

ADSL Service Terms and Conditions

Please read the following terms very carefully as they set out your rights and obligations when you subscribe to or use our ADSL Service.

1. ADSL Service Description

We provide an asymmetric digital subscriber line (ADSL) service that enables you to send and receive data and email and to access the Internet using a high-speed connection ("ADSL Service").

2. Introduction

- 2.1 By using or subscribing to the ADSL Service you agree that you have read, understand and are bound by:
 - 2.1.1 the General Terms and Conditions;
 - 2.1.2 the terms that apply specifically to the ADSL Service, set out herein and the Mailbox Terms and Conditions (collectively "the Terms").
- 2.2 Your use of the ADSL Service indicates your acceptance without modification of the Terms, which will constitute a legal agreement between you and RIEBENS SYSTEMS. If you do not want to be bound by the Terms, you must not use or subscribe to the ADSL Service.
- 2.3 Unless the context clearly indicates the contrary, any term defined in the General Terms and Conditions when used herein, shall bear the same meaning as defined in the General Terms and Conditions.

3. Interpretation

In these ADSL Service Terms:

- 3.1 the singular includes the plural and vice versa;
- 3.2 amounts include VAT unless otherwise stated;
- 3.3 ADSL means an Asymmetric Digital Subscriber Line which transmits your data onto the Telkom network;
- 3.4 ADSL Service or Service means the provisioning of ADSL, as described in clause 1 above;
- 3.5 ADSL Website means the website located at: <http://www.riebenshost.co.za>;
- 3.6 Agreement means the Application Form and the terms and conditions referred to in clause 2.1 in terms of which the ADSL Service is provided to you;
- 3.7 Application Form means the document in terms of which you apply for the Service, select your desired Cap and provide related information to us;
- 3.8 Top Up means the Out of Package Usage, which you can subscribe to, which will then automatically be made available to you every time you reach or exceed your Base Cap;
- 3.9 Base Cap or Cap means the amount of international and/or local data, measured in Gigabytes ("GB"), that you would like to send and receive during the course of a calendar month and can be 1GB, 2GB, 3GB, ect.;
- 3.10 Base Cap Charge means the amount which we will charge you for the Base Cap selected by you, as recorded in the Application Form and/or displayed on the ADSL Website;
- 3.11 Installation and bringing into Service Charge means a once off fee for the costs relating to the set-up and connection of a subscriber to Telkom's network for the ADSL Service;
- 3.12 Kbps means kilobits per second;
- 3.13 Local-only Data means the type of data (or bandwidth) that only allows you access to South African locally hosted websites and content;
- 3.14 Meg means megabyte;
- 3.15 Modem or Router means the device which is used to connect your computer to the Telkom Telephone Service, in order to enable the ADSL Service;
- 3.16 Out of Package Usage means data sent or received over and above your Base Cap;
- 3.17 Self Install Option means that you are in a position to complete the part of the ADSL line installation that is required to take place at your premises, yourself;
- 3.18 Service Fee means the amount which we will charge you for the rental of the ADSL and the Cap selected by you, as recorded in the Application Form and/or displayed on the ADSL Website;
- 3.19 Telkom means Telkom SA Ltd;
- 3.20 Telkom Resell ADSL Terms and Conditions mean the Telkom Resell ADSL product-specific conditions, which are available at www.telkom.co.za;
- 3.21 Telkom Telephone Service means a fixed access line for making and receiving telephone calls;

4. ADSL Service Terms

- 4.1 Pre-requisites
 - 4.1.1 ADSL availability
 - 4.1.1.1 The ADSL Service is not available everywhere;
 - 4.1.1.2 You are responsible for checking that the ADSL Service is available on your Telkom Telephone Service before you subscribe to the ADSL Service.
 - 4.1.2 Telkom Telephone Service and ADSL. You are required to have beneficial use of an active Telkom Telephone Service, as well as an ADSL in order to make use of the ADSL Service. You can gain access to an ADSL in one of three ways:

All Inclusive:

- 4.1.2.1 transfer your existing Telkom ADSL to RIEBENS SYSTEMS, under which circumstances:

- 4.1.2.3.1 you will consent in writing that RIEBENS SYSTEMS may terminate your existing ADSL with Telkom and that we may transfer your ADSL to RIEBENS SYSTEMS;
- 4.1.2.3.2 you agree to rent the ADSL from RIEBENS SYSTEMS and agree that RIEBENS SYSTEMS will provide you with a Cap;
- 4.1.2.3.3 you will be liable to make payment to us of the Service Fee as provided for in clause 4.2; and
- 4.1.2.3.4 you indemnify RIEBENS SYSTEMS against any damages or penalties which may arise from the termination of your existing Telkom ADSL.

or

- 4.1.2.2 rent an ADSL directly from RIEBENS SYSTEMS, under which circumstances:
 - 4.1.2.2.1 you will qualify for the Self Install Option according to the criteria determined by Telkom;
 - 4.1.2.2.2 RIEBENS SYSTEMS will apply to Telkom for the ADSL on your behalf and Telkom will approve your application;
 - 4.1.2.2.3 RIEBENS SYSTEMS may under certain instances supply you with a Modem which is required to enable the ADSL Service. If not provided by RIEBENS SYSTEMS, you need to obtain your own Modem;
 - 4.1.2.2.4 RIEBENS SYSTEMS will provide the ADSL Service to you, over the Telkom ADSL network;
 - 4.1.2.2.5 you will agree to and sign the Telkom Resell ADSL Terms and Conditions;
 - 4.1.2.2.6 you will enter into a monthly Agreement (or in specific instances a Fixed Term Agreement) with us for the provisioning of the ADSL Service;
 - 4.1.2.2.7 you will be liable to make payment to us of the Service Fee as provided for in clause 4.2;
 - 4.1.2.2.8 you acknowledge that an ADSL procured in this manner will have one of 3 (three) line speeds: up to 384 Kbps; up to 512 Kbps; or up to 4096 Kbps;

or

Data Only:

- 4.1.2.3 engage with Telkom directly for the ADSL rental, under which circumstances:
 - 4.1.2.1.1 Telkom will attend to the installation of the ADSL;
 - 4.1.2.1.2 you will pay an Installation and bringing into Service Charge and a monthly line rental charge directly to Telkom; and
 - 4.1.2.1.3 we will provide the Base Cap to you over the Telkom ADSL network on a month to month basis, for which you will pay us the Base Cap Charge monthly in advance;

4.1.3 Installation of ADSL

Should you qualify to receive the ADSL Service and reside within an ADSL-enabled exchange area, Telkom is required to install the ADSL Service within 30 (thirty) business days of receipt of your application for the ADSL Service.

4.2 Billing

- 4.2.1 You will pay the Base Cap Charge or the Service Fee, as the case may be, to RIEBENS SYSTEMS monthly in advance by way of debit order, on or before the 1st day of each and every calendar month.
- 4.2.2 Billing will commence on the Activation Date.
- 4.2.3 All Inclusive (you pay one bill to RIEBENS SYSTEMS for your Base Cap and ADSL line rental – please note this does not include the cost of your Telkom Telephone Service):
 - 4.2.3.1 Your first bill is pro rata; you're charged for the number of days left in the month in which you signed up or switched over, plus the subscription for the next month.
- 4.2.4 Data Only (you pay RIEBENS SYSTEMS for your Base Cap and Telkom for your ADSL line rental and Telkom Telephone Service):
 - 4.2.4.1 If you signed up or switched over to this product by or before the 15th of the month, your first bill will include the full subscription for that month plus the subscription for the following month.
 - 4.2.4.2 If you signed up after the 15th of the month, your first bill will include half the subscription for the first month and the full subscription for the following month. You will still get your full data cap in the first month.
- 4.2.5 You will be liable for the charges of any Telkom technician who is dispatched to your premises at your instance, save for Telkom ADSL network related matters, which will be free of charge.

4.3 Measures to control Out of Package Usage

- 4.3.1 We have measures available to limit your access to the ADSL Service when you reach or exceed your Base Cap, which are implemented subject to the provisions of clause 4.3.3.
- 4.3.2 We reserve the right to change these prices from time to time.
- 4.3.3 **DISCLAIMER**
 - 4.3.3.1 We do not accept responsibility if you exceed your Base Cap, and we will charge you for Out of Package Usage at our prevailing rates.
 - 4.3.3.2 You are therefore responsible for monitoring and controlling your use of the ADSL Service.
 - 4.3.3.3 If you regularly exceed your Base Cap, you should consider increasing your Base Cap.
 - 4.3.3.4 You may increase (or decrease) your Base Cap with effect from the first day of the month following the month in which you requested such increase (or decrease) against payment of the relevant charges, as displayed on the ADSL Website.

4.4 Monitoring usage

- 4.4.1 As stated above, we have a computer system that measures your usage of the ADSL Service to determine if and when you reach your Base Cap.
- 4.4.2 Because your access to the ADSL Service will be restricted when you reach your Base Cap, it is important that you monitor your usage of the ADSL Service by using our cap aids and alerts (see below).
- 4.4.3 Notwithstanding the measures which we will use to monitor your usage, you acknowledge and agree that you are responsible for monitoring and controlling your use of the ADSL Service.
- 4.4.4 We provide monitoring measures, currently free of charge that will assist you to keep track of your ADSL Service usage:
 - 4.4.4.1 ADSL Website:
this will provide you with guidelines to help you to monitor your use of the ADSL Service online.
 - 4.4.4.2 SMS and email alert:
 - 4.4.4.2.1 When you subscribe to or start using the ADSL Service you will be asked whether you wish to receive SMS alerts.
 - 4.4.4.2.2 In respect of your Base Cap: We will send you SMSs and/or emails at regular intervals to inform you how much of your Base Cap you have used. RIEBENS SYSTEMS will send you SMSs and emails from time to time at its discretion.
- 4.4.5 DISCLAIMER
 - 4.4.5.1 Because of the nature of the ADSL sessions, and because ADSL is a session based technology, we do not guarantee the efficiency of the measures available to limit or monitor your usage as contemplated in this clause 4.4.
 - 4.4.5.2 We accordingly do not accept responsibility if you exceed your Base Cap, and we will charge you for Out of Package Usage at our prevailing rates.
 - 4.4.5.3 You are therefore responsible for monitoring and controlling your use of the ADSL Service

4.5 Exceeding your Cap and blacklisting

- 4.5.1 From time to time, in any given month, we may in our sole discretion allow you to exceed your Base Cap without stopping your access to the ADSL Service.
- 4.5.2 However, if we allow you to exceed your Base Cap in this manner, it will merely constitute a temporary indulgence on our part. It will not constitute a waiver of any of our rights, including (without limitation) our right to stop your access to the ADSL Service if you exceed your Base Cap at any time in the future.
- 4.5.3 If you exceed your Base Cap, we reserve the right in our sole discretion to recover from you the cost of the amount of data by which you have exceeded your Base Cap.
- 4.5.4 If you exceed your Base Cap regularly, we reserve the right in our sole discretion to "blacklist" you. In that case, we will measure your usage of the ADSL Service very carefully and stop your access to the ADSL Service promptly every time you exceed your Base Cap.

5. Duration and termination of the Agreement

- 5.1 Subject to the provisions of clause 3.8 of the General Terms and Conditions this Agreement commences on the Effective Date and will terminate:
 - 5.1.1 in the case of a month to month arrangement: upon receipt in writing from you of 1 (one) calendar months notice, which notice will take effect on the first day of the month immediately following the end of the 1 month notice period; or
 - 5.1.2 on the date specified in a notice in writing from us which we may give to you in the event of the termination of the agreement between us and Telkom relating to the ADSL Service.
- 5.2 We reserve the right to suspend the provisioning of the Service to you in terms of clause 8.5.3 of the General Terms and Conditions or as a result of a breach by you of the Agreement, or as a result of your non-payment to Telkom of any amounts due to Telkom in respect of your Telkom Telephone Service. You will, however, under these circumstances be able to be reconnected to the Service upon payment of a re-activation fee.
- 5.3 We will always use reasonable endeavors to notify you in advance of the suspension or termination of the ADSL Service as contemplated above.
- 5.4 You indemnify us against any damage, loss, cost or claim which you may suffer or incur arising from the suspension or termination of the ADSL Service.

6. ADSL Acceptable Use Policy

- 6.1 You will only use the ADSL Service for purposes that are lawful and for which it was designed.
- 6.2 You will not use the ADSL Service, directly or indirectly, in a way that:
 - 6.2.1 is harmful, obscene, discriminatory, defamatory or illegal;
 - 6.2.2 constitutes hate speech, incitement to commit criminal acts, or invasion of privacy; infringes copyright or other intellectual property rights;
 - 6.2.3 spreads viruses or other computer or communications software, code, programs or files that impede or destroy the functionality of any computer or communications software or equipment;
 - 6.2.4 interferes with any third party's use of the ADSL Service;
 - 6.2.5 transmits unsolicited bulk messages ("spam");
 - 6.2.6 obtains information about or from third parties;
 - 6.2.7 causes your Cap to be regularly exceeded;
 - 6.2.8 otherwise breaches the Terms or the Agreement; or

6.2.9 in RIEBENS SYSTEMS' sole discretion constitutes abuse of the ADSL service or of RIEBENS SYSTEMS' system.

6.3 We reserve the right to limit the number of emails that you may send in any given period or to limit the total message volume (amount of data) sent per hour unless you are on an unshaped ADSL Service.

7. Uncapped ADSL

7.1 We manage all of our uncapped accounts on an hour to hour basis depending on the performance of our network at that time.

7.1.1 We monitor our overall network usage on an hour to hour basis and if our capacity is stretched we dynamically shape and throttle certain clients' uncapped accounts to relieve congestion.

7.1.2 These uncapped clients will be chosen based on their historic bandwidth usage. The uncapped users who have used the most bandwidth will be throttled first if there is network congestion.

7.1.3 Capped ADSL accounts will not be throttled or shaped. Capped accounts will always get as much speed as their line and our network allows.

7.1.4 We evaluate our network capacity each hour and if capacity opens up we will unthrottle uncapped users who may have been throttled until such a time that the capacity is used up again.

7.1.5 It is our goal to ensure the best possible experience for both the biggest and smallest of our clients given the parameters we have and as such we reserve the right to manage Uncapped ADSL accounts as we deem necessary to ensure optimal performance across our network for all of our clients.

8. Disclaimer

8.1 We use the Telkom ADSL network to provide the ADSL Service. We accordingly provide the ADSL Service subject to the limitations and terms imposed on us by Telkom, which includes the actual availability of the Telkom network.

8.2 We will always try to provide the Service to the best of our ability. However, we provide the ADSL Service "as is" and "as available" and do not warrant or guarantee that the Service is free of errors or interruptions, is always available, is fit for any purpose, does not infringe any third party rights, is secure and reliable, or will conform to your delivery timeline requirements.

8.3 We also do not warrant that we will always be in a position to obtain an ADSL for you from Telkom, or that Telkom will continue to make the ADSL used by you available to us for the purposes of this agreement; or that we will always be in a position to lease ADSLs to subscribers as contemplated in clause 4.1.2 above.

9. Limitation of Liability

9.1 You subscribe to and use the ADSL Service at your own risk.

9.2 We are not liable to you or any third party for, and you hold us harmless and indemnify us against, any damages suffered by you or a third party howsoever arising from your Subscription to or use of the ADSL Service, including (without limitation) any damages suffered by you due to:-

9.2.1 any interruption of or error in the ADSL Service; or

9.2.2 our failure to fulfill our obligations as a result of uncontrollable events, including without limitation Telkom's neglect, failure or refusal to make, or to continue to make, the ADSLs or the ADSL Service available to us.

9.3 In this clause 9:

9.3.1 damages means all damages of whatsoever nature and includes (without limitation) all damages, loss, claims or costs, including (without limitation) loss of data, profits or custom, or loss of current or future business whether in contract, delict or otherwise, direct, indirect, special or consequential, foreseeable or not and we were advised of the damages in advance or not; and

9.3.2 uncontrollable events means any circumstances beyond our reasonable control, including without limitation, an act of God, of public enemy, fire, explosion, earthquake, perils of the sea, flood, storm or other adverse weather conditions, war declared or undeclared, civil war, revolution, civil commotion or other civil strife, riot, blockade, embargo, sanctions, epidemics, act of any government or other authority, compliance with government orders, demands or regulations, or any act or omission on the part of a third party' including without limitation, Telkom.

10. Warranty

10.1 It is your responsibility to make sure that you have read and understand the warranty provided on your Modem and/or Router and you hereby indemnify RIEBENS SYSTEMS against all costs and any claim whatsoever arising from your failure to comply with the manufacturer's warranty.

10.2 Should RIEBENS SYSTEMS, in its sole discretion, exchange any Modem and/or your Router, and the manufacturer then establish that any fault or damage to the Modem and/or Router was caused by you, or is not covered under the warranty, you will be billed for such replacement Modem and/or Router.

11. Termination of Network Operator Agreement

11.1 You agree that if the agreement between RIEBENS SYSTEMS and its service provider terminates then RIEBENS SYSTEMS may, at its discretion:

10.1.1 terminate the provisioning of the Service without liability to you on notice in writing;

10.1.2 transfer the provisioning of the Service to a third party service provider and assign this Agreement to such third party; or

10.1.3 assign this Agreement to the Network Operator.