You acknowledge that your continued access to the MultiChoice Service could be negatively affected if you do not act on this recommendation; or
  - 58.3 disable or remotely alter the functionality of the PVR Decoder to prevent you from copying certain programmes or channels if MultiChoice Nigeria becomes obliged to do so.
- 59 You acknowledge that you will have no rights, interests or expectations to any increases or decreases in the fees payable by you if MultiChoice Nigeria makes any amendment to the MultiChoice Service in terms of clauses 55 to 58, or any other clause of this Agreement.

## **Amendment of Agreement**

- 60 You agree to be bound by this Agreement or the User Manual as amended from time to time.
- 61 MultiChoice Nigeria may amend this Agreement from time to time by way of a General Amendment. In this event, MultiChoice Nigeria will post the revised agreement on MultiChoice Nigeria's website and/or make it available in MultiChoice Nigeria's offices.
- 62 You agree to be bound by such General Amendment from the date specified by MultiChoice Nigeria when making the General Amendment.

## **Breach of agreement**

- 63 Your failure to comply with this Agreement or the User Manual constitutes a material breach of this Agreement.
- 64 If you breach this Agreement -
  - 64.1 MultiChoice Nigeria, without prejudice to any other remedy that MultiChoice Nigeria may have, may immediately and without notice to you, disable the smartcard, terminate your authority to have access to the MultiChoice Service, and/or terminate this Agreement;
  - 64.2 you must pay all legal costs, including attorney and own client costs, tracing agent's fees and collection charges which MultiChoice Nigeria may incur in taking any steps pursuant to such breach; and
  - 64.3 you must pay MultiChoice Nigeria any loss or damage incurred by MultiChoice Nigeria directly or indirectly as a result of your breach.
- 65 If, after the agreement has been terminated, you -
  - 65.1 remedy your breach;
  - 65.2 comply with this Agreement; and
  - 65.3 pay MultiChoice Nigeria all amounts due to MultiChoice Nigeria in terms of this Agreement

then you may submit a new request to MultiChoice Nigeria with a view to concluding a new agreement.

## **General**

- 66 This Agreement -
  - 66.1 constitutes the sole and complete record of the agreement between you and MultiChoice Nigeria in regard to its subject matter; and

- 66.2 supersedes any previous agreement between you and MultiChoice Nigeria in terms of which you were authorised to have access to the MultiChoice Service.
- 67 Neither you nor MultiChoice Nigeria is bound by any express or implied representation, warranty, undertaking, promise or the like not recorded in this Agreement.
- 68 Any relaxation or indulgence which MultiChoice Nigeria may show you at any time in regard to this Agreement is without prejudice to, and does not constitute a waiver of, any rights MultiChoice Nigeria may have, either in terms of this Agreement or any law.
- 69 If any provision of this Agreement is found to be wholly or partly invalid, unenforceable or unlawful, then -
- 69.1 this Agreement will be severable in respect of the provision in question to the extent of its invalidity, unenforceability or unlawfulness; and
- 69.2 the remaining provisions of this Agreement will remain in full force and effect.
- 70 The rule of construction that this Agreement will be interpreted against the party responsible for the drafting or preparation of this Agreement will not apply.
- 71 MultiChoice Nigeria may cede any of our rights and/or assign any of our obligations under this Agreement to any person. Any right, interest, benefit, obligation or function of MultiChoice Nigeria will vest in MultiChoice Nigeria's agent, representative, successor in title and any other person (including any legal person) to which we may cede, assign, sub-contract or transfer our rights, obligations and/or interests in terms of this Agreement.
- 72 You may not cede any of your rights and/or assign any of your obligations under this Agreement to any other person.
- 73 This Agreement is subject to, and will be interpreted, implemented and enforced, in terms of the laws of Nigeria.
- 74 You irrevocably submit to the jurisdiction of the relevant courts of Nigeria, including the Magistrates Court, in respect of all proceedings arising out of or pursuant to this Agreement.
- 75 The parties choose the following addresses for the service of all notices and processes arising out of this Agreement -
- 75.1 MultiChoice Nigeria: 1379 Tiamiyu Salvage Crescent, Victoria Island, Lagos.
- 75.2 You: The physical address supplied by you when making your Request, as amended by you from time to time.