

**THE MULTICHOICE TERMS AND CONDITIONS GOVERNING SUBSCRIPTION TO OUR
TELEVISION SERVICES BY INDIVIDUALS FOR THEIR PRIVATE USE
(SOUTH AFRICA & LESOTHO)**
(“Subscription Terms and Conditions”)

Interpretation

1 In these Terms and Conditions, the following terms will have the following meanings:

1.1 “Access Device” means the device that can be used for online viewing and/or downloading DStv and its Content;

1.2 “Advanced Decoder Functionality” means new and developing technological functions supported by your Approved Decoder, which are introduced or become obsolete from time to time as a result of technological innovation;

1.3 “Agreement” means the agreement concluded between you and MultiChoice when MultiChoice accepts your Request, including these Terms and Conditions, your Request Record, and, where applicable, any documentation included with our Approved Decoders, or any applicable Rules as amended from time to time, (as they appear on our Website);

1.4 “Applicable Laws” means the applicable provisions of any applicable laws;

1.5 “Approved Decoder” means a decoder approved by MultiChoice;

1.6 “Billing Period” means the monthly period between:

1.6.1 the date corresponding with the Commencement Date; and

1.6.2 the day before the same date in the next month, which is also the Monthly Due Date.

1.7 “Package” means a set of audiovisual, audio and/or data material provided by MultiChoice or by Electronic Media Network Ltd, as the case may be;

1.8 “Commencement Date” means the date on which we activate your access to the Service;

1.9 “Consumer Protection Act” means the Consumer Protection Act, 68 of 2008, as amended from time to time;

1.10 “Content Rights” means the copyright and other intellectual property rights to the audiovisual, audio and/or data material provided by MultiChoice or by Electronic Media Network Ltd, as the case may be;

1.11 “Coverage Area” means the geographical area in South Africa and Lesotho in which the Service is provided;

1.12 “Equipment” means the mechanism required in order to receive and decrypt the Service, and includes (if applicable) the Approved Decoders, the Smartcard, Website, Applications, and related satellite reception equipment and cabling;

1.13 “your Fees” means the fees payable by you in respect of your access to the Service (including subscription fees, administrative fees and fees for optional extras as well as any VAT and other taxes, duties, levies or charges thereon that may be levied by any government authority directly or indirectly in relation to the Service), as reflected in your Request Record and amended from time to time by us on notice to you, which fees are payable to us directly or through one of our authorised representatives, in any manner authorised by us from time to time;

1.14 “General Amendment” means an amendment of these Terms and Conditions by us from time to time on notice to you;

1.15 “HDD” means the hard drive memory of a PVR Decoder;

1.16 “Manufacturer” means the manufacturer of the Equipment;

1.17 “Monthly Due Date” means the date each month by which we must receive payment of your Fees;

1.18 "MultiChoice", "we" or "us" means MultiChoice Operations (Pty) Ltd and any other person to which it may transfer its rights, obligations and interests in the terms of the Agreement;

1.19 "Payment Instruction" means the instruction by you to your bank to pay your Fees by way of a debit order or similar payment method;

1.20 "your Physical Address" means the physical address recorded in your Request Record (being the physical address furnished by you in your Request, as amended from time to time on notification by you to us);

1.21 "PVR Decoder" means an Approved Device with PVR Functionality;

1.22 "PVR Functionality" includes the functions of time-shifting, buffer, copying, memory, replay and any other similar functions of the PVR Decoder introduced from time to time;

1.23 "Reconnection Fee" means the fee payable by you (where applicable), following suspension of your access to the Service, for reconnection of such access by us, the amount of such fee being ascertainable from the Website or on request to us;

1.24 "your Request" means your request for access to the Service on these Terms and Conditions, which request may have been made by you in the following ways:

1.24.1 telephonically; or

1.24.2 in any other manner authorised by us from time to time.

1.25 "your Request Record" means the electronic record kept by us of your Request, as updated from time to time, and containing:

1.25.1 your personal information;

1.25.2 your preferred method of correspondence;

1.25.3 the Service to which you have requested access;

1.25.4 your Fees and your preferred method of payment;

1.25.5 where applicable, your Equipment details and Equipment installation;

1.25.6 your election in respect of marketing communications.

1.26 "The Rules" means the rules which govern your services and the associated services, features, facilities and applications; and any additional functionalities selected by you, as amended from time to time as they appear on our Website;

1.27 "your Schedule" means the Subscription Agreement Schedule completed by you and submitted to us, containing your Request;

1.28 "the Service" means:

1.28.1 the Package/s selected by you and the associated services, features, facilities and applications; and

1.28.2 any additional functionalities selected by you.

1.29 "Smartcard" means a smartcard required (if applicable) for use in an Approved Device for you to access the Service;

1.30 "Subscription Agreement Schedule" means the schedule made available by us, in hard copy or online, in which you may make your Request in writing;

1.31 "System Rights" means the copyright and other intellectual property rights in the Equipment and in the Service, including the software incorporated therein;

1.32 "Terms and Conditions" means the terms and conditions contained in this document, as amended from time to time, such Terms and Conditions being freely available to you on the Website or on request to us;

1.33 "VAT" means Value-Added Tax as provided for in the Value-Added Tax Act, 89 of 1991 or any similar consumption based tax which we or our agents may be obliged to levy and/or collect;

1.34 "Website" means the website located at <http://www.dstv.com>, <http://www.multichoice.com> or <http://www.mnet.co.za> or any other uniform resource locator (URL) used by us from time to time;

1.35 "You" or "your" refers to a person who has made a request for access to the Service on these Terms and Conditions.

2 Any reference in these Terms and Conditions to:

2.1 the singular includes the plural, and vice versa; and

2.2 one gender includes the other gender.

3 Please note that you may be entitled to certain rights in terms of Applicable Laws. For the avoidance of any doubt, no term or provision contained in the Agreement is to be interpreted or construed so as to directly or indirectly:

3.1 exclude, limit, waive or deprive you of any rights which you may have in terms of Applicable Laws;

3.2 avoid any obligation or duty which we may have in terms of Applicable Laws;

3.3 set aside or override the effect of any applicable provision of Applicable Laws; or

3.4 authorise us to do anything that is unlawful in terms of Applicable Laws or fail to do anything that is required in terms of Applicable Laws, to the extent that it is impermissible to do so.

Place of Agreement, Commencement and Duration

4 The Agreement is deemed to be concluded at our principal place of business in Randburg, South Africa, and commences on the date on which we accept your Request by activating your access to the Service.

5 Subject to the breach provisions in these Terms and Conditions, the Agreement is binding on you and us unless and until terminated by you or by us as follows:

5.1 we notify you (in any manner, whether telephonically, electronically, in writing or in person) that we are terminating the Agreement with effect from a specified future date, which we may do at any time subject to clause 7; or

5.2 you notify us (in any manner, whether telephonically, electronically, in writing or in person) that you are terminating the Agreement with effect from a specified future date, which you may do at any time subject to clause 7.

6 The termination of the Agreement will not affect:

6.1 our rights or remedies, or yours, for the period prior to termination; or

6.2 those rights and obligations which, in terms of the Agreement, either expressly or by implication, will survive beyond termination.

7 If either party terminates the Agreement in terms of clause 5:

7.1 such termination will take effect from:

7.1.1 the last day of the Billing Period in which the termination notice is received, if the termination notice is received by the other party at least five business days prior to that date; or

7.1.2 the last day of the next Billing Period if the termination notice is not received by the other party at least five business days prior to the last day of the Billing Period in which the termination notice is received.

7.2 If, at the time that the termination takes effect, you have already made payment of your Fees in respect of any subsequent Billing Period/s, then we will, within 30 business days after the termination takes effect, refund to you your Fees in respect of such subsequent Billing Period/s.

Your Fees

8 We will provide the Service to you on a pre-paid basis.

9 In order to have continued access to the Service you must make, and we must receive, payment of your Fees in advance on or before the Monthly Due Date.

10 If we do not receive payment of your Fees as contemplated in clause 9 above, we may suspend your access to the Service.

11 If you request reconnection to the Service for which your access is suspended, we may request a Reconnection Fee, and we will not reconnect your access to the Service until we have received payment for all amounts owing.

12 If you have sufficient credit in your account to connect to the Service, we may, without your request, reconnect your suspended services.

13 We will notify you immediately after the reconnection of your service as envisaged in clause 12. You may opt out of the reconnection by advising us, following which, your account balance will be restored to its original state.

14 We may from time to time amend the fees payable in respect of access to the Service. We will notify you of such an amendment as soon as practicable prior to implementing it, so that if you wish to terminate the Agreement you may do so. We may alter the Payment Instruction to correspond with any change in your Fees.

15 We may use payment systems owned and operated by third parties ("Payment System Providers") to facilitate the collection of fees and other amounts payable by you in respect of the Service. None of these Payment System Providers is our employee, subcontractor, agent, intermediary or representative, or otherwise controlled by us.

Copies of your Request Record

16 We will send you:

16.1 a copy of the Request Record on the conclusion of the Agreement or on request by you; and

16.2 written notification of any amendments to the Request Record electronically if you have provided us with the relevant electronic contact details.

Your Personal Information

17 Subject to the Agreement and any Applicable Laws, and in addition to any other information to be furnished by you in terms of the Agreement, you must:

17.1 provide us with your personal information as required by us in order to activate and administer your access to the Service;

17.2 inform us in writing within seven business days of any change to any of the information provided by you in relation to the Agreement.

18 You authorise us, subject to any Applicable Laws, to:

18.1 access from credit bureaux who are members of the Credit Bureau Association and subscribe to its Code of Conduct ("credit bureaux") your personal information concerning financial risk and payment habits ("payment profile") for purposes of fraud prevention and debtor tracing, and to disclose information regarding your payment profile to such credit bureaux;

18.2 obtain (where applicable by retrieval from your Approved Decoder and /or the online application or website), capture, store, analyse and use for our marketing purposes your viewing habits and profile;

18.3 use information that we may have in relation to you for the purposes of:

18.3.1 processing your Request;

18.3.2 administering the Agreement;

18.3.3 informing you of any new aspects of the Service or services provided by our affiliates;

18.3.4 informing you of promotional competitions; and

18.3.5 notifying you of a General Amendment;

18.4 disclose your personal information:

18.4.1 to companies affiliated with us for purposes of marketing their services (subject to your right to refuse such disclosure of your personal information);

18.4.2 to any company which acquires our business or any part thereof, or which we acquire;

18.4.3 to agents, representatives, or service providers which we appoint to process your Request, administer the Agreement or provide subscriber management services;

18.4.4 to our payment system providers in order to facilitate the collection of your Fees using payment systems owned and operated by third parties; or

18.4.5 and to the extent that we are required to do so, to comply with any Applicable Law; and

18.5 retain your personal information referred to in this clause for as long as we are required to do so in terms of Applicable Laws or in order to exercise or protect any of our rights under the Agreement.

19 It is your responsibility to ensure that the information which you provide to us is complete, accurate and up to date.

Our Obligations

20 In consideration for your payment of your Fees, and subject to you complying with the Agreement, we will provide you with access to the Service in accordance with the Agreement.

21 Subject to your compliance with the Agreement, we will continue to provide you with access to the Service until your access is suspended or the Agreement is terminated in terms of these Terms and Conditions.

22 Subject to any Applicable Laws, the terms of any express written warranties, any warranties implied by law, we have no obligation:

22.1 to ensure that the Equipment is or remains functional or error-free and enables you to access the Service;

22.2 to ensure that any aspect of the Advanced Decoder Functionality is or remains functional or error-free;

22.3 to maintain any component or aspect of the Equipment or the Advanced Decoder Functionality;
or

22.4 to ensure the integrity or error-free playback of the material copied to the HDD.

Restrictions on Access to and Use of the Service

23 You may access and use the Service only for private domestic use.

24 You may not use the Service in any manner or for any purpose other than as set out in the Agreement. Nor may you negligently or intentionally permit any other person to do so. Without limiting the restrictions in clause 23, you may not attempt to or:

24.1 access any component of the Service other than those components to which you are authorised to have access;

24.2 use the Service, or any component thereof, for any commercial purpose;

24.3 exhibit or provide the Service to the public, whether or not admission fees are charged;

24.4 charge any person a fee to access the Service;

24.5 copy any of the audiovisual, audio and/or data material in the Service, except by using the PVR Functionality for time shifting or later private use during the period of the Agreement;

24.6 hire-out, sell, redistribute, relay, retransmit or rebroadcast any of the audiovisual, audio and/or data material in the Service, including any copy thereof that you may have made, whether using the Advanced Decoder Functionality or otherwise;

24.7 hack, reverse engineer or otherwise compromise the security of the conditional access system, operating software or encryption software used in the Equipment used to receive the Service, or in the HDD; or

24.8 permit, facilitate or condone any other person conducting any of the prohibited activities in this clause, whether using your Equipment or otherwise.

25 If you sell or otherwise transfer the Equipment, then you must advise us in writing, within seven business days thereafter, of the identity and contact details of the transferee.

26 You agree that we may, from time to time, and on reasonable notice, delay or interrupt the distribution or reception of the Service, or any aspect thereof, if this is reasonably necessary for any purpose related to our business, including in order to support the provision, operation, maintenance and security of the Service, or any aspect thereof.

Equipment

27 You acknowledge that certain aspects of the Service may only be available in conjunction with certain Equipment.

28 You must use an Approved Decoder or Access Device to access the Service.

29 You undertake:

29.1 to comply with any warnings and instructions included with the Equipment when you install and use the Equipment;

29.2 not to alter the Equipment in any way;

29.3 if applicable, to keep the Smartcard (if any) in the Approved Decoder; and

29.4 if applicable, to keep your decoder connected, at least in standby mode when not in use, to the main power supply and to the reception equipment, to enable the functionality of the software, updating of the software in the decoder and in order to ensure that your continued access to the Service is not negatively affected. You acknowledge that in standby mode certain Approved Decoders generate heat and that you will position your decoder with this factor in mind.

30 If your Smartcard is damaged, lost or stolen:

30.1 you must inform us thereof within 48 hours of your becoming aware thereof; and

30.2 we or one of our duly authorised representatives will replace the Smartcard, subject to the payment by you of a standard replacement fee.

31 We may disable the Equipment or your access, either temporarily or permanently, if

31.1 it is damaged, lost or stolen;

31.2 you breach any provision of the Agreement, and you fail to remedy such breach within 10 business days of the date of written notice from us requiring you to do so;

31.3 you have not made payment of your Fees;

31.4 it is necessary to protect the integrity of the conditional access system used for the Service; or

31.5 it is otherwise reasonable to do so.

32 You may access material recorded on the HDD only while you have access to the Service.

33 No material on the HDD may be copied, modified, sold or transferred to any person.

Warranties and Limitation of Liability

34 Subject to any Applicable Laws, we make no warranty or representation, whether expressly or implicitly:

34.1 about any component of the Equipment, or that you will be able to access or continue to access the Service using the Equipment, or that such access will be continuous and/or uninterrupted;

34.2 as to the quality of reception by you of the Service, or any aspect thereof, in the Coverage Area to the extent that this depends upon factors beyond our control; or

34.3 that the software used to provide the Service, including our system software and software applications, is error-free, flawless or without fault.

35 Subject to any Applicable Laws, we are, in the absence of our gross negligence or willful misconduct or that of any person acting for or controlled by us, not liable:

35.1 to any person for the content of and/or the use of materials constituting the Service, whether provided by us or a third party, and you agree that the Service may contain images and/or content that may be regarded as unsuitable or offensive by some viewers; or

35.2 for any malfunction of the Equipment if such malfunction does not amount to a defect, failure, hazard, or unsafe characteristic as contemplated in the Consumer Protection Act.

Intellectual Property

36 You agree that:

36.1 the Content Rights and the System Rights are either owned by, or licensed to, us or our affiliates and that by entering into the Agreement you acquire no right or interest in such rights; and

36.2 you will not infringe our rights or interests, or those of our suppliers or licensors, in the Content Rights and the System Rights, in the course of your access to and use of the Service. Nor may you negligently or intentionally permit any other person to do so.

Security

37 You acknowledge that the provision of the Service may include and/or rely on a technological security framework ("security framework") designed to protect the Service against unauthorised use, which security framework will be automatically implemented, maintained and modified from time to time.

38 You agree to such implementation, maintenance, and modification of the security framework, which may include the disconnection or discontinuation of any features of the Equipment which facilitate unauthorised use of the Service.

39 Our failure to implement the whole or part of the security framework will not constitute a waiver of any of our rights resulting from the unauthorised use of the Service.

Communications with Us

40 You may authorise any person to communicate with us on your behalf in relation to the Agreement, provided that such person complies with our standard security check. You agree to be bound by all requests and undertakings made by third parties on your behalf in terms of this clause.

41 It is your responsibility not to disclose the personal information relevant to our standard security check to third parties whom you have not authorised to represent you.

Communications with You

42 Subject to any Applicable Laws and our Privacy Notice (available on our Website), we 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, computer, laptop, mobile device or to your decoder for display on your television screen.

43 Subject to any Applicable Laws and our Privacy Notice (available on our Website), we may use such communication methods, among other things, to:

43.1 market or promote our services and/or those of our suppliers, affiliates and/or clients, subject to your right to restrict unwanted direct marketing;

43.2 inform you about the Service and operational systems, and changes to these;

43.3 provide you with information which we believe may be of particular interest or relevance to you;

43.4 advise you of the status of your account and/or any amounts owing by you to us;

43.5 remind you of forthcoming dates on which payment of your Fees may be due; and

43.6 notify you of a General Amendment.

Amendments To and Variations in the Service

44 The nature, composition and content of the Service are determined by us and may be changed by us from time to time, subject to any Applicable Laws, and subject to your right to terminate the Agreement in accordance with these Terms and Conditions.

45 The various systems necessary for or associated with the provision of the Service (including technical services, signal distribution and satellite capacity, the conditional access system, the software operating system, software applications, subscriber management services and business systems) are determined by us and are subject to ongoing innovation and change and may be amended by us from time to time, subject to any Applicable Laws and subject to your right to terminate the Agreement in accordance with these Terms and Conditions.

Amendment of the Agreement

46 Subject to the terms of the Agreement and any Applicable Laws, you agree to be bound by a General Amendment from the date specified in the General Amendment notice, which will be a date a reasonable time after the date of the General Amendment notice.

Breach of Agreement

47 If any party ("the Defaulting Party") breaches any provision of the Agreement and fails to remedy such breach within 10 business days of receipt of written notice from the other party ("the Aggrieved Party") requiring it to do so, then the Aggrieved Party will be entitled, at its option:

47.1 to claim immediate specific performance of any of the Defaulting Party's obligations under the Agreement, whether or not such obligation is then due; or

47.2 in the event of the breach of a material provision of the Agreement in circumstances where the remedy of specific performance or damages would not adequately prevent the Aggrieved Party from being prejudiced, to cancel the Agreement, in which case the Aggrieved Party must give the Defaulting Party notice in writing of the cancellation, and the cancellation will take effect on the giving of the notice.

48 The cancellation of the Agreement will not affect:

48.1 our rights or remedies, or yours, for the period prior to cancellation; or

48.2 those rights and obligations which in terms of the Agreement, either expressly or by implication, will survive beyond cancellation.

49 The breach provisions in these Terms and Conditions are without prejudice to any other remedies to which a party may be entitled at law, including the right to claim damages.

50 In addition to our rights under clause 47, if you materially breach the Agreement we may, without prejudice to any other remedy that we may have, immediately and without notice to you, suspend your access to the Service.

51 If we have suspended your access to the Service and you:

51.1 remedy your breach;

51.2 comply with the Agreement; and

51.3 make payment to us of your Fees and the Reconnection Fee, then we may reconnect your access to the Service.

General

52 These Terms and Conditions, read with your Request Record:

52.1 constitute the sole and complete record of the Agreement between you; and

52.2 supersede any previous agreement between you and us, or between you and any other company, in terms of which you were authorised to have access to the Service.

53 Neither you nor we are bound by any express or implied representation, warranty (except any warranty implied by law), undertaking, promise or the like not recorded in the Agreement.

54 Any relaxation or indulgence which we may show you at any time in regard to the Agreement is without prejudice to, and does not constitute a waiver of, any rights we may have, either in terms of the Agreement or any Applicable Laws.

55 If any provision of the Agreement is found to be wholly or partly invalid, unenforceable or unlawful, then:

55.1 the Agreement will be severable in respect of the provision in question to the extent of its invalidity, unenforceability or unlawfulness; and

55.2 the remaining provisions of the Agreement will remain of full force and effect.

56 We may cede our rights in terms of the Agreement to any person without your consent.

57 You may not cede any of your rights or transfer/assign any of your obligations under the Agreement to any person without our prior written consent.

58 The Agreement is subject to, and will be interpreted, implemented and enforced in terms of the laws of South Africa.

59 The parties consent to the jurisdiction of the Magistrates' Court in respect of all proceedings arising out of or pursuant to the Agreement. This notwithstanding, either party may institute any proceedings arising out of or pursuant to the Agreement in any Division of the High Court of South Africa having jurisdiction or any other forum having jurisdiction.

60 Subject to the Agreement, the parties choose the following addresses for the service of all notices and processes arising out of the Agreement:

60.1 Us: 144 Bram Fischer, Randburg, 2125, Gauteng, South Africa.

60.2 You: Your Physical Address.

61 Either party may at any time by written notice to the other party vary its domicile address in terms of clause 60 to any address within the Republic of South Africa.

62 A notice actually received by a party will be adequate notice to that party notwithstanding that it was not delivered to that party's domicile address in terms of clause 60.