



MSA Terms & Conditions

1 SERVICES

Pursuant to the MSA, Liquid Telecom shall provide **Hai Fibroniks and Broadband services** to the customer for the service charges agreed upon. Customer's signature on the Service Order Form/s or use of Liquid Telecom's services, equipment or network constitutes the Customer's acknowledgement of these Terms and Conditions and acceptance to be bound by them.

- 1.1 The MSA consists of one or more Service Order Form/s, these Terms and Conditions, Change of Service Request Form, the SLA (if any) and any Annexes or addenda which are made an integral part of the MSA.
- 1.2 The Customer may order for additional Services at different locations through additional Service Order Forms, which will be governed by this MSA. Customer's account must be current in order to make changes to Services or order additional Services.
- 1.3 Liquid Telecom shall be entitled to appoint any of its Affiliates, third party vendors or contractors to provide the Services, provided that it shall be and remain liable with such appointee for the due and proper performance of all the duties, functions and obligations under the MSA.
- 1.4 Customer shall not be committed to order, to be charged for, or to pay for any Services until the Customer has signed a Service Order Form in respect of the required Services or used the services or equipment. Liquid Telecom shall not be committed to provide any Services until Liquid Telecom has accepted, signed and completed the Service Order Form in respect of the services received by the customer and against payment of the relevant charges, if applicable.

2 DURATION

- 2.1 The MSA shall commence on the Effective Date and shall continue while any Service Order form is in place, subject to the remaining provisions of the MSA.
- 2.2 Each Service's Initial Term is indicated on the applicable Service Order Form and begins as of the Service Commencement Date. The Initial Term will begin on the Service Commencement Date. Unless otherwise indicated on the Service Order Form, and at the end of the Initial Term, the MSA will renew for successive Renewal Terms equal in length to the Initial Term unless and until terminated as provided herein.
- 2.3 Termination of one Service shall not affect the term of any other Service Order Form, or the MSA, which shall continue, in full force and effect.

3 PROVISION OF SERVICES

- 3.1 In providing the Services to the Customer, Liquid Telecom reserves the right to utilise any technology which it has available and which it considers at its discretion as most suitable and reasonable to render Services, unless a specific technology is specified in the Service Order Form.
- 3.2 The Customer shall use the services, equipment and Liquid Telecom's Network in accordance with the terms and conditions of the MSA.
- 3.3 The customer shall ensure that the services are not used in a manner which constitutes an infringement of any rights of Liquid Telecom or any third party, or for any illegal, fraudulent or unauthorised activities and shall further endeavour to ensure that its employees and its customers do not by any act or omission, damage, disrupt, interfere with or impede the

operation of the service or Liquid Telecom's Network. In particular the customer shall not use the services to provide any telecommunications or related services to third parties unless the customer is duly authorized by Liquid Telecom.

- 3.4 Where the Customer is aware that there is any violation or contravention contemplated in this clause 3.3, he/she will co-operate and provide Liquid Telecom with the necessary information to assist in identifying, preventing, remedying or rectifying such violation or contravention.

- 3.5 Where the Customer (or the Customer's customer) has a service requirement that is not covered by an existing Service Order Form, the additional or alternate requirement/s will be addressed on a case-by-case basis, provided that this requirement is brought to the attention of Liquid Telecom promptly.

4 PAYMENT OF FEES AND CHARGES.

- 4.1 The Customer shall pay Liquid Telecom the fees and/or charges, for services or equipment including but not limited to, Non Recurring Charges(NRCs), Monthly Recurring Charges (MRC), and applicable government taxes agreed between the Parties on each Service Order Form on or before the due date for such payment and without any set off or other deduction.

- 4.2 Liquid Telecom may make general credit reference enquiries about the Customer at any time, including checking the correctness of the information supplied by the Customer when applying for a Service. Liquid reserves the right to refuse to provide a Service if the Customer does not pass the credit vetting procedure and shall also be entitled to furnish any information relating to the Customer's account and compliance with the standard conditions to any credit bureau.

- 4.3 Liquid Telecom shall be entitled to adjust the monthly fees and charges as a result of any regulatory, or government imposed Taxes, duties, or other factors that have a direct and demonstrable impact on such fees and charges. Liquid Telecom shall provide fourteen (14) days prior notice in writing of such adjustment or such shorter period of notice as may be reasonable in the circumstances.

- 4.4 Liquid Telecom may require the Customer to make payment of a deposit, provide an appropriate guarantee and/or a surety ship to be determined by Liquid Telecom as a pre-condition for providing a Service or at any stage once a Service has commenced and to serve as security for payment of any amounts due to Liquid Telecom by the Customer. Liquid Telecom may require that such deposit, guarantee and/or surety ship be increased, decreased or altered during the currency of the MSA as the nature and extent of the Services change. Any deposit provided shall be refunded as soon as reasonably possible as and no later than within one calendar month of termination of the Service, after deducting the amounts due.

- 4.5 The Customer agrees that its obligation to pay Service charges and Taxes under the MSA for Services rendered prior to the termination of the MSA shall survive the termination of the MSA.

- 4.6 Usage independent charges are invoiced monthly in advance; usage-dependent charges are invoiced monthly in arrears and Liquid Telecom will invoice the Customer for each Service provided under the MSA from the Service Commencement Date.

- 4.7 At the time of billing, voice call charges will be based on Liquid Telecom voice tariffs.

- 4.8 Liquid Telecom may include on any invoice, where necessary and on an episodic basis but not as a routine billing practice, any amount not previously billed for calendar months prior to the current month.

- 4.9 Liquid Telecom will send invoices through customer's email addresses by the 7th of each month. It is the responsibility of the customer to claim his/her invoice through Liquid Telecom's email address: sales@hai-alive.rw or phone number **252 2444333** if he/she hasn't received their invoice by the 10th of each month. All tax invoices, permitted under applicable law and regulations, shall be due upon delivery and shall be payable by the Customer not later than 20th of each month or the first business day thereafter if the 20th is a weekend or holiday. Payment shall be made by cash, cheque or by electronic funds transfer into a banking account specified by Liquid Telecom in writing.

- 4.10 *Changes in Charges*

If we make changes to these Terms and Conditions that are material, including but not limited to any change of charges or fees, at any time, then Liquid Telecom will give notice in advance of the changes. Notice may be given on the Liquid Telecom web site www.liquidtelecom.com or by any other media (radio, TV, newspaper, SMS, e-mail), and in case the customer does not wish to accept such material changes, they may terminate the Agreement for the affected services by giving us notice within thirty (30) days. Customer will however, still be responsible for all charges for services and equipment provided before Agreement was terminated.

A material change is a change that;

- 1, Terminates or substantially reduces the availability of a service for the customer,
- 2, Results in the increase of any charge by more than ten Percent (10%) of the monthly Recurring charges for that service. Material changes in the service do not include the increase in imposition of; any charge required to be collected by any government authority, or regulator, to recoup liquid telecom's expenses for the provision of a service required by that governmental authority or Regulator.

5 RETAINED RESPONSIBILITIES

In connection with any Services provided by Liquid Telecom under the MSA and the Service Order Form, the Customer undertakes to provide to Liquid Telecom or retain responsibility for, as applicable, any Customer obligations and requirements detailed in the Service Order Form and listed in the relevant Service Description.

- 5.1 Liquid Telecom's non-performance of any particular obligation under the MSA shall be excused if and to the extent such non-performance results from the Customer failing to perform its retained responsibilities.
- 5.2 *In particular:*
- 5.2.1 If the Customer is not the owner of any one or more of the premises where the Service is to be provided, the Customer shall obtain any permission from the owner of such premises that may be required and the Customer hereby indemnifies Liquid Telecom against all damages or claims resulting from the failure to obtain such permission relating to the installation and/or removal of the Service;
- 5.2.2 The Customer will, at their own cost, ensure the provision of suitable electrical power supply, and air-conditioning should this be required for the proper functioning of the Services at their premises;
- 5.2.3 The Customer shall allow Liquid Telecom free access to the premises during reasonable hours to install, inspect, maintain or remove telecommunication facilities or equipment.

6 SAFETY AND SECURITY

- 6.1 Each Party agrees to comply with safety and security procedures notified to them by the other Party.
- 6.2 The Parties shall each at their own cost and expense take whatever steps as are necessary to procure and discharge their respective obligation and rights in terms of the MSA and applicable laws to ensure the health and safety of the other Parties' employees, agents, directors, sub-contractors and members of the public.

7 DELIVERY

Liquid Telecom shall use its best endeavours to meet all required delivery dates. Liquid Telecom specifically notes that delivery dates are dependant on obtaining permissions from relevant authorities and Liquid Telecom shall not incur any liability in respect of delays occasioned by such authorities regarding such permissions.

8 FORCE MAJEURE

- 8.1 A Party shall not be liable for any failure to fulfill any obligation of this agreement if such a failure is a result by Force Majeure, including but not limited to, such events as acts of God, for example fire, floods, and Government regulations or for any other cause beyond the control of the parties.

8.2 Parties shall not be liable for a failure to perform any of its obligations in terms of the MSA in so far as it is able to prove that:

- 8.2.1 such failure was due to an impediment beyond its reasonable control;
 - 8.2.2 it could not reasonably have been expected to have taken such impediment and its effects upon such Party's ability to perform into account at the time of conclusion of the MSA;
 - 8.2.3 it did all reasonably possible to mitigate the adverse impact on the other Party; and
 - 8.2.4 it could not reasonably have avoided or overcome the impediment or at least its effects and, for purposes of this clause 8.1, the events contained in the definition of Force Majeure.
- 8.3 Relief from liability for non-performance by reason of the provisions of this clause shall commence on the date on which the Party seeking relief ("Defaulting Party") gives written and detailed notice of the impediment relied upon and shall terminate upon the date on which such impediment ceases to exist, provided that if the impediment continues for a period of more than 10 (ten) consecutive days, the other Party shall be entitled, at its option, to terminate the MSA by written notice to the Defaulting Party without any penalty, or other recourse by the Defaulting Party, and the Defaulting Party shall do all reasonably possible to assist the other Party in procuring substitute Services.

9 LIMITATION OF LIABILITY

- 9.1 Neither Party shall be liable to the other for any indirect, incidental, consequential, punitive or special damages, including without limitation damages for lost profits, advantage, savings or revenues, or increased cost of operation.
- 9.2 Subject to Clause 9.3 below, each Party's entire liability, and the other Party's exclusive remedy for damages arising out of performance under the MSA, including for mistakes, omissions, interruptions, delays, errors or defects in the Services, shall in no event exceed the greater of the applicable credits specified in the SLA (if one has been entered into) as to such Service or the pro-rated cost to Customer of the Services not received or received in degraded form for the period of Service during which such mistake, omission, interruption, delay, error or defect in the Services occurs.
- 9.3 Clause 9.2 above shall not apply to;
- 9.4 Injury, death, or damage to real or tangible property caused by either Party's negligence;
- 9.4.1 a breach of confidentiality
- 9.4.2 a settlement, defence or payment obligation arising out of a third party claim, or
- 9.4.3 damages arising out of a Party's gross negligence or wilful misconduct
- 9.5 These limitations on liability apply to the benefit of the parties, their affiliates and third parties whose networks are affected.

9.6 DISCLAIMER OF WARRANTIES

EQUIPMENT BEING SOLD BY LIQUID TELECOM MAY HAVE A WARRANTY PERIOD DECLARED ON THE PACKAGING. LIQUID TELECOM MAKES NO REPRESENTATIONS OR WARRANTIES BEYOND THIS WARRANTY PERIOD REGARDING THE EQUIPMENT RECEIVED FROM THEM, AND DISCLAIM ANY WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. LIQUID TELECOM SHALL NOT BE RESPONSIBLE FOR CIRCUMSTANCES BEYOND ITS CONTROL, INCLUDING WITHOUT LIMITATION ACTS, OR OMISSIONS OF OTHERS, ATMOSPHERIC CONDITIONS, OR ACTS OF GOD. LIQUID TELECOM DOES NOT PROMISE UNINTERRUPTED OR ERROR FREE SERVICE. LIQUID TELECOM MAY NOT MANUFACTURE ANY EQUIPMENT OR SOFTWARE THAT THE CUSTOMER MAY USE IN CONNECTION WITH THE SERVICE, AND THE CUSTOMER'S ONLY WARRANTIES AND REPRESENTATIONS WITH RESPECT TO EQUIPMENT OR SOFTWARE ARE THOSE PROVIDED BY THE MANUFACTURER.

10 SUSPENSION OF SERVICES

- 10.1 Liquid Telecom shall suspend or withdraw all or part of any Service under any Service Order Form at any time if, in Liquid Telecom's reasonable discretion any of the following occurs:
- 10.1.1 the continued provision of the Service will cause Liquid Telecom to breach any applicable law or violate a contravention of its licence;
- 10.1.2 the Customer is in material and continuing breach of any of the provisions of the MSA including, without limitation, any delay or failure by the Customer to make any payments for services hereunder by the 20th of each month (due date of payment) or
- 10.1.3 Any overdue tax invoice for charges billed by Liquid Telecom to the Customer remains unpaid.
- 10.2 The exercise of Liquid Telecom's right to suspend the Services under this clause 10 is without prejudice to any other remedy available to Liquid Telecom under the MSA and does not constitute a waiver of Liquid Telecom's right to subsequently terminate the MSA.
- 10.3 Where Liquid Telecom has suspended the Services in terms of clause 10.1. Liquid Telecom may refuse to reconnect the Services unless precluded by any law or order of court;

11 TERMINATION

- 11.1 Liquid Telecom reserves the right to terminate services hereunder or under any Service Order Form (6) six days after the services have been suspended and not paid for by the customer.
- 11.2 Either Party may terminate a Service at any time during the contract period, at the end of an Initial Term or Renewal Term by providing the other Party with at least one (1) calendar month written notice. Either Party may also terminate this MSA once all Services have expired or been terminated, by providing the other Party with at least one (1) calendar month written notice.
- 11.3 Without prejudice to any rights and remedies that may have accrued, either Party may (without prejudice to such rights as the aggrieved Party may have at law, including the right to claim damages or to enforce the relevant provisions of the MSA) terminate the MSA by providing the other Party with 30 (thirty) days written notice of its intention to do so, if the other Party suffers any of the following (or any local legal equivalent):
- 11.3.1 ceases to trade (either in whole, or as to any part involved in the performance of the MSA);
- 11.3.2 becomes insolvent, has a receiver, administrator or manager appointed of the whole or any part of its assets or business; or
- 11.3.3 makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, is unable to pay its debts under any applicable law relating to bankruptcy or the relief of debtors.
- 11.4 To the extent that the Customer has been afforded a discount on, or waiver of, the Non Recurring Charges, such discount or waiver shall be contingent on the Customer not terminating the Service prior to the expiry of the period set out in the Service Order Form.
- 11.5 If a Service is terminated by the Customer or by Liquid Telecom Rwanda in terms of Clause 11.3; prior to the expiry of the period set out in the Service Order Form, the Customer shall refund to Liquid Telecom Rwanda the value of any discount or waiver afforded to the Customer, within 7 days of such termination.
- 11.6 If Customer defaults in any of its payment obligations under the MSA, Customer agrees to pay Liquid Telecom's reasonable expenses, including but not limited to legal and collection agency fees, incurred by Liquid Telecom in enforcing its rights. All termination notices by Customer must be sent separately for each Service (including terminating one Service location after a Service is switched to a new Service location).
- 11.7 In case services have been terminated for a period of 6 (six) months, Liquid Telecom reserves the right to charge

a reconnection fee from the customer equivalent to the set-up fees of such service that had been terminated.

11.8 TERMINATION WITH IMMEDIATE EFFECT

Liquid Telecom shall terminate services hereunder or under any Service Order Form immediately if any of the following occurs;

- 11.8.1 The customer uses the service in a manner that adversely affects the network, services to other customers, or modifies Liquid Telecom's equipment, software or connection in any way.
- 11.8.2 The customer uses a service to engage in fraud or any unlawful conduct.

12 SERVICE VARIATIONS

12.1 If Customer wishes to make a change, modification or adjustment (including upgrades, downgrades and moves) to any element of any Service, the following procedure will apply:

- 12.1.1 Customer will forward a change request form to Liquid Telecom, setting out the details of the change request;
- 12.1.2 Liquid Telecom will investigate the feasibility, cost implications and impact of the change request on the Services and provide such study to the Customer ("Impact Study").

12.2 If the Customer makes a decision to proceed with the change request after considering the Impact Study, the Customer shall give Liquid Telecom a written instruction to proceed with that change on the basis set out in the Impact Study. That instruction shall be binding on the Parties and the MSA shall be deemed to be amended accordingly.

12.3 If the Parties cannot agree upon the necessary amendments, the change request will not be implemented.

13 EQUIPMENT

All equipment installed by Liquid Telecom at the Customer's premises shall remain the property of Liquid Telecom. Customer shall ensure that the equipment belonging to Liquid Telecom is secure at all times.

14 THEFT AND FRAUD

If the customer's service or equipment is lost, stolen or fraudulently used, then customer is responsible for all usage incurred before Liquid Telecom receives notice from Customer of such loss or theft. Customer agrees to cooperate in the investigation of fraud or theft and to provide Liquid Telecom with such information and documentation as may be requested (including affidavits and police reports).

15 DISPUTE RESOLUTION

Any dispute arising between the parties under the MSA or any Service Order Form shall first be resolved through amicable negotiations between parties, in the event that both parties fail to agree the matter shall be submitted to Rwanda Utilities Regulatory Authority (RURA) and if either party does not agree with the decision made by RURA, the matter shall be referred exclusively to competent courts in Rwanda.

16 GOVERNING LAW & LANGUAGE

This Agreement is governed by and construed in accordance with the laws of the Republic of Rwanda, and the Language governing the contract shall be English.

17 CONFIDENTIALITY

17.1 Subject to clauses 17.2 to 17.4, each Party must;
17.1.1 Use the other Party's Confidential Information only for the purposes of the MSA and must keep confidential and not disclose to any person the other Party's Confidential Information; and

17.2 Clause 17.1.1 does not apply to Confidential Information that is in the public domain other than such information that has entered the public domain as a result of a breach of the MSA or any other obligation of confidence.

17.3 A Party may disclose the Confidential Information of the other Party if that disclosure is to the employees contractors

	or professional advisers of that Party or its Affiliates who have a need to know that information in relation to provision of the Services and who have agreed in writing to keep it confidential.		Each provision of the MSA is severable from the other provisions. Should any provision be found by a court of competent jurisdiction to be invalid or unenforceable for any reason, the parties will consult with one another in good faith in order to agree, if possible, an alternative provision in accordance with the intent and tenor of the MSA. The remaining provisions of the MSA shall nevertheless remain binding and continue with full force and effect.
17.4	A Party may disclose Confidential Information of the other Party or make an Announcement that is required by any applicable law.		
18	INTELLECTUAL PROPERTY RIGHTS Nothing contained in the MSA shall be construed to confer or be deemed to confer on either Party the Intellectual Property Rights of the other Party.	22	BENEFIT OF THE MSA The MSA will inure for the benefit of and be binding upon the successors in title and permitted assigns of the parties hereto or either of them.
19	NOTICES AND DOMICILE	23	WHOLE MSA
19.1	The parties choose as their respective domicile for the purpose Any notice provided for or necessary in terms of the MSA, the addresses set out on the Service Order Form. A Party may change its domicile to any other physical address and its address for the purposes of notices to any other postal address or fax number by written notice to the other Party to that effect. Such change of address will be effective seven days after receipt of notice of the change of domicile.	23.1	The MSA constitutes the whole of the MSA between the parties hereto relating to the matters dealt with in the MSA and save to the extent otherwise provided herein no representation, term or condition relating to the subject matter of the MSA not incorporated in the MSA shall be binding on any of the parties.
19.1.1	All notices to be given in terms of the MSA will be given in writing;	23.2	No variation, addition, deletion, or cancellation will be of any force or effect unless reduced to writing and signed by the parties hereto or their duly authorised representatives.
19.1.2	Be delivered or sent by prepaid registered post, by fax or by electronic mail;	24	WAIVER
19.1.3	If delivered, be presumed to have been received on the date of delivery unless the contrary is proved;		No waiver of any of the terms and conditions of the MSA shall be binding or effectual for any purpose unless expressed in writing and signed by the Party hereto giving the same, and any such waiver shall be effective only in the specific instance and for the purpose given. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
19.1.4	If sent by prepaid registered post be presumed to have been received within three business days of posting unless the contrary is proved;	25	SURVIVAL
19.1.5	If sent by fax or electronic mail be presumed to have been received on the first business day following the date of sending unless the contrary is proved.		Any provision of the MSA, which contemplates performance or observance subsequent to any termination, or expiration of the applicable MSA shall survive any termination or expiration of the applicable MSA and continue in full force and effect.
19.2	Notwithstanding the above, any notice actually received by the Party to whom the notice is addressed will be deemed to have been properly given and received, notwithstanding that such notice has not been given in accordance with the provisions of this clause	26	COVENANT OF GOOD FAITH
20	CESSION, ASSIGNMENT AND SUB-CONTRACTING The MSA shall be binding on the parties hereto and their respective successors and assigns. Neither Party shall be entitled to assign or otherwise transfer the benefit or burden of all or any part of the MSA without the prior written consent of the other Party except that Liquid Telecom may assign its rights and obligations under the MSA without the approval of the Customer to an Affiliate or to an entity which acquires all or substantially all of the assets of Liquid Telecom; provided that in no event shall such assignment relieve Liquid Telecom of its obligations under the MSA.		Each Party agrees that it shall at all times act in good faith, in its respective dealings with the other Party under or in connection with the MSA.
21	SEVERABILITY		