

Terms and conditions of subscription to MultiChoice's digital satellite subscription broadcasting service for Commercial Use

1. Interpretation

1. In these terms and conditions the following terms will have the following meanings -

1. **"Additional Channel"** means a standalone audiovisual channel which MultiChoice, in its discretion, offers as a standalone channel, from time to time, and which the Subscriber may request access to;
2. **"Advanced Decoder Functionality"** means new and developing technological functions, applications and formats supported by the Subscriber's Approved Decoder, such as PVR Functionality, the ability to view different channels simultaneously on two different viewing environments, and high definition television, whether existing currently or in the future;
3. **"Agreement"** means this subscription agreement, as amended from time to time, and the Subscriber Application Form;

4. **“Approved Decoder”** means a decoder which complies with MultiChoice's specifications for receiving the MultiChoice Service;
5. **“Audio Bouquet”** means a package of music audio channels, whether with or without associated data;
6. **“Audiovisual Bouquet”** means a package of audiovisual channels, whether with or without associated data;
7. **“Bouquet”** means a package of audiovisual, audio and/or data channels;
8. **“Commercial Use”** means use of the MultiChoice Service by any person for any purpose authorised in terms of this Agreement -
 1. other than private use by an individual in a domestic environment;
 2. in the course of running a business or providing a service;
 3. to the extent that the use of the MultiChoice Service by that person or its patrons is incidental to that person's

business or service activities provided that the person does not derive any income directly from the use of the MultiChoice Service;

1. “**Content Rights**” means the copyright and other intellectual property rights to all materials, including the content, constituting the MultiChoice Service or any aspect thereof;

1. “**Coverage Area**” means the geographic area in the Territory to which the MultiChoice Service is provided;

2. “**Due Date**” means the date by when the Subscriber must pay, and MultiChoice must receive payment of, the fees payable by the Subscriber in terms of this Agreement, being –

1. in the case of a new subscription, the day on which the Subscriber wishes MultiChoice to activate the Subscriber's subscription to the MultiChoice Service; and

2. in the case of the renewal of an existing subscription, the last day of the most recent period for which the Subscriber has subscribed to, and paid for, the MultiChoice Service;

1. “**Equipment**” means the Subscriber equipment required for the receipt of the MultiChoice Service and which enables the signal comprising the MultiChoice

Service to be received and conveyed to the Units within the Subscriber's premises, including the Approved Decoders, the smartcards and the related equipment, cabling and any devices and internet access required to access the Service via the internet;

2. “**General Amendment**” means an amendment of this Agreement by MultiChoice from time to time;

3. “**HDD**” means the hard drive memory of the PVR Decoder;

4. “**Manufacturers**” means the manufacturers of the Equipment;

5. “**MultiChoice**” means MultiChoice Africa Holdings B.V., a company registered in the Netherlands with registration number 34272155, and any other person (including any legal person) to which that company may transfer its rights, obligations and interests in terms of this Agreement and their successor in title;

6. “**MultiChoice Service**” means one or more of the Bouquets, and the Additional Channels and associated services, features, facilities and applications provided by MultiChoice;

7. “**Payment Instruction**” means the instruction by the Subscriber to its bank to pay its fees due in terms of this Agreement by way of a debit order or similar payment method;

8. **“Person”** means a natural person or a juristic person;

9. **“Public Access Channel”** means a channel forming part of the MultiChoice Service to which MultiChoice authorises access in a Public Place, subject to the terms and conditions determined by MultiChoice for Public Places from time to time;

1. **“Public Place”** means any place to which access is open to the general public;

2. **“PVR Decoder”** means an Approved Decoder with PVR Functionality;

3. **“PVR Functionality”** means the function of time-shifting, buffer, copying, memory, replay and any other similar functionality of the PVR Decoder introduced from time to time;

4. **“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 for Commercial Use, on the terms and conditions of this Agreement, whose request is accepted by MultiChoice, and whose subscription to the MultiChoice Service is active;

5. “**Subscriber Application Form**” means the form to be completed by the Subscriber when requesting access to the MultiChoice Service for Commercial Use;
6. “**System Rights**” means the copyright and other intellectual property rights in the Equipment and in the MultiChoice Service, including the software incorporated therein;
7. “**Units**” means viewing and listening devices on the Subscriber's premises which, when used in conjunction with the Equipment, are used for the reception and use of the MultiChoice Service;
8. “**User Manual**” means the document containing the standard operating instructions for your Approved Decoder, copies of which are provided with your Approved Decoder and are available on the Website;
9. “**VAT**” means Value Added Tax or any similar consumption-based tax which MultiChoice or our agents may be obliged to levy and/or collect; and
10. “**Website**” means the MultiChoice website or such other website which we use from time to time.
1. Any reference in this Agreement to -

1. the singular includes the plural, and vice versa; and

2. one gender includes the other gender.

1. Preamble

1. MultiChoice provides the MultiChoice Service to subscribers in numerous countries in sub- Sahara Africa.

1. MultiChoice acquires pre-packaged channels from channel suppliers and packages them into Bouquets. MultiChoice also acquires pre-packaged Additional Channels (which may or may not be included in a Bouquet).

2. Subscribers may request access to the MultiChoice Service for a minimum period of on or more complete months as determined by MultiChoice from time to time.

3. MultiChoice does not provide subscribers with -

1. access to stand-alone programmes, channels, features, facilities or applications other than the Additional Channels; or

2. the option to subscribe for a portion of a month, although MultiChoice reserves the right to do so in the future.
-
4. MultiChoice may determine that certain aspects of the MultiChoice Service will only be available

–

1. in conjunction with certain other aspects of the MultiChoice Service;
2. for use by persons or types of persons, in places or types of places, and/or in specific circumstances, determined by MultiChoice; and/or
3. subject to specific terms and conditions determined by MultiChoice from time to time in relation to particular aspects of the MultiChoice Service.

1. Terms and conditions of Agreement

1. The terms and conditions on which MultiChoice authorises persons to have access to the MultiChoice Service are set out below.

2. By subscribing to the MultiChoice Service, the Subscriber agrees to be bound by this Agreement.

2. Request for MultiChoice Service

1. The Subscriber's request for access to the MultiChoice Service must be made in writing by completing the Subscriber Application Form and submitting it to MultiChoice or one of its duly authorised representatives.

2. The Subscriber must subscribe to an Audiovisual Bouquet in order to be eligible to subscribe to one or more of the Additional Channels.

1. The Subscriber may subscribe to an Audio Bouquet, irrespective of whether the subscriber has subscribed to any other Bouquet.

2. If MultiChoice refuses the Subscriber's request (which MultiChoice reserves the right to do), MultiChoice will have no obligation to the Subscriber arising from the Subscriber's request.

1. Commencement, duration and place of Agreement

1. This Agreement commences on the date on which MultiChoice, after receiving full and valid payment of the requisite fees in terms of this Agreement, accepts the Subscriber's request by activating its subscription to the MultiChoice Service.

2. This Agreement is binding on the Subscriber and MultiChoice unless and until terminated by the Subscriber or MultiChoice when -
 1. MultiChoice notifies the Subscriber (in any manner, whether in person, electronically, telephonically or in writing) that MultiChoice is terminating this Agreement with effect from a specified future date; or

 2. Subscriber notifies MultiChoice (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 so at any time;

 3. the period for which the Subscriber has paid, and MultiChoice has received, full and valid payment of the Subscriber's subscription fees in terms of this Agreement expires and the Subscriber has not yet renewed its subscription for a subsequent period by paying the requisite fees on or before the Due Date, and the Subscriber's subscription to the MultiChoice Service is disabled by MultiChoice.

1. Each time the Subscriber renews its subscription for a subsequent period it does so in terms of this Agreement as at the date of renewal, and as amended from time to time.

2. The termination of this Agreement will not affect -

1. MultiChoice or the Subscriber's rights or remedies for the period prior to termination; or

2. those rights and obligations which this Agreement intends, either expressly or by implication, will survive beyond termination.

5.5. Regardless of the place of submission of the Subscriber Application Form by the Subscriber, this Agreement is deemed to be concluded at MultiChoice's, or its duly authorised agent's, principal place of business in the Netherlands.

1. Hardware

1. The Subscriber may not tamper with the MultiChoice smartcard or attempt to use it for any purpose not authorised by MultiChoice.

2. Without prejudice to any other provision of this Agreement, MultiChoice may disable the smartcard, whether temporarily or permanently, if –

3. any unauthorised person uses the smartcard;
4. the smartcard is damaged, lost or stolen;
5. the Subscriber is in breach of this Agreement;
6. this Agreement expires, or is terminated in terms of clause 5, 19, 19.6, 19.7 or any other provision of this Agreement; or
7. it is otherwise reasonable to do so.
8. The Subscriber must use a MultiChoice smartcard to access the MultiChoice service. MultiChoice recommends that the Subscriber -
 1. use the MultiChoice smartcard in an Approved Decoder and in accordance with the relevant User Manual, if any;
 2. keeps the smartcard in the Approved Decoder; and
 3. keeps its Approved 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 Approved Decoder via satellite. The Subscriber acknowledges that in standby mode certain Approved Decoders generate heat and that it will position its Approved Decoder with these factors in mind.

1. MultiChoice cannot guarantee that the Subscriber will be able to access the MultiChoice Service, or any aspect thereof, either optimally or at all, if the Subscriber does not act in accordance with the provisions clauses 6.1 and 6.8.

2. If the Subscriber's smartcard is damaged, lost or stolen –
 1. the Subscriber must inform MultiChoice within 48 hours of your being aware thereof; and

 2. MultiChoice or one of its duly authorised representatives will replace the smartcard subject to the payment by the Subscriber of a replacement fee and the completion of the requisite Smartcard replacement form (if any).

1. In the event of theft, MultiChoice will, after being informed by the Subscriber of that fact in terms of clause 6.10, record that smartcard as stolen and may disable the reception and decryption of the signal in respect of that smartcard.

2. The Subscriber is encouraged to take out, pay all premiums in respect of, and comply in all respects with the terms of, an insurance policy with a reputable insurance company, which will provide comprehensive cover for the replacement value of the Equipment installed on the Subscriber's premises.

3. MultiChoice may, in its discretion, elect to enter into a separate agreement with the Subscriber with regard to the supply of the Equipment.

1. User Manual

1. The Subscriber agrees to comply with the User Manual applicable to the Approved Decoder used by it, if any.

2. If there is any conflict between the provisions of this Agreement and the relevant User Manual, this Agreement will prevail.

2. Advanced Decoder Functionality

1. If the Subscriber owns an Approved Decoder with Advanced Decoder Functionality the Subscriber may not request MultiChoice to authorise it to use one or more such functions. For avoidance of doubt, the MultiChoice Service shall not include Advanced Decoder Functionality in respect of Commercial Use.

3. Restrictions on access and use of MultiChoice Service

1. The Subscriber may receive and/or use the MultiChoice Service only for the Commercial Use authorised by MultiChoice, from time to time, applicable to the Bouquet and Additional Channels to which the Subscriber has subscribed, at the address provided by the Subscriber and as recorded in MultiChoice's billing system, and for the Units indicated in, and to the extent set out in, the Subscriber Application Form. If the Subscriber wishes to receive and/or use the MultiChoice Service at an address other than the address provided by it and as recorded in

MultiChoice's billing system, the Subscriber must submit a written request for MultiChoice's prior consent to do so, which request MultiChoice may consider.

1. The Subscriber may not use the MultiChoice Service in any manner or for any purpose other than as set out in clause 9.1 above. Nor may the Subscriber, whether intentionally or negligently, permit any other person to do so. Without limiting the restrictions in clause 9.1, the Subscriber may not attempt to or -

1. hire-out, sell, redistribute, relay, retransmit or rebroadcast any of the content of the MultiChoice Service, other than to the Units as stipulated in the Subscriber Application Form, and provided that the Subscriber has put in place adequate security measures, including a conditional access system and/or encryption software approved by MultiChoice, to ensure that no person is able to do any of the prohibited activities in clause 9.2 or any other provision of this Agreement;

2. 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;

3. permit, facilitate or condone any other person doing any of the prohibited activities in clause

9.2 or any other provision in this Agreement, whether using a smartcard, Approved Decoder, other Equipment or otherwise; or

4. sell or otherwise transfer the Equipment without advising MultiChoice immediately of the identity and contact details of the transferee. The Subscriber indemnifies MultiChoice and its affiliated companies, and their directors, officers, employees, agents and representatives 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.

1. The Subscriber undertakes to –

1. prevent the viewing of restricted material by children below the age restriction, or of material of any other description which may be determined by MultiChoice or its channel suppliers, or by any competent government or regulatory authority, from time to time; and

2. ensure that all persons to whom the Subscriber may grant access to the MultiChoice Service, or any aspect thereof, in terms of this Agreement are informed of all age restrictions or conditions pertaining to material of any other description, and other conditions which may be determined by MultiChoice or its channel suppliers, or by any competent government or

regulatory authority, in regard to any material which may form part of the MultiChoice Service from time to time.

1. The Subscriber must use the Equipment and/or access the MultiChoice Service in the county in which the Subscriber's Physical Address is located ("Country of Residence"). If the Subscriber uses the Equipment and/or access the MultiChoice Service outside the Subscriber's Country of Residence, -

1. this may constitute a criminal activity and could result in considerable prejudice and damage to MultiChoice and/or MultiChoice's licensors and/or channel suppliers; and

2. MultiChoice may, without prejudice to any other remedy that MultiChoice may have, immediately and without notice to the Subscriber, disable the Equipment, terminate the Subscriber's access to the MultiChoice Service, and/or terminate the Agreement.

1. MultiChoice will inform the Subscriber, in any manner, on a continuing basis of all age restrictions and other restrictions on material, and any other conditions which may be determined by MultiChoice or its channel suppliers,

or by any competent government or regulatory authority, regarding any material which may form part of the MultiChoice Service from time to time, and, without limiting clause 9.3, the Subscriber must comply with any directions given by MultiChoice to the Subscriber in that regard from time to time.

2. Any reception, access or use of the MultiChoice Service, or any aspect thereof prohibited in terms of clause 9.1 or 9.2, or to a restricted person in terms of clause 9.3, or in contravention of a direction given by MultiChoice to the Subscriber in terms of clause 9.4, will constitute unauthorised use of the MultiChoice Service and illegal viewing, and will entitle MultiChoice to exercise its rights in law and in terms of this Agreement, including, without prejudice to any other rights it may have, in terms of clause 19.2.
3. The Subscriber indemnifies MultiChoice 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 clauses 9.1 to 9.5.
4. The Subscriber acknowledges that a breach by it of the provisions of clauses 9.1 to 9.5 may constitute criminal activity and could result in considerable prejudice and damage to MultiChoice and/or its channel suppliers.

1. Fees

1. MultiChoice provides the MultiChoice Service on a “pre-paid” basis.

1. In order for the Subscriber to receive the MultiChoice Service, the Subscriber must pay MultiChoice directly or via one of its duly authorised representatives the requisite fees determined by MultiChoice from time to time, and any VAT and all other taxes, duties, levies or charges that may be levied by any competent government or regulatory authority directly or indirectly in relation to the MultiChoice Service, the Equipment, or any aspect thereof, for the number of months determined by MultiChoice in terms of clause 5.
2. The Subscriber must make, and MultiChoice must receive, these payments in full for the forthcoming subscription period on or before the Due Date at MultiChoice's address or nominated bank account, as amended by MultiChoice from time to time by notice, in any manner, to the Subscriber, or at such other place nominated by MultiChoice from time to time.
3. MultiChoice will only re-activate the Subscriber's subscription to the MultiChoice Service once the subscriber has made, and MultiChoice has received, payment in full in terms of clause 10.3.
4. If the Subscriber does not pay the requisite fees in full for the forthcoming subscription period on or before the Due Date, its subscription to the MultiChoice Service will automatically expire and its smartcard will be disabled at the end of the subscription period for which it has paid, unless MultiChoice expressly agrees not to disable the Subscriber's smartcard.
5. The subscription fee payable by the Subscriber will be calculated based on various factors including, without limitation –

1. the number and nature of Bouquet(s) to which the Subscriber has subscribed;
2. the number and nature of Additional Channel(s) to which the Subscriber has subscribed;
3. the number and nature of additional aspects of the MultiChoice Service to which the Subscriber has subscribed;
4. the number of Units on the Subscriber's premises; and
5. any other factors determined by MultiChoice from time to time.

1. The Subscriber must notify MultiChoice in writing of any changes that may have a bearing on this Agreement, including any factors referred to in clause 10.6.
2. If the Subscriber intentionally or negligently, whether by act or omission, fails to provide MultiChoice with accurate information required for the purpose of calculating the subscription fee, or otherwise fails to comply with clause 10.7, the Subscriber must pay MultiChoice all the additional fees resulting from the recalculation of the subscription fee, which amount will be deemed to have become due and payable from the date of activation of the Subscriber's

subscription or the date of MultiChoice's most recent inspection or audit in terms of clause 19.2, whichever occurred later. MultiChoice will not be liable to refund the Subscriber for any fees paid by the Subscriber if the Subscriber has, intentionally or negligently, whether by act or omission, failed to provide MultiChoice with accurate information required for the purpose of determining the subscription fee, or to otherwise comply with clause 10.7.

1. The Subscriber's failure to comply with clause 10.7 or 10.8 will be deemed to be a material breach of this Agreement by the Subscriber and will entitle MultiChoice to exercise any rights it may have in law or in terms of this Agreement, including, without prejudice to any other rights it may have, its rights in terms of clause 19.2.
2. MultiChoice may from time to time review its pricing structure and change the fees payable to it by the Subscriber for the MultiChoice Service, or any aspect thereof, by way of a General Amendment. The reviewed pricing structure will apply to the Subscriber on the next Due Date. The Subscriber can get up to date information on the fees payable in terms of these Terms and Conditions on the Website.
3. The Subscriber agrees that MultiChoice may alter the Payment Instruction under which the Subscriber pays its fees to MultiChoice if the amounts payable by the Subscriber to MultiChoice should change for any reason. MultiChoice may also charge and recover from the Subscriber under that same instruction any other amounts owing by the Subscriber under this Agreement.

4. The Subscriber may not deduct from, or set off against, any of the fees which it is required to pay to MultiChoice in terms of this Agreement any amount whatsoever which it claims from MultiChoice or which MultiChoice owes the Subscriber.

5. The Subscriber must pay all the royalties for which it is, in law, liable as a result of its use of the MultiChoice Service (whether or not such use is authorised by this Agreement) to the relevant owner of the copyright subsisting in the works concerned or, if applicable, the relevant collection society.

1. Communications with the Subscriber

1. Subject to the applicable laws, MultiChoice may communicate with the Subscriber, amongst other methods, by means of e-mail, on-air communications, or by way of text or other messages to your phone, personal or laptop computer, tablet, viewing device or to the Subscriber decoder for display on the television screen.

2. The nature of such messages will vary, and MultiChoice may use such messages, amongst other things, to -

1. promote MultiChoice's services and/or those of our channel suppliers and clients;

2. advise the Subscriber of the status of its account and any amounts owing by it to MultiChoice;
3. inform the Subscriber that its subscription is about to expire unless it is renewed on or before a particular date;
4. inform the Subscriber about the MultiChoice Service and operational systems, and changes to these;
5. provide the Subscriber with information which MultiChoice believes may be of particular interest or relevance to it; and
6. notify the Subscriber of a General Amendment.

11.3. MultiChoice is not liable for any loss or damage that the Subscriber or any third party may suffer as a result of or in connection with e-mails or other messaging whether by MultiChoice, the Subscriber, or any third party using the MultiChoice Service and Equipment and the Subscriber indemnifies MultiChoice against any loss or damage that it or any third party may suffer as a result of any such communications.

1. Access to and disclosure of information relating to the Subscriber

1. The Subscriber authorises MultiChoice to -

1. use data that MultiChoice may hold in relation to the Subscriber for the purposes of -

1. processing the Subscriber's requests for access to the MultiChoice Service, or any aspect thereof;

2. administering this Agreement;

3. informing the Subscriber of any amendments to this Agreement;

4. informing the Subscriber of any new aspects of the MultiChoice Service; and

5. informing the Subscriber of promotional competitions;

1. disclose the Subscriber's information -

1. to companies affiliated to MultiChoice for purposes of marketing the services of those affiliated companies;

1. to any company which acquires MultiChoice's business or any part thereof; or

2. if and to the extent that MultiChoice is required to do so to comply with any applicable law, including the requirements of any relevant government or regulatory authorities.

1. Intellectual property

1. The Subscriber acknowledges that -

1. the Content Rights and the System Rights are either owned by, or licensed to, MultiChoice and that by entering into the Agreement the Subscriber acquires no right or interest in the Content Rights or the System Rights; and

 2. it will not infringe MultiChoice's rights and interests, or those of MultiChoice's suppliers or licensors, in the course of the Subscriber's access to the MultiChoice Service or otherwise. Nor may the Subscriber negligently or intentionally permit any other person to do so.

2. MultiChoice's obligations

1. In consideration for the fees paid by the Subscriber, and subject to the Subscriber complying with this Agreement, MultiChoice, in accordance with this Agreement, will provide the Subscriber with access to the MultiChoice Service it has subscribed to.

2. Subject to the Subscriber complying with this Agreement, MultiChoice's authorising the Subscriber to have access to the MultiChoice Service will continue for the duration of this Agreement, provided that MultiChoice will have no obligation -
 1. to ensure that the Equipment is installed correctly;

1. The Subscriber may not duplicate, reproduce, sell, broadcast, distribute or otherwise use or transmit the MultiChoice Service to any other party or to insert any material into the MultiChoice Service without MultiChoice's written consent, other than as expressly provided for in this Agreement, under any circumstances or for any purpose whatsoever.

2. The Subscriber indemnifies MultiChoice and its affiliated companies, directors, officers, employees, agents and representatives against any claim by a third party in respect of a breach by the Subscriber of clauses 13.1.2 and 13.2.

3. The Subscriber will take reasonable steps to inform all its guests, occupants, customers, invitees, employees, agents and servants, in writing or such other manner determined by MultiChoice, that any direct or indirect infringement of intellectual property rights constitutes an offence.

1. 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)

–

1. to ensure that the Equipment is and remains functional;

2. to maintain any component of the Equipment.

2. to ensure the integrity or error-free playback of the content copied to the HDD.

1. Subscriber's obligations

1. Subject to this Agreement, and in addition to any other obligations imposed on the Subscriber in terms of this Agreement, the Subscriber must -

1. provide MultiChoice with such information required by MultiChoice in order to activate its subscription;

2. inform MultiChoice in writing, except where provided for under another clause in this Agreement, within seven days of any

change to any of the information provided by it in relation to this Agreement; and

3. inform MultiChoice immediately if it becomes aware of -

1. any act or attempt by any party in relation to the Equipment or any aspect of the MultiChoice Service which, if committed by the Subscriber, would be a breach of this Agreement;

2. any damage to, loss, theft or unauthorised use of the Equipment.

2. No warranties, limitation of liability, and indemnities

1. MultiChoice makes no warranty or representation, whether expressly or implicitly, -

1. subject to the terms of the warranty and the decoder care plan described in clause 14.2.2, as regards any component of the Equipment nor that the Subscriber will be able to access, or to continue to access, the MultiChoice Service using the Equipment;

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;
 3. as to the quality of or uninterrupted or loss of reception by the Subscriber of the MultiChoice Service, or any aspect thereof, in the Coverage Area to the extent that this results from causes beyond MultiChoice's control;
1. as to the content of the MultiChoice Service, including as regards the subject, nature, quality, reliability, truthfulness or accuracy of the content.
1. Subject only to the terms of the warranty and the decoder care plan described in clause 14.2.2, MultiChoice is not liable -
 1. for any loss or damage suffered by the Subscriber or any other third party, which arises out of -
 1. any act or omission of MultiChoice or its employees or agents, subject to the provisions of clause 16.2.3;
 2. any act or omission of MultiChoice's consultants, subcontractors or affiliated companies;

3. the exercise by MultiChoice of its rights in terms of this Agreement; or
 4. any breach by the Subscriber of its obligations under this Agreement, and it specifically indemnifies MultiChoice and MultiChoice's affiliated companies, directors, officers, employees, agents and representatives against any claim by the Subscriber or any third party arising out of such breach;
1. to any person for the content on and/or the use of materials constituting the MultiChoice Service, whether provided by MultiChoice or a third party, and the Subscriber acknowledges that –
 1. the MultiChoice Service may contain images and/or content that may be regarded as unsuitable or offensive by some viewers;
 2. MultiChoice mainly acquires complete channels from channel suppliers and packages them into Bouquets and as such MultiChoice has no influence over, and is unable to alter, the content of the channels; and
 3. the channels on each Bouquet and the Additional Channels 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 and the Additional Channels or content therein may vary from country to country depending on the programming rights for that specific country or for any other reason.

1. for any delay or failure by MultiChoice 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's direct or indirect control;

1. 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 willful default on MultiChoice's part. If such delay, interruption, defect or failure is due to such gross negligence or such willful default, then the Subscriber will be entitled, as its 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's gross negligence or willful default;

2. 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 deems necessary for any purpose related to MultiChoice's business, including, without limitation, in order to support the operation, maintenance and security of the MultiChoice Service, or any aspect thereof;

3. 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.

1. Although MultiChoice 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. Neither the Manufacturer(s) nor MultiChoice is liable for any loss or damage of any nature whatsoever, or interruption of service caused by the conduct of an installer, including as a result of -

1. any breach by an installer of any of its obligations to the Subscriber;
and

2. an act or omission on the part of an installer.

1. The Subscriber warrants that it is not acting as an undisclosed agent or nominee of any person in entering into this Agreement and, save as disclosed otherwise in the Subscriber Application Form, it is entering into this Agreement to secure the benefits of this Agreement for itself only and for no other person or entity.

2. The Subscriber indemnifies MultiChoice and its affiliated companies, officers, directors, employees, agents and representatives against any claim by any third party arising from a breach by it of any provision of this Agreement.

1. Amendments to and variations in MultiChoice Service

1. The nature, composition and content of the MultiChoice Service are determined by MultiChoice in its sole discretion and may be changed by MultiChoice from time to time.

2. Without limiting clause 17.1, MultiChoice may –

1. replace, remove or otherwise amend any aspect of the MultiChoice Service, including, but not limited to -

1. any facets, applications, facilities, features and/or functionality of the MultiChoice Service;

2. the range, nature and format of the MultiChoice Service;

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;

4. the range, nature and number of any ancillary applications, facilities or services;

1. advise the Subscriber of an additional aspect of the MultiChoice Service which become available, the conditions applicable thereto and the charges therefore, if any, and for which, if the Subscriber requests to receive this additional aspect, it will be obliged to pay the additional charge, if any;

2. advise the Subscriber of any aspect of the MultiChoice Service for which it must pay an additional charge if it wishes to continue receiving it, and for which, if it requests to continue to receive this aspect, it will be obliged to pay the additional charge.

1. The Subscriber acknowledges that -

1. MultiChoice provides the MultiChoice Service in numerous countries;

 2. aspects of the MultiChoice Service and the cost therefore may differ from country to country and will not necessarily be available in every country;

 3. MultiChoice 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 provides the MultiChoice Service; and
1. 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.

1. The various systems necessary for or associated with the provision of the MultiChoice Service are subject to ongoing innovation and change and may be amended by MultiChoice from time to time. Without limiting the above, the Subscriber agrees that MultiChoice may -
 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;
 2. recommend that the Subscriber upgrade, reconfigure, change or replace, at the Subscriber's cost if applicable, the Equipment used by it to access the MultiChoice Service. The Subscriber acknowledges that its continued access to the MultiChoice Service could be negatively affected if it does not act on this recommendation; or
 3. disable or remotely alter the functionality of an Approved Decoder with Advanced Decoder Functionality to prevent the Subscriber from copying certain programmes or channels if MultiChoice becomes obliged to do so.

1. The Subscriber acknowledges that, in the absence of any express provision to the contrary in this Agreement, the Subscriber will have no rights, interests or expectations to any increases or decreases in the fees payable by it to MultiChoice if MultiChoice makes any amendment to the MultiChoice Service in terms of clauses 17.1 to 17.4, or any other provision of this Agreement.
2. If MultiChoice removes an Additional Channel from the MultiChoice Service during the course of a subscription period for which the Subscriber has already paid, then MultiChoice will notify the Subscriber of the removal of the Additional Channel and the Subscriber will have the opportunity to replace that Additional Channel with another Additional Channel of similar price and of the same genre. For the avoidance of doubt, this clause 17.6 will not apply to the removal of a channel from a Bouquet, notwithstanding that the removed Additional Channel may, in addition to being a standalone channel, be included in a Bouquet.
3. If the Subscriber has an active subscription the Subscriber may, by written notice to MultiChoice, request to receive an Additional Channel or any other additional aspect of the MultiChoice Service, and MultiChoice may, in its sole discretion approve or reject such request. If the

Subscriber requests and MultiChoice activates the Additional Channel or an additional aspect of

the MultiChoice Service on a date before the next Due Date, then the Subscriber must pay, on a pro rata basis, the requisite fees for the period from the date on which its subscription to the Additional Channel or additional aspect is activated until the Due Date, plus the requisite fee for the forthcoming subscription period, prior to MultiChoice activating such request. If MultiChoice activates the subscription to the Additional Channel or additional aspect of the MultiChoice Service following a verbal request,

prior to the receipt of written notice, MultiChoice may disable the Additional Channel or additional aspect of the MultiChoice Service if MultiChoice does not receive confirmation of the verbal request in writing within 24 hours of such activation, and the Subscriber will remain liable to pay the fees, on or before the Due Date, on a pro rata basis, for the period during which it had access to the Additional Channel or other additional aspect of the MultiChoice Service.

1. Subject to clause 17.7, the Subscriber may not replace, remove or vary its subscription to a Bouquet, Additional Channel or any other aspect of the MultiChoice Service during the course of a subscription period in respect of which the Subscriber has already requested access and paid the requisite fees. The Subscriber may, by written notice request that its access to a Bouquet or an Additional Channel be disabled with effect from the end of a subscription period for which the Subscriber has already paid, in which event MultiChoice will disable access to such Bouquet or Additional Channel on the next Due Date.

1. Amendment of Agreement

1. The Subscriber agrees to be bound by this Agreement and the relevant User Manual as amended from time to time.
2. MultiChoice may amend this Agreement from time to time by way of a General Amendment. In this event, MultiChoice will notify the Subscriber of such amendment in writing.

3. The Subscriber agrees to be bound by such General Amendment from the date specified by MultiChoice when making the General Amendment.

2. Breach of Agreement

1. The Subscriber's failure to comply with this Agreement or the relevant User Manual constitutes a material breach of this Agreement.

2. If MultiChoice reasonably believes that the Subscriber is failing to comply with any provision of this Agreement, MultiChoice may –

1. enter into and inspect the Subscriber's premises, including the Equipment and Units on the Subscriber's premises, during business hours; and

2. audit the Subscriber's records.

1. The Subscriber undertakes to grant MultiChoice access to its premises and records for the purposes of inspection and audit in terms of clause 19.2 above.

2. If the Subscriber breaches this Agreement -

1. MultiChoice, without prejudice to any other remedy that MultiChoice may have, may immediately and without notice to the Subscriber, disable the smartcard, terminate the Subscriber's authority to have access to the MultiChoice Service, and/or terminate this Agreement;
2. MultiChoice, without prejudice to any other remedy that MultiChoice may have, may elect to keep this Agreement in force, but at the same time and for as long as such breach continues, to suspend the Subscriber's access to the MultiChoice Service. If and when MultiChoice reinstates access to its service, the Subscriber must pay the reconnection fee stipulated by MultiChoice from time to time;
3. by failing to pay the subscription fees on or before the Due Date, and MultiChoice, without prejudice to any other rights which MultiChoice may have in law or in terms of this Agreement, agrees not to disable the Subscriber's smartcard, then the Subscriber must pay MultiChoice on demand, interest at a rate of 2% per annum for the period during which any fee remains due but unpaid;
4. the Subscriber must pay MultiChoice all legal costs, including attorney and own client costs, tracing agent's fees and collection charges which MultiChoice may incur in taking any steps pursuant to the Subscriber's breach; and
5. the Subscriber must pay MultiChoice any loss or damage incurred by MultiChoice directly or indirectly as a result of the Subscriber's breach.

1. If, after the agreement has been terminated, the Subscriber -

1. remedies its breach;
2. complies with this Agreement; and
3. pays MultiChoice all amounts due to MultiChoice in terms of this Agreement;

then it may submit a new Subscriber Application Form with a view to concluding a new agreement.

1. If the Subscriber commits any act or omission which would constitute an act of insolvency in terms of law of England and Wales or negotiates or attempts to negotiate a compromise with its creditors generally, or is placed under judicial management, or any similar order of court, MultiChoice may terminate this Agreement without notice at any time.
2. MultiChoice may terminate this Agreement in the event of the provisional or final liquidation of the Subscriber.

1. General

1. This Agreement -

1. constitutes the sole and complete record of the agreement between the Subscriber and MultiChoice in regard to its subject matter; and

2. supersedes any previous agreement between the Subscriber and MultiChoice in terms of which the Subscriber was authorised to have access to the MultiChoice Service.

1. Neither the Subscriber nor MultiChoice is bound by any express or implied representation, warranty, undertaking, promise or the like not recorded in this Agreement.

2. Any relaxation or indulgence which MultiChoice may show the Subscriber at any time in regard to this Agreement is without prejudice to, and does not constitute a waiver of, any rights MultiChoice may have, either in terms of this Agreement or any law.

3. If any provision of this Agreement is found to be wholly or partly invalid, unenforceable or unlawful, then -

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

2. the remaining provisions of this Agreement will remain in full force and effect.
-
1. 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.
 2. MultiChoice may cede any of its rights and/or assign any of its obligations under this Agreement to any person.
-
1. The Subscriber may not cede any of its rights or assign any of its obligations under this Agreement to any other person.
 2. This Agreement is subject to, and will be governed by and construed, interpreted, implemented and enforced in accordance with the laws of England and Wales/Territory of contract and dispute resolution.
 3. The Subscriber irrevocably submits to the non-exclusive jurisdiction of the courts of England and Wales/Territory, in respect of all proceedings arising out of or pursuant to this Agreement, provided that nothing in this clause will limit MultiChoice's right to institute proceedings against the Subscriber in any other court of competent jurisdiction.

4. Any notice sent by either party to the other party's address will be rebuttably presumed to have been received on the seventh business day after posting by registered post, or on the date of delivery by hand.

5. The parties choose the following addresses for the service of all notices and processes arising out of this Agreement -

6. MultiChoice Africa Holdings B.V., Taurus Avenue 105 2132 LS, Hoofddorp, Netherlands.

The Subscriber: The physical address supplied by the Subscriber in its Subscriber Application Form, as amended by the Subscriber from time to time.