



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. Introduction

- 1.1 By using or subscribing to the ADSL Service you agree that you have read, understand and are bound by the General Terms and Conditions and other notices under “General” on our Legal notices webpage and the terms that apply specifically to the ADSL Service, set out herein and on the ADSL Website and any other terms that may apply, including the Mailbox Terms and Conditions (collectively “**the Terms**”).
- 1.2 Your use of the ADSL Service indicates your acceptance without modification by you of the Terms, which will constitute a legal agreement between you and MWEB. If you do not want to be bound by the Terms, you must not use or subscribe to the ADSL Service.
- 1.3 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.

2. Interpretation

In these ADSL Service Terms:

- 2.1 **ADSL** means an Asymmetric Digital Subscriber Line;
- 2.2 **ADSL Service** means the provisioning of an ADSL service that enables you to send and receive data and email and to access the Internet using a high-speed connection, comprising of various Data Only Packages and All-Inclusive Packages;
- 2.3 **ADSL Website** means the website located at: <http://myadsl.mweb.co.za> or <https://myaccount.mweb.co.za>;
- 2.4 **Agreement** means the Application Form together with the Terms, subject to which the ADSL Service is provided to you;
- 2.5 **All-Inclusive Packages** means ADSL Service packages that includes the ADSL rental, as more fully described on our ADSL Website and as published by us from time to time;
- 2.6 **Application Form** means the document in terms of which you apply for the ADSL Service, select your desired package and provide related information to us;
- 2.7 **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;
- 2.8 **Booster** means the Out of Package Usage that you can purchase from us, as set out in clause 3.4;
- 2.9 **Data Only Packages** means ADSL Service packages that excludes the ADSL rental and where we only provide you with data / bandwidth capacity, as selected by you in the Application Form;



- 2.10 **Fixed Term Agreement** means a contract for the provisioning of the ADSL Service for a fixed term period as indicated on the Application Form;
- 2.11 **Free Local-only Access** means such Local-only Data, as determined by us from time to time, that you may be able to send and receive during the course of a calendar month once you have exceeded your Base Cap (**only applicable to certain packages**);
- 2.12 **Kbps** means kilobits per second;
- 2.13 **Local-only Data** means the type of data (or bandwidth) that only allows you access to South African locally hosted websites and content;
- 2.14 **Meg** means megabyte;
- 2.15 **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;
- 2.16 **Out of Package Usage** means data sent or received over and above your Base Cap;
- 2.17 **Service Fee** means the amount which we will charge you for the ADSL Service selected by you, as recorded in the Application Form and/or displayed on the ADSL Website;
- 2.18 **Telkom** means Telkom SA Ltd;
- 2.19 **Telkom Resell ADSL Terms and Conditions** means the Telkom Resell ADSL product-specific conditions, which are available at www.telkom.co.za;
- 2.20 **Telkom Telephone Service** means a fixed access line for making and receiving telephone calls;

3. ADSL Service Terms

- 3.1 **Pre-requisites:** The ADSL Service is not available everywhere. You are responsible for checking that the ADSL Service is available on your Telkom Telephone Service before you subscribe to the ADSL Service. If your Telkom Telephone Service is a prepaid service you can not get ADSL. You are required to have beneficial use of an active Telkom Telephone Service in order to make use of the ADSL Service. If you select a Data Only Package you also require an ADSL. If not provided by MWEB, you need to obtain your own Modem.

3.2 Various Packages

For more information on our various packages please go to our ADSL Website.

3.2.1 Data Only:

You engage with Telkom directly for the ADSL rental and Telkom attend to the installation of the ADSL. We will provide you with internet access over the Telkom ADSL network on a month to month basis, for which you will pay us the Service Fee monthly in advance.



3.2.2 **All Inclusive:**

You pay one bill to MWEB for your ADSL Service and ADSL rental – please note this does not include the cost of your Telkom Telephone Service.

Option A

You rent an ADSL directly from us and we will apply to Telkom for the ADSL on your behalf. You will agree to sign and be bound by the Telkom Resell ADSL Terms and Conditions.

Option B

You transfer your existing Telkom ADSL to MWEB, under which circumstances you will consent in writing that MWEB may terminate your existing ADSL with Telkom and that we may transfer your ADSL to MWEB and you indemnify MWEB against any damages or penalties which may arise from the termination of your existing Telkom ADSL.

3.3 **Billing**

3.3.1 You will pay the Service Fee, to MWEB monthly in advance by way of debit order, or such other manner as agreed, on or before the 1st day of each and every calendar month.

3.3.2 Billing will commence on the Activation Date.

3.3.3 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.

3.3.4 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.

3.4 **Measures to control Out of Package Usage where a Base Cap applies**

3.4.1 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 3.4.4. For more details on measures to control your Out of Package Usage, please visit the ADSL Website.

3.4.2 Where you reach or exceed your Base Cap, you will only be able to use the ADSL Service to access Local-only Data up to your Free Local-only Access limit. Once you have used your Free Local-only Access, you will be charged per Meg for any further Local-only Data used. You will however have no access to international websites or content until the start of the next month, unless you buy a Booster; use a dial-up service; or increase your Base Cap to a higher GB factor.

3.4.3 On certain packages, once you reach or exceed your Base Cap, you will immediately be charged per Meg for any further Local-only Data used. You will however have no access to international websites or content until the start of the next month, unless you do one of the following things: buy a Booster; use a dial-up service; or



increase your Base Cap to a higher GB factor. **Please go to our ADSL Website to see if you qualify for Free Local Only Access.**

3.4.4 **DISCLAIMER**

3.4.4.1 Because ADSL Services are session based technology, we do not guarantee the efficiency of any measures available to limit your usage, including without limitation any Safety Lock.

3.4.4.2 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.

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

3.5 **Concurrency**

3.5.1 You may only have the following connections to the ADSL Service at any given time, unless otherwise agreed:

3.5.1.1 1 (one) ADSL connection; and

3.5.1.2 1 (one) dial-up connection (if applicable) (analogue or 64K ISDN only) to Telkom's network at any given time.

3.6 **Exceeding your Base Cap and blacklisting, where a Base Cap applies**

3.6.1 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.

3.6.2 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.

3.6.3 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.

3.6.4 If you exceed your Base Cap regularly, we reserve the right in our sole discretion to add you to the "MWEB blacklist". 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. **Duration and termination of the Agreement**

4.1 This Agreement commences on the Effective Date and will terminate:

4.1.1 in the case of a Fixed Term Agreement: upon the expiry of the fixed term period selected by you on the Application Form starting from the Activation Date ("the Initial Period"). At the end of the Initial Period, the Agreement will automatically renew and will continue on a month to month basis ("the Renewal Period"). You



may terminate the Agreement during the Renewal Period by giving us written notice of 1 (one), 2 (two) or 3 (three) calendar month's, depending on the specific notice period set out in the Application Form, which notice will take effect on the first day of the month immediately following the end of the applicable notice period; or

4.1.2 in the case of a month to month arrangement: upon receipt in writing from you of either 1 (one), 2 (two) or 3 (three) calendar month's written notice, depending on the specific notice period set out in the Application Form, which notice will take effect on the first day of the month immediately following the end of the applicable notice period; or

4.1.3 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 any of our upstream providers, relating to the ADSL Service.

4.2 You agree to pay the Service Fee for the remainder of any fixed term, as well as any other amounts due by you to us under this Agreement, in the event of the early termination by you of the Fixed Term Agreement. Early termination will be accepted on 30 (thirty) days prior written notice to us.

4.3 We reserve the right to suspend the provisioning of the ADSL Service to you in the event 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 ADSL Service upon payment of a re-activation fee.

4.4 We will always use reasonable endeavors to notify you in advance of the suspension or termination of the ADSL Service as contemplated above.

4.5 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.

5. ADSL Acceptable Use Policy

5.1 You will only use the ADSL Service for purposes that are lawful and for which it was designed.

5.2 You will not use the ADSL Service, directly or indirectly, in a way that:

5.2.1 is harmful, obscene, discriminatory, defamatory or illegal;

5.2.2 constitutes hate speech, incitement to commit criminal acts, or invasion of privacy; infringes copyright or other intellectual property rights;

5.2.3 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;

5.2.4 interferes with any third party's use of the ADSL Service;

5.2.5 transmits unsolicited bulk messages ("spam");

5.2.6 obtains information about or from third parties;



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- 5.2.7 causes your Base Cap to be regularly exceeded;
- 5.2.8 otherwise breaches the Terms or the Agreement; or
- 5.2.9 in MWEB's sole discretion constitutes abuse of the ADSL Service or of MWEB's system.
- 5.3 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.
- 5.4 Unless you are subscribed to a business package, you may not use the ADSL Services for anything other than your own personal use. The ADSL Service is intended for periodic, active use of email, newsgroups, file transfers, internet chat, games and browsing the World Wide Web.
- 5.5 Unless you subscribe to a business packages and you are permitted in terms of such business package, you may not resell the ADSL Services, receive any charge or benefit for the use of the ADSL Services or provide Internet access or any other feature of the ADSL Services to any third party or in any other way exploit the ADSL Service for any commercial purposes. For example, you cannot provide Internet access to others through a dial up, ADSL or other connection, host shell accounts over the Internet, provide e-mail or news services, or send a news feed. The ADSL Services are consumer products designed for personal access to and use of the Internet. For example, the ADSL Services do not provide the type of security, upstream performance and total downstream throughput capability typically associated with commercial use. You may not run a server (including game servers) in connection with the ADSL Services. You may not provide network services to others via the ADSL Services. In addition, you are prohibited from running servers for mail, http, ftp, irc and multi-user interactive forums. You may not share your ADSL Services.
- 5.6 You may not restrict, inhibit or interfere with the ability of any person to access, use or enjoy the Internet or the ADSL Services, or create an unusually large burden on our network, including, without limitation, continuously uploading or downloading streaming video or audio; continuous FTP uploading or downloading, or otherwise generating levels of traffic sufficient to impede others' ability to send or retrieve information, or to use the ADSL Services in an abusive manner in connection with any unlimited packages, options or promotions.
- 5.7 We reserve the right to establish policies, rules and limitations, from time to time, concerning the use of the ADSL Service. You must comply with any bandwidth, data storage and other limitations we may impose, in our sole discretion. Failure to comply with these rules will result in your service being restricted, suspended or terminated, in our sole discretion.
- 5.8 We will manage bandwidth usage to the best of our ability during peak periods, however, it remains a best effort service.
- 5.9 We reserve the right to manage our network in order to optimize its efficiency for the benefit of all our subscribers, including, without limitation, by way of the following: rate limiting (speed), rejection or removal of spam or otherwise unsolicited bulk e-mail, anti-virus mechanisms, protocol filtering and imposing restrictions



on your use. We may take any other action we deem appropriate in order to help ensure the integrity of the network experience for all subscribers, including limiting your data traffic by controlling your network and/or bandwidth usage.

- 5.10 You may not use the ADSL Service for unattended automated operation, unless otherwise agreed. You may stay connected as long as you are actively using that connection. You further agree not to use Internet applications for the purpose of simulating network activity to avoid session inactivity disconnection.
- 5.11 **We do not make any express or implied representations, warranties or guarantees regarding the availability, accuracy, reliability, timeliness, quality or security of the ADSL Service.**
- 5.12 We are committed to provide you with uninterrupted ADSL Services. However, we can not guarantee that the ADSL Service and the allocated capacity will always be available.
- 5.13 We can terminate the ADSL Service at any time if we decide to discontinue the ADSL Service offering for any reason whatsoever, without any further liability to you.
- 5.14 If the ADSL Service is used in a way that we, in our sole discretion, believe violates this Acceptable Use Policy or any of our rules or limitations, we may take any responsive actions we deem appropriate. Such actions may include without limitation, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, and/or the immediate limitation, restriction, suspension or termination of all or any portion of the ADSL Services or your account.

6. Disclaimer

- 6.1 We may use or rely on upstream providers to provide the ADSL Service or certain portions thereof. We accordingly provide the ADSL Service subject to the limitations and terms imposed on us by such upstream providers, which includes the actual availability of the upstream provider's network.
- 6.2 We will always try to provide the ADSL 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 ADSL 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.
- 6.3 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 ADSL's to subscribers.

7. Limitation of Liability

- 7.1 You subscribe to and use the ADSL Service at your own risk.
- 7.2 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:-



- 7.2.1 any interruption of or error in the ADSL Service; or
- 7.2.2 our failure to fulfill our obligations as a result of uncontrollable events, including without limitation upstream provider's neglect, failure or refusal to make, or to continue to make, the ADSL available to us.
- 7.3 In this clause 7:
- 7.3.1 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
- 7.3.2 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.

8. Warranty

- 8.1 In the event that a Modem / Router is provided to you by MWEB, it will be subject to a manufacturer's warranty.
- 8.2 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 MWEB against all costs and any claim whatsoever arising from your failure to comply with the manufacturer's warranty.
- 8.3 Should MWEB, 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.
- 8.4 Business packages where we provide routers to you on loan are excluded from this clause.

9. Termination of Network Operator Agreement

- 9.1 You agree that if the agreement between MWEB and any of its upstream service providers terminates then MWEB may, at its discretion:
- 9.1.1 terminate the provisioning of the ADSL Service without liability to you on notice in writing;
- 9.1.2 transfer the provisioning of the ADSL Service to a third party service provider and assign this Agreement to such third party; or
- 9.1.3 assign this Agreement to the upstream service provider.