

# Real Image INTERNET

PO Box 3517 Mbabane; Tel 2409 1000/ Fax 2404 8333  
info@realnet.co.sz <http://www.realnet.co.sz>

## REAL IMAGE INTERNET ADSL SERVICE TERMS

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

### 1. ADSL SERVICE DESCRIPTION

We provide a capped 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 terms that apply to all our services set out in the application forms;

2.1.2 the terms that apply specifically to the ADSL Service, set out herein and on the Website;

2.2 If you do not want to be bound by the General Terms and the ADSL Service Terms, you must not use or subscribe to the ADSL Service;

2.3 In the case of an inconsistency between the ADSL Service Terms and the General Terms, the General Terms will prevail to the extent that such terms and conditions apply to the ADSL Service.

### 3. INTERPRETATION

3.1 In these ADSL Service Terms:

3.1.1 the singular includes the plural and vice versa;

3.1.2 ADSL means an Asymmetric Digital Subscriber Line which transmits your data onto the SPTC network;

3.1.3 ADSL Service or Service means the provisioning of the ADSL, Cap, a Router, Modem, and other hardware;

3.1.4 Website means the website located at: <http://www.realnet.co.sz>

3.1.5 Application Form means the document in terms of which you apply for the Service, select your desired Cap and provide related information to us;

3.1.6 Auto Top Up Cap means the Out of Package Usage which will automatically be made available to you when you reach or exceed your Base Cap, should you subscribe and be accepted for this service.

3.1.8 Top Up Cap means Out of Package Usage that you can purchase from us to increase your Base Cap;

3.1.9 Date of Activation means the date from which you will be in a position to send and receive data and email and access the internet by making use of the ADSL service;

3.1.10 Base Cap or Cap means the amount of data, measured in Megabytes (MB) or Gigabytes (GB), that you would like to send and receive during the course of a calendar month;

3.1.11 Fixed Term Agreement means a contract for the provisioning of the Service for a period of 12 months;

3.1.12 Kbps means kilobits per second;

3.1.13 Meg means megabyte;

3.1.14 Modem or Router means the device which is used to connect your computer to the SPTC Telephone Service, in order to enable the ADSL Service;

3.1.15 Out of Package Usage means data sent or received over and above your Base Cap;

3.1.16 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;

3.1.17 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 realBroadband Website;

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- 3.1.18 Subscribe means your act of gaining access to the ADSL Service by entering into an agreement with us for the provisioning of the Service to you;
- 3.1.19 SPTC means Swaziland Post and Telecommunication;
- 3.1.20 SPTC Resell ADSL Terms and Conditions means the SPTC Resell ADSL product-specific conditions, which are available at insert;
- 3.1.21 SPTC Telephone Service means a fixed access line for making and receiving telephone calls;
- 3.1.22 Unit Price means the cost per megabyte of the Usage Based Top Up;
- 3.1.23 Usage Based Top Up means Out of Package Usage for which you will be charged per megabyte;
- 3.1.24 Use includes (without limitation) accessing, retrieving, downloading, logging on to or viewing the ADSL Service;
- 3.1.25 We, us and our means REAL IMAGE INTERNET (Pty) Ltd- and its affiliates and subsidiaries.

## 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 SPTC Telephone Service before you subscribe to the ADSL Service.

4.1.2 SPTC Telephone Service and ADSL You are required to have beneficial use of an active SPTC Telephone Service. You can only gain access to an ADSL by:

#### 4.1.2.1 Renting an ADSL from SPTC directly, under which circumstances:

4.1.2.2.1 REAL IMAGE INTERNET will apply to SPTC for the ADSL on your behalf and SPTC will approve your application;

4.1.2.2.2 SPTC may supply you with a Modem which is required to enable the ADSL Service depending on the line speed you apply for, else you will need to provide your own Modem;

4.1.2.2.3 REAL IMAGE INTERNET will provide the ADSL Service to you, over the SPTC ADSL network;

4.1.2.2.4 you will enter into either a monthly or a Fixed Term agreement with us for the provisioning of the Service; and

4.1.2.2.5 you acknowledge that a ADSL procured in this manner will have one of 3 line speeds

4.1.2.2.6.1 up to 1024 Kbps;

4.1.2.2.6.2 up to 2048 Kbps

4.1.2.2.6.3 up to 5056 Kbps.

## 4.2 BILLING

4.2.1 You will pay the Service Fee to REAL IMAGE INTERNET monthly in advance by way of cash, internet transfer or debit order, on or before the 1st day of each calendar month

4.2.2 Billing will commence on the Date of Activation. All ADSL accounts will be billed based on the calendar month.

4.2.3 You will be liable for the charges of any SPTC technician who is dispatched to your premises at your instance, save for SPTC ADSL Network related matters, which maybe billed for by SPTC directly.

4.2.4 You will, save as otherwise provided for herein, be liable for all costs, fees and charge arising from or in connection with your SPTC Telephone Service, including without limitation the rental thereof and call charges, to SPTC directly.

## 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;

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4.3.2 Under these circumstances, you will not be able to use the ADSL Service, send or receive data or email, or access the Internet until the start of the next month, unless you do one of the following things:

- 4.3.2.1 buy a Top Up Cap
- 4.3.2.2 use a dial-up service; or
- 4.3.2.3 increase your Base Cap to a higher Gigabyte factor.

The different options are discussed below:

**4.3.2.1 OPTION 1: Buy a Top Up Cap:**

4.3.2.1.1 There are three (3) types of Top Up Caps available;

4.3.2.1.1.1 *real*/HomeBand;

4.3.2.1.1.2 *real*/SOHOBand;

4.3.2.1.1.3 *real*/BusinessBand;

It lies within our discretion to limit the number of Top Up Caps that you may use in any given month.

**4.3.2.1.2 PRICING**

4.3.2.1.2.1 We reserve the right to change these prices from time to time.

**4.3.2.1.3 UNUSED DATA CAPACITY**

4.3.2.1.3.1 Data Capacity under a Hard Cap TOP UP which was not used during the course of a month will be carried over for a maximum of 45 days. Under these circumstances, you will first use your Base Cap, and then the TOP UP Data Capacity, which was carried over.

4.3.2.1.3.2 All unused data will be automatically lost following the 45 days period.

**4.3.2.1.4 DISCLAIMER**

4.3.2.1.4.1 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 your access as contemplated in this clause 4.3, including without limitation the Safety Lock.

4.3.2.1.4.2 We accordingly do not accept responsibility if you exceed your Base Cap, and will charge you for Out of Package Usage at our prevailing rates.

4.3.2.1.4.3 You are therefore finally responsible for monitoring and controlling your use of the ADSL Service.

**4.3.2.2 OPTION 3: Increase your Base Cap to a higher Gigabyte factor.**

4.3.2.3.1 If you regularly exceed your Base Cap, you should consider increasing your Base Cap.

4.3.1.3.2 You may increase (or decrease) your Base Cap with effect from the first day of a subsequent month 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 may measure your usage of the ADSL Service to determine if and when you reach your Base Cap.

4.4.2 However, due to the way in which SPTC offers ADSL, we can only measure your usage at times when you end a current session or you disconnect your modem;

4.4.3 Your current session will end:

4.4.3.1 when you manually end your session by disconnecting your ADSL modem for a moment.

This is because the ADSL service is an always on service.

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4.4.4 Because your access to the ADSL Service will be restricted when you reach your Base Cap, it is important that you: -

4.4.4.1 monitor your usage of the ADSL Service by using our cap aids and alerts (see below); and

4.4.4.2 regularly end your current sessions so that we may be able to measure your usage.

4.4.5 It lies within our discretion to end your current session at any time to measure your usage.

4.4.6 You are finally responsible for monitoring and controlling your use of the ADSL Service.

4.4.7 We provide two measures, currently free of charge, that will assist you to keep track of your ADSL Service usage:

4.4.7.1 WEBSITE:

4.4.7.1.1 this will help you to monitor your use of the ADSL Service online, and enables you to buy Top Ups, and to manage your EMAIL cap alerts.

4.4.7.1.2 You will administer access to the Website yourself.

4.4.7.2 EMAIL ALERT:

4.4.7.2.1 When you subscribe to or start using the ADSL Service you will be asked whether you wish to receive email alerts.

4.4.7.2.2 In respect of your Base Cap: We will send you emails at regular intervals to inform you how much of your Base Cap you have used.

## 4.5 CONCURRENCY

4.5.1 You may only have the following connections to the ADSL Service at any given time:

4.5.1.1 If you have an ADSL account, you may have:

4.5.1.1.1 1 (one) ADSL connection.

## 4.6 EXCEEDING YOUR CAP AND BLACKLISTING

4.6.1. 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.

4.6.2 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.

4.6.3 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.

4.6.4 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.

## 4.7 CREDIT CHECKS AND YOUR INFORMATION

4.7.1 By applying for a subscription to the ADSL Service or by using the ADSL Service you authorise us, in our sole discretion and at any time, to:-

4.7.1.1 check your credit history with any credit bureau; and

4.7.1.2 provide any of your personal information to the credit bureau for this purpose.

4.7.2 We reserve the right, for any reason and without notice to you, to refuse or end your subscription to the ADSL Service or a TOP UP.

4.7.3 When you subscribe to or start to use a service, if requested by us, you will provide us with your full names, identity number, residential and business or postal address, a certified copy of your identity document and (if you are a legal entity) a certified copy of your business letterhead.

## 5. DURATION AND TERMINATION OF THE AGREEMENT

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5.1 This agreement commences on the date on which we confirm that we are in a position to provide the Service to you and will terminate:

5.1.1 in the case of a Fixed Term Agreement: upon the expiry of a period of 12 months following the Date of Activation, whereupon the agreement will continue on a month to month basis subject to termination by you by giving us 1 (one) calendar month's written notice, which may not be given prior to the expiry of month 12;

5.1.2 in the case of a month to month arrangement: upon receipt in writing from you of 1 (one) calendar month's notice, which notice will take effect on the first day of the month immediately following the end of the 1 month notice period; or

5.1.3 on the date specified in a notice in writing from us which we may give in the event of termination of the agreement between us and SPTC relating to the ADSL Service.

5.2 We reserve the right to suspend the provisioning of the Service to you in the event of inter alia non-payment by you of any fees due to us under this agreement or non-payment by you to SPTC of your SPTC 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 reserve the right to terminate the provisioning of the Service to you in the event of inter alia non-payment by you of any fees due to us under the agreement or non-payment by you to SPTC of your SPTC Telephone Service, or the termination by you of your SPTC Telephone Service.

5.4 We will always use reasonable endeavours to notify you of the suspension or termination of the Service.

5.5 You indemnify us against any damage, loss, cost or claim which we may suffer or incur arising from the suspension or termination of the Service.

## 6. ADSL ACCEPTABLE USE POLICY

6.1 You will only use the ADSL Service for purposes: -

6.1.1 that are lawful; and

6.1.2 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; or

6.2.8 otherwise breaches the General Terms or the ADSL Service Terms.

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.

## 7. DISCLAIMER

7.1 We use the SPTC ADSL network to provide the Service. We accordingly provide the ADSL Service subject to the limitations and terms imposed by SPTC, which includes the actual availability of the SPTC network.

7.1.1 We will always try to provide the Service to the best of our ability. However, we:-

7.1.2 provide the ADSL Service "as is" and "as available"; and

7.1.3 do not warrant or guarantee that the Service:-

7.1.3.1 is free of errors or interruptions;

7.1.3.2 is always available;

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- 7.1.3.3 is fit for any purpose;
- 7.1.3.4 does not infringe any third party rights;
- 7.1.3.5 is secure and reliable; or
- 7.1.3.6 will conform to your timeline requirements.

7.2 We also do not warrant that we will always be in a position to obtain an ADSL for you from SPTC, or that SPTC 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.

## 8. LIMITATION OF LIABILITY

- 8.1. You subscribe to and use the ADSL Service at your own risk.
- 8.2. 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:-
  - 8.2.1. any interruption of or error in the ADSL Service; or
  - 8.2.2. our failure to fulfil our obligations as a result of uncontrollable events, including without limitation SPTC's neglect, failure of refusal to make, or to continue to make, the ADSLs or the ADSL Service available to us.
- 8.3. If you suffer damages or are dissatisfied with the ADSL Service your only remedy is to end your subscription (if it is not for a fixed term) or stop using the ADSL Service.
- 8.4. In this clause:
  - 8.4.1. damages means all damages of whatever nature and includes (without limitation) all damages, loss, claims or costs, including (without limitation) loss of data, profits or custom, or business foregone whether:-
    - 8.4.1.1. in contract, delict or otherwise;
    - 8.4.1.2. direct, indirect, special or consequential;
    - 8.4.1.3. foreseeable or not; and
    - 8.4.1.4. we were advised of the damages in advance or not; and
  - 8.4.2. uncontrollable events mean 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) SPTC).

## 9. INDEMNITY

You indemnify us against all damages, loss or costs suffered by us or claims instituted against us howsoever arising from: -  
your Subscription to or use of the ADSL Service; or your breach of the General Terms or the ADSL Service Terms.

## 10. CHANGE TO ADSL SERVICE TERMS

We may change any or all of the ADSL Service Terms including (without limitation) the ADSL Service charges at any time upon notice to you.

Any changes will become effective when we publish them on the ADSL Website.

You agree to check our legal notices website, the ADSL Website and the ADSL Service Terms periodically for changes.

By continuing to use the ADSL Service after we make the changes, you agree to be bound by the changed ADSL Service Terms.

If you do not accept the changed ADSL Service Terms, you must stop subscribing to the service (if you have not subscribed for a fixed term), or stop using the ADSL Service.