

Subscriber Agreement

Consumer Protection Law Notices

You are directly affected by some of the clauses because they -

- limit or exclude our risk or liability,
- limit or exclude your rights and remedies against us,
- make you take on risk or liability, or
- make you acknowledge and voluntarily agree with certain statements.

Please pay special attention to all the clauses, as you will forfeit claims against us and other parties for certain losses, liabilities or damage. We may also have claims against you and hold you responsible to repay us further amounts, including costs or damages that we may have to pay. You must voluntarily confirm and agree with the statements in all the applicable clauses.

1. Contract

In addition to this document, there are other specific terms and documents that apply to the services you may access under the contract, such as the terms and conditions for specific promotions and package options.

You need to sign the attached application form and voluntarily agree to all the terms in all the documents that apply to both of us (including product terms, conditions, the terms of which are incorporated into these terms). There will only be a binding contract after we activate your SIM card. The terms must be preferred if there is any conflict in any

of the contract documents.

You can get copies of all contract documents from any MTN store, or online at www.mtn.co.za. Keep all documents we hand you when we deliver your mobile device and your MTN Invoice. Produce them when questioning anything relating to your contract or what we provide to you. In the contract, MTN or 'we' or 'us' or 'our' means Mobile Telephone Networks (Pty) Ltd (1993/001436/07), or the third-party supplier (where applicable).

2. Activation and period

Your application will be regarded as accepted when we activate your SIM card. This will allow you to use the MTN network services. We will be responsible for delays or cancellation (unless due to any cause beyond our control). We will regard your SIM card as activated at our premises and connection charges may apply to activations.

The initial contract period will be in the application form (usually 24-months unless otherwise specified) starting when the SIM card is activated. Unless we provide otherwise, your contract will continue month-to-month when the initial contract period ends, and the most recent product and service terms and conditions will apply to the month-to-month services.

3. Consent

You voluntarily consent to us using a third party (like a credit bureau) to record, assess your creditworthiness, or monitor your payments to us.

4. Your identity

You voluntarily agree to comply with all applicable laws, including Regulation of

Interception of Communications and Provision of Communication-related

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Information Act, 2008 (RICA). You are legally required to verify your identity in a face-to-face process when registering a SIM card with us. Please produce your:

- original identity document, passport or refugee document; and
- proof of residential address.

If you transfer your SIM card to anyone other than a family member, both of you must visit our RICA officer to change ownership. The other person must also produce an identity document and proof of residence.

5. Theft, loss or damage

Ownership of the mobile device will remain vested in MTN or a third-party device supplier, as the case may be, for the duration of the initial contract period. However, all risk for loss, use, damage, destruction or theft of a SIM card or mobile device passes on delivery of the mobile device that you have leased from MTN as a part of your subscriber package to you (or to any person chosen by you to accept them for you).

If a SIM card is lost or stolen, you must request us to suspend it. We will blacklist the device and provide you with an ITC reference number. You are then legally required to report the crime to the South African Police Services and give them the ITC reference number. You remain liable for all costs and charges until we received **your request to suspend your SIM card. You are responsible for insuring your mobile device against any loss, theft, destruction or damage. If your mobile device is lost, stolen**

or damaged, you still must pay for the contract, including the lease payment for the initial contract term.

6. Ownership

We or the third-party device supplier own the mobile device which may be included in your package option, however **all risk for theft, loss or damage will pass to you on delivery.** Ownership of the device will transfer free of charge to you at the end of the initial contract period on payment of the last lease payment. If you end your contract early, ownership will transfer to you once you have settled the termination payments as per clause 16. **Without limiting its rights in law, MTN reserves the right to blacklist the device should you fail to settle termination charges and or pay any outstanding amounts due, owing and payable on your bill.**

7. SIM card and mobile device

The package option you select may include a mobile device in addition to mobile services, which mobile device will be on a lease-to-own basis. If your package option includes a mobile device, the lease amount for the mobile device be included in your recurring monthly charges for the initial contract period, as described more fully in clause 9.

Although you do not own the mobile number nor the SIM card, you may retain the mobile number if you port to another network or service provider. When using the SIM card and device on our network you must comply with our rules. You:

must only use the services for lawful purposes;

must only use a mobile device which is approved by ICASA or any other relevant authorities;

must not reverse engineer, decompile, modify or tamper with any software on any SIM card or mobile



device and you must prevent anyone else from doing so;

must not use our SIM card, mobile device, network or services for any fraudulent or other unlawful purpose;

must not use our services, to retain any direct financial gain, for example, where your financial gain results from the differences in termination charges payable by us for calls on our network or the difference between termination charges and your service charges;

must not use or operate, whether directly or through a third party, any SIM card, mobile device or apparatus to route or re-route voice, data, messages or other network services on, from or to the network using a GSM gateway or any other apparatus commonly known as a 'SIM box';

must not use a SIM card, mobile device or apparatus used to forward or divert network services with the intention of reducing your charges for that call;

must not re-originate international calls or refile incoming traffic or engage in any activity which may negatively affect the network and compromise the quality of service provided to you and other customers;

must not change any number with another number to make international incoming or outgoing calls appear as locally originating or terminating calls;

you may not sell, or attempt to sell, or otherwise provide commercial services using the SIM card, device or network to any third party without our express prior written consent; and

you may not use a SIM card overlay to access services on our network.

If we suspect that you are not complying with the rules listed above, we will suspend

your services immediately without notice to you.

8. Payment

You are required to make payment of all amounts due to MTN by means of a direct debit order against your banking account. **You shall be in breach of the contract if you cancel any debit order without the prior written consent of MTN or where any debit order is returned unpaid or stopped.** In such a case, MTN will have the right to suspend your account within 7 days of the breach until such arrears amounts together with any additional charges related to the recovery of the amount owed, (including and not limited to missed debit order fees), have been received by MTN and paid in full. Your first invoice may include pro-rated charges from the previous billing cycle if you take out a new contract or upgrade on a date other than your billing date.

9. Costs associated with your mobile device

"Lease Amounts" means the amount charged for the device as part of the contract and reflected in the application form, which will be paid by you in equal monthly instalments over the contract period.

"Cash Price" means the price you would pay (equivalent to the insurance replacement cost) if you elect to cancel your contract in accordance with clause 16 or 17 below.

As set out in clause 5 (*SIM card and mobile device*), if your package option includes a mobile device provided by either MTN or a third-party device supplier. You must pay the lease amounts due as specified, monthly over the duration of the Contract period. For avoidance of

doubt, "lease amount" means the amount charged for the mobile device as part of the Contract and reflected in the application form, which will be paid by you in equal monthly instalments over the Contract period.

On payment of the last lease amount due at the end of the Contract period, ownership of the mobile device will pass to you.

If you end the Contract before the initial Contract period, you agree to pay an early termination fee calculated with reference to the Cash Price of the mobile device and any other cancellation fees which may apply, as set out in clause 16 (*Termination payments*) below.

10. Bill limit and spend limit

As an MTN account holder, you have control over the lines linked to your account. A bill limit is the limit available to you once all recurring monthly charges have been deducted for your line(s). MTN will recommend a bill limit for you, which will be your default bill limit. You can customize the bill limit for each line under your account if you are not comfortable with the default bill limit. The bill limit is the maximum limit you allocate for each line under your account. The sum of all the bill limits for each line under your account may not exceed the credit limit available for the account. Should you fail to set your bill limit or chose not to set the bill limit, then you will be liable for all charges incurred on your account. Once your bill limit is set, each line can control their individual spend for that line through self-service channels i.e. USSD and My MTNApp by setting a spend limit. You can adjust the

spend limit for each line, however the combined spend limit for all the lines under your account may not exceed the bill limit. If the spend limit reaches the bill limit, the account holder may adjust the bill limit and increase the spend limit.

11. Credit limit

To protect you and us from you incurring charges you might not be able to pay, we may limit the charges you may incur in any month and may notify you of any change to this credit limit.

We will disclose the credit limit on the bill or invoice and set it according to our credit-vetting criteria. To protect us we may suspend your service if you exceed the credit limit. Should this occur, please seek assistance from our call centre or visit the nearest store. You will still have to pay the actual charges if they exceed the credit limit. This is not an agreed charge or spend limit between us. We cannot promise to limit charges incurred above the credit limit.

12. International roaming

At least five business days before you leave your country of residence you must ask us to permit you to use your SIM card for our services while out of the country. You may be required to pay us a security deposit before we activate your SIM card for roaming services.

When you apply, we will provide a copy of the specific terms relating to international roaming. The terms are also available in store and on our website. Please visit these pages before you travel and read all the relevant information.

International roaming is expensive. Before you leave,

check our website for details on charges for international roaming. We also strongly advise that you check your user manual for your mobile device and learn how to disable voice, SMS, data, Wi-Fi, application or email settings on your mobile device before you leave.

13. Charges

You confirm that the package option or price-plan has been explained to you and that you understand and agree to it. You agree to accept the recurring monthly charges and other charges included with each package option or price-plan (either with or without a mobile device, whether that mobile device is provided by MTN or by a third-party device supplier).

You must pay all the applicable charges due to us at the rates detailed on our website, your package option or price-plan terms. After any promotion ends, charges will revert to the standard charges.

By notifying you in advance, we may amend charges from time to time and if you do not accept them, you may end the contract by notifying us, subject to clause 16.

14. Additional use

You may have to pay additional charges for additional use if you exceed the number of voice minutes, SMSs or data included in your package option or price-plan (out of -bundle charges).

15. Your right to terminate

By notifying us, you may end the contract, but you may still have to pay termination charges.

You may end the contract by notifying us before the end of

the initial contract period, or before you 'port' to another network or service provider but you will be liable for termination charges.

When the contract continues a month-to-month basis you may end it at the end of a month, provided you notify us before the end of the relevant month.

If we fail to remedy any alleged breach of contract, you may end the contract, but only after you:

- Notify us of the alleged breach;
- specify the nature and extent of the breach; and
- state your intention to end the contract if we do not remedy the breach within 20 business days.

By notifying you in advance, we may change, withdraw, amend or substitute:

- the contract or the charges;
- any repair, replacement or refund terms;
- the charges, price list, credit limit or spend limit; or
- any product terms and conditions or services forming part of your package option or price-plan.

If you do not accept them, you may end the contract by notifying us, subject to clause 16.

16. Termination payments

If you breach the contract or end the contract before the initial contract period or port your number before the end of the initial contract period, you must pay us early termination fees.

By ending the contract early,

you will also have to pay:

- The Cash Price for the mobile device (being the insurance value of the replacement costs), which will be provided to you at the time that the contract is terminated early, for the device (if included in the package option);
- the monthly subscription up to the date the contract ends;
- but if that date is not at month end, it will be pro-rated for the last month;
- all usage charges up to and including the date the contract ends;
- all other amounts that we may be allowed to charge you up to that date, or for failing to pay before or after that date;
- an additional one month's subscription; and
- any collection fees and legal costs as determined on a just and equitable basis by the court.

You will also have to pay us the termination fee which shall be calculated with reference to the Cash Price of the device if you migrate to:

- a lower package option; or
- a price-plan with no mobile device.

17. Our right to terminate

Without limiting any of our other rights, we may end the contract forthwith on notice to you if:

- you fail to pay your invoice on its due date; or



- you fail to comply with our rules set out in clause 7 *Sim card and mobile device*; or
- you contravene any applicable laws or binding rules, codes or standards (especially electronic communication regulations); or
- you are deprived of legal capacity, including, provisional or final sequestration or liquidation or business rescue; or
- our license, authorising and empowering us to provide you with access to our services, is withdrawn or cancelled; or
- you breach any terms and conditions of this contract; and
- you fail to remedy any material breach of contract within a reasonable time after we notify you of your breach.

18. Access to services

We cannot accept liability for any breach or failure to comply with any obligations arising from any cause beyond our control, including:

- **network maintenance;**
- **technical network problems;**
- **suspension, withdrawal or cancellation of our operating licences;**
- **acts beyond our control, such as natural disasters, industrial action, strikes, riots, lockouts, interruption of services, such as electricity supply and third-party services;**
- **governmental acts or omissions, such as**

controls, restriction and prohibitions whether local, provincial or national;

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- fraud perpetrated by independent third parties;
- scams, phishing, spamming or any other related unlawful activities by third parties;
- third party defaults, such as by suppliers, agents or sub-contractors; and
- coercive collective action, such as strikes, lockouts and protests.

19. Faults or defects

Except to the extent required by applicable law, MTN and/or the third party device supplier are not liable for fault or defect in the SIM card and/or mobile device, including any: (i) liquid damage; (ii) power surge damage (due to a power-cut and the power coming back on); (iii) blacklisting; (iv) factory reset done by you (as this could be done incorrectly); (v) any damage as a result of a repair by and unauthorized repair agent or third-party not authorized to repair the mobile device; (vi) any physical damage or alteration arising after delivery of the mobile device to you arising from your conduct or omission; and (vii) ordinary wear and tear.

Any mobile device supplied by either MTN or a third-party device supplier which is found to be faulty or defective as a result of design, material or workmanship shall be covered by the manufacturer's warranty for a period to be advised by either MTN or the third-party device supplier, as the case may be. A faulty or defective mobile device may within 6

(six) months from date of delivery be repaired or replaced, or you may return the mobile device and request for a refund of any monies that have already been paid for such mobile device, provided that such mobile device has not been misused, overloaded, modified, or tampered with.

MTN, and any third-party device supplier, will not be liable for any loss, damage, destruction, theft or negligent workmanship caused to a mobile device while under the control of a third party who is performing the repair of the mobile device in respect of any warranty defect.

20. Force majeure

MTN will not be liable to you for any breach of these terms conditions or failure to perform any of its obligations set out in the agreement, as a result of any force majeure event. The term force majeure refers to circumstances beyond MTN's control and may include but not be limited to riots, industrial action, acts of God and/or disasters, government controls (including acts and/or any legislation), or any act or omission of our suppliers or agent or sub-contractor or third parties.

21. Liability

Subject to a fixed limit, we accept liability for loss or damages suffered by you, which are directly caused by us and we are responsible for in law, unless:

- our services are interrupted, suspended or cancelled through no neglect or failure to act by us (or any of our employees or agents); or
- we are legally allowed to suspend your access

to, or use of, our services or black list the mobile device; or

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- it results from using any mobile device we, or a third-party mobile device, supplied to you relating to the contract (including the use of any self-service features available to you); or
- it results from any fraudulent activity, including online banking, cell phone banking, application and/web-based banking, SIM cards or number portability; or
- it results from any act or omission beyond our control or that of our employees or agents.

We do not accept liability for loss or damage if:

- we don't suspend your services if you exceed the credit limit; or
- we fail to supply or deliver any mobile device or SIM card on the required date or time.

Our cumulative maximum liability for all claims, actions, demands and proceedings, irrespective of cause is limited to one month's subscription you actually pay us in terms of the contract.

22. Notice and address

Where you must give us notice, it must be in writing, but not by SMS or telefax unless otherwise stated. You must give it at least 20 business days before or after a certain event. You must use the contact details indicated on your bill or invoice.

Where we must give you notice, it may be in any form of writing (including SMS and

email). We must give it at least 20 business days before or within 20 business days after a certain event. We may only reduce or extend the period when absolutely and legally necessary to do so. Where applicable we may sign the notice electronically.

Either of us may change our physical addresses to any other physical address in South Africa by notifying the other. All legal documents will be delivered to those addresses.

23. Privacy policy

We respect your privacy and you voluntarily agree to abide by our privacy policy, which can be viewed at www.mtn.co.za.

24. Your agreement

You voluntarily confirm having read and understood the terms and all documents forming part of this Contract and voluntarily agree to be bound by them.