



## Product Terms

### VPN ADSL

#### 1. INTERPRETATION

- 1.1 Unless the context clearly indicates the contrary, any term defined in the General Terms when used herein, shall bear the same meaning as defined in the General Terms.
- 1.2 To the extent that there is any contradiction between the General Terms and these Product Terms the following order of precedence shall apply: (i) these Product Terms; and (ii) the General Terms.
- 1.3 By using or subscribing to VPN ADSL you agree that you have read, understand and are bound by:
  - 1.3.1 the General Terms and Conditions and other notices under “General” on our Legal Notices Webpage; and
  - 1.3.2 these terms that apply specifically to VPN ADSL, (collectively “the Terms”).
- 1.4 Your use of VPN ADSL indicates your acceptance without modification of the Terms, which will constitute a legal agreement between you and MWEB Business.
- 1.5 Unless the context clearly indicates to the contrary, the following words bear the meanings ascribed thereto-
  - 1.5.1 **“Application Form”** means the application form completed and signed by Customer for the initiation of VPN ADSL, as same may be amended from time to time in terms of the Agreement;
  - 1.5.2 **“ADSL Line”** means the asymmetric digital subscriber line provided by Telkom in accordance with the provisions of the Electronic Communications Act and Telkom’s PSTS license (including any conversion of that licence in terms of section 93 of the Electronic Communications Act) ;
  - 1.5.3 **“ADSL”** has the meaning ascribed to it in the Product Terms applicable to ADSL, which can be found under the name ADSL at <http://www.mwebbusiness.co.za/Legal.aspx> under the heading Product Terms. Such Services are provided in accordance with Customer’s selection, as indicated in the Application Form and subject to such Product Terms applicable to ADSL;
  - 1.5.4 **“ADSL Multi Site”** has the meaning ascribed to it in the Product Terms applicable to ADSL Multi Site, which can be found under the name ADSL Multi Site at <http://www.mwebbusiness.co.za/Legal.aspx> under the heading Product Terms. Such Services are provided in accordance with the Customer’s choices, as set out in the Application Form and subject to such Product Terms applicable to ADSL Multi Site;
  - 1.5.5 **“ADSL Terminal Adapter”** means the asymmetric digital subscriber line terminal adapter provided by Telkom in accordance with the provisions of the Electronic Communications Act and Telkom’s PSTS license (including any conversion of that licence in terms of section 93 of the Electronic Communications Act) ;
  - 1.5.6 **“Equipment”** means depending on the Customer’s choices as set out in the Application Form under the heading or description of VPN ADSL the router/s owned by MWEB Business and rented to Customer, in terms of the Equipment Rental Product Terms and shall include any software, hardware, cables, connectors, programmes, interfaces, associated media, printed materials, and/or on-line or electronic documentation associated with it;
  - 1.5.7 **“General Terms”** means the terms and conditions set out in the general terms and conditions for MWEB Business’ customers, which is available at <http://www.mwebbusiness.co.za/Legal.aspx> under the heading General Terms;
  - 1.5.8 **“HUB”** means Customer’s head office and/or any location at which Customer has a central service (e.g. centralised e-mail, centralised browsing, centralised CRM, centralised accounting software, etc);
  - 1.5.9 **“Premises”** means Customer’s HUB and SPOKES at which the Equipment will be installed;
  - 1.5.10 **“Equipment Rental Product Terms”** means the terms and conditions applicable to the rental of the Equipment, which can be found under the name “Equipment Rental” at <http://www.mwebbusiness.co.za/Legal.aspx> and under the heading Product Terms. The Equipment

Rental Product Terms will be deemed to form part of the Agreement for this purpose;

1.5.11 **"SPOKE"** means a branch other than a HUB that accesses the VPN ADSL in terms of the Agreement;

1.5.12 **"Telkom"** means Telkom SA Limited and/or its successors; and

1.5.13 **"VPN ADSL"** means the Services contemplated in these Product Terms which MWEB Business renders to Customer in accordance with Customer's selection, as indicated on the Application Form under such heading or description comprising of: (i) the virtual private network created (hereinafter referred to as **"VPN"**) to connect Customer's HUB and SPOKE(S) via the Equipment and dedicated ADSL Line(s); and (ii) the rental of Equipment.

## 2. DURATION

- 2.1 VPN ADSL shall commence with effect from the date of activation of the VPN ADSL by MWEB Business and endure for an initial period selected by Customer in the Application Form (hereinafter referred to as the **"Initial Period"**). Notwithstanding the aforesaid, the provisions of this clause 2.1 are subject to Customer's termination rights detailed in clauses 7.5, 7.6 and 7.11 of the General Terms where clauses 7.5, 7.6 and 7.11 of the General Terms are applicable to Customer.
- 2.2 Either Party may terminate VPN ADSL at the end of the Initial Period by giving the other Party 3 (three) calendar months written notice of termination prior to the end of the Initial Period. Any notice of termination given by Customer during the Initial Period shall only become effective upon the expiry of the Initial Period.
- 2.3 If neither Party has given notice as contemplated in clause 2.2 above, VPN ADSL shall endure indefinitely thereafter on the same terms and conditions, provided that either Party shall be entitled to terminate VPN ADSL on 3 (three) calendar months written notice to the other to that effect.
- 2.4 In the event of a termination, Customer's use of VPN ADSL shall be deemed terminated. However, in the event that Customer logs on to VPN ADSL following a termination, the terms and conditions of the Agreement will apply to Customer and Customer shall be liable to pay the full usage costs to MWEB Business however, this shall in no way constitute a revival of the Agreement between the Parties and MWEB Business shall furthermore be entitled to terminate VPN ADSL without notice to Customer.
- 2.5 To the extent that VPN ADSL provided to Customer is suspended by MWEB Business in terms of clause 9.12 of the General Terms or for any other reason whatsoever, Customer acknowledges that it will forfeit its access to and/or use of VPN ADSL, but Customer shall still be liable to pay the Service Fees during such suspension.

## 3. SERVICE FEES

- 3.1 Customer shall pay MWEB Business the Services Fees specified in the Application Form in accordance with the provisions set out in the General Terms.

## 4. UNDERTAKINGS AND ACKNOWLEDGEMENTS

- 4.1 MWEB Business undertakes to use its reasonable endeavours to provide Customer with VPN ADSL on a 24 (twenty four) hour per day basis on each and every day for the continued duration of VPN ADSL.
- 4.2 Although MWEB Business uses reasonable care and diligence to ensure that VPN ADSL is available, accurate, complete, correct, error-free, secure, up-to-date and/or reliable MWEB Business does not warrant, represent or in any way guarantee, either expressly or by implication that VPN ADSL is available, accurate, complete, correct, error-free, secure, up-to-date and/or reliable. MWEB Business furthermore does not warrant, represent or in any way guarantee, either expressly or by implication the merchantability or fitness for a particular purpose. Customer therefore agrees that VPN ADSL is rendered "as is" and "as available" and is used at the Customers' own discretion and risk.
- 4.3 Customer acknowledges that the following circumstances and events may impact upon its use of VPN ADSL and further that these circumstances and/or events are beyond MWEB Business' control: (i) use of VPN ADSL by other customers; (ii) limitations upon national and/or international bandwidth capacity; (iii) telecommunication service operator failures, which includes telecommunication links and line failures; (iv) operating systems; (v) access technology failures; (vi) quality of service of telecommunication links or lines; (vii) any action, omission and/or failure by Customer and/or his/her/its systems, software, network and/or equipment which has an impact on VPN ADSL; and (viii) any other action, omission and/or failure not within MWEB Business' control which has an impact on VPN ADSL.

## 5. TERMS AND CONDITIONS SPECIFIC TO VPN ADSL

- 5.1 Customer acknowledges and agrees that ADSL Line(s) and ADSL or ADSL Multi Site is a prerequisite at the HUB and SPOKES for the use of VPN ADSL and such ADSL Lines shall be dedicated to VPN ADSL.
- 5.2 Any reference to connection speed represents the speed of the connection to the Telkom network

infrastructure and does not guarantee available end-to-end bandwidth.

- 5.3 MWEB Business will subject to the provisions of the General Terms issue Customer with Customer Identifiers to enable access to VPN ADSL.
- 5.4 Customer acknowledges and agrees that it shall:
  - 5.4.1 not permit and/or initiate a simultaneous network logon while utilising one of the Customer Identifiers; and
  - 5.4.2 not attempt to circumvent MWEB Business' user authentication processes or attempt to gain access to VPN ADSL if not expressly authorised to do so.
- 5.5 Without limiting the generality of the provisions of the General Terms, should Customer fail to comply with the provisions of clause 5.4, Customer agrees to pay to MWEB Business, on demand, all costs, loss and/or damages incurred by MWEB Business as result of such breach. This may include (without being limited to) the payment of additional Service Fees for services utilized.
- 5.6 In order to ensure the security and reliable operation of the network to all customers, MWEB Business reserves the right to take whatever action MWEB Business deems necessary to preserve the security and reliability of the network.
- 5.7 In addition to the Use Policies, Customer agrees not to (nor to authorise or permit any other person to) use VPN ADSL and/or the MWEB Business network infrastructure;
  - 5.7.1 in a manner which is offensive, unlawful, in breach of codes of conduct binding on MWEB Business, in violation of legislation (including regulations) or the common law generally, in violation of the requirements and rules of any regulatory authority or in a manner which may cause harm to the name, goodwill and reputation of MWEB Business, its affiliates, and its business partners;
  - 5.7.2 to engage in any abuse of e-mail or spamming, which shall include, but is not limited to, the posting or cross-posting of unsolicited articles with the same message (or substantially the same message) to an unacceptably high number of e-mail and newsgroup recipients that did not request to receive such messages;
  - 5.7.3 to post or transmit any message, data, image or programme which is defamatory, or violates any other personality rights;
  - 5.7.4 to post or transmit any message, data, image or programme which is illegal, offensive, threatening, abusive, harassing, harmful or hateful;
  - 5.7.5 to post or transmit any message, data, image or programme which violates the intellectual property rights of others;
  - 5.7.6 to post or transmit any file which contains viruses or any other destructive features, regardless of whether or not damage is intended by the subscriber;
  - 5.7.7 to compromise the security or tamper with system resources or account(s) on computer(s) at MWEB Business, or at any other site; and
  - 5.7.8 to violate the privacy of any person, which shall include but shall not be limited to, hacking.
- 5.8 In the event that Customer should engage in any one or more of the above practices described in clause 5.7 which shall be determined in MWEB Business' sole discretion, then MWEB Business shall without prejudice to any of its rights in terms of the law, be entitled to:
  - 5.8.1 demand that Customer forthwith cease any such practise; and/or
  - 5.8.2 terminate or suspend without notice, Customer's VPN ADSL and/or access to MWEB Business' network infrastructure.
- 5.9 MWEB Business shall use all reasonable endeavours to notify Customer of any action taken in terms of clause 5.8 above, but does not warrant that notice shall be given to the client prior to such action being taken.
- 5.10 Without limiting the generality of the General Terms and Use Policies, Customer undertakes to use VPN ADSL solely for internal purposes and shall not be entitled to directly or indirectly transfer, distribute, re-distribute, copy, sell, re-sell, lease, rent, lend, license, sub-license VPN ADSL in whole or in part in any way whatsoever to any third party without MWEB Business' prior written consent.

## **6. SERVICE LEVEL AGREEMENT**

- 6.1 MWEB Business will maintain a 99% service uptime per month.

6.2 Should the uptime of Customer's Service, measured over a consecutive 3 (three) months period, fall below the prescribed service uptime level, Customer shall be entitled to the following reduction of its VPN ADSL charges in respect of the relevant 3 (three) months period:

99 – 100%	No Reduction
95 – 99%	25% Reduction
90 – 95%	50% Reduction
Less than 90%	75% Reduction

6.3 For the purpose of this Service Level Agreement:

6.3.1 service uptime will be measured by MWEB Business's monitoring software and only with reference to network availability and uninterrupted power supply (UPS);

6.3.2 the calculation of service uptime and the calculation of any reduction of service charges will exclude any downtime, outage or interruption of services as a result of, or caused by:

6.3.3 any outage, interruption or unavailability of the services or facilities of an external or third party telecommunications or network provider to which the MWEB Business network infrastructure is connected;

6.3.4 any outage, interruption or unavailability caused by Customer's applications;

6.3.5 scheduled maintenance, enhancements, upgrades or modifications (or of an otherwise scheduled nature), provided MWEB Business has given prior notice of such downtime. MWEB Business shall use its reasonable endeavours to provide at least 24 (twenty four) hours prior notice of such scheduled downtime;

6.3.6 any act or omission of Customer;

6.3.7 any factor beyond the reasonable control of MWEB Business; and

6.3.8 any interruption or unavailability which falls outside of normal business hours unless an after hours support service is indicated in the Application Form;

6.3.9 any 3 (three) months period may only be used once in the calculation of a reduction of service charges; and

6.3.10 any reduction of service charges may only be claimed as a credit against future service charges.

6.4 MWEB Business will provide the monitoring service, and on a monthly basis provide uptime reports on request by Customer should Customer's server statistics be required.

6.5 Should Customer wish to claim any reduction of service charges, Customer will, within 30 (thirty) days from the end of any 3 (three) months measurement period, notify MWEB Business in writing of the reduction claimed, the dates of the measurement period and the dates, times and duration of non-availability of service. MWEB Business may request further documentation and supporting data from Customer to compare against its own monitoring data.

6.6 All service requests and technical support calls can be logged 24 (twenty four) hours per day, 365 (three hundred and sixty five) days per year with our Technical Assistance Centre by:

E-mail	<a href="mailto:sos@mweb.com">sos@mweb.com</a>
Telephone	0860 000 159

6.7 Customer will be required to provide the Technical Assistance Centre with its company name, customer number, contact person, contact details and a complete description of the problem.

6.8 MWEB Business will endeavour to resolve the problem immediately. Should MWEB Business' Technical Assistance Centre not be able to resolve the problem immediately, the problem will be escalated as follows:

6.8.1 Supervisor – Technical Assistance Centre

6.8.2 Manager – Technical Assistance Centre

6.8.3 Second Level Support Manager

6.8.4 Technical Operations Manager

6.9 MWEB Business will keep Customer informed of the progress of the problem resolution. MWEB Business will endeavour to adhere to the following business hours with regard to feedback:

Critical Disruptions: Total loss of all services	1 hour
Service Disruptions: Serious degradation of services	2 hours
Service Incidents: Minor loss/degradation of services	4 hours
Service Queries: No loss/degradation of services	4 hours

---