



Product Terms

MTALK Webcall

1. INTRODUCTION

Subject to the provisions of the General Terms and Conditions for MWEB Subscribers and other notices under "General" on our Legal Notices Webpage and these terms (collectively "the Terms"), MWEB Connect (Pty) Limited ("we", "us" or "MWEB") provides the Services, as described in 3 below to you.

Before using the Services you must read and ensure your understanding and unconditional agreement to all of the Terms. Your use of the Services will indicate your acceptance without modification of the terms, which will constitute a legal agreement between you and MWEB. If you do not agree to all of the Terms, you may not use the Services.

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.

To the extent that there is any contradiction between the General Terms and Conditions and these terms the following order of precedence shall apply: (i) these terms; and (ii) the General Terms and Conditions.

2. INTERPRETATION

In these terms:

2.1 "Account" means your MTALK Webcall account, with which you will obtain access to the Service;

2.2 "MTALK Webcall Device" means any SIP compliant phone, Analogue Telephone Adapter, router or software phone;"

2.3 "Customer Support Centre means our help centre which is available here <http://www.mweb.co.za/helpcentre/ContactUs/tabid/390/Default.aspx>;

2.4 "IETF" means Internet Engineering Task Force;

2.5 "Broadband ADSL" means the capped asymmetric digital subscriber line service which MWEB or other service provider supplies to you, that enables you to send and receive data and email, and to access the Internet using a high speed connection;

2.6 "Service" means the MWEB Callsaver service, described more fully in clause 3 below;

2.7 "Service Website" means <http://www.mweb.co.za>;

2.8 "SIP compliant" means Session Initiation Protocol compliant; and

2.9 "use" includes, but is not limited to, accessing the Service and making and receiving calls through the MTALK Webcall product.

3. THE SERVICE

3.1 This Service is intended to be used as a second telephone facility. It should under no circumstances be construed to be, or used as a primary telephone service, and MWEB takes no representations in this regard.



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3.2 You are required to have the following in place in order to access and make use of the Service:

3.2.1 Suitable connectivity (MWEB only recommends ADSL or leased line connectivity); and

3.2.2 the necessary MTALK Webcall Device(s) to make use of the Service.

3.3 You will either register online on the Service Website or apply via the MWEB call centre. You will open an Account, subsequent to which a MTALK Webcall telephone number will be allocated to you, which may be linked to your MTALK Webcall Device.

3.4 If you have a pre-paid MTALK Webcall product and if no chargeable calls are made with the Service and if no further pre-paid credit is purchased for any 90 (ninety) day period, MWEB reserves the right to terminate the Service without further notice to you and to reclaim the MTALK Webcall telephone number.

3.5 If you are not an existing customer of MWEB, MWEB will set up a free mailbox for you to which the Service will be linked once you have registered for the Service. The mailbox is provided to you subject to the following:

3.5.1 you must read and ensure your understanding and unconditional agreement to the Rules and Terms and Conditions applicable to Mailbox, available [here](#) ;

3.5.2 You accept full responsibility for the content of any e-mail sent and/or received through the Mailbox;

3.5.3 In order to keep our mail servers efficient, the following restrictions will apply to your mailbox:

3.5.3.1 any mail that has not been retrieved (downloaded) from our mail server after 90 (ninety) days, will be purged unless you have stored the mail on a folder you have created on the MWEB message centre;

3.5.3.2 if your mailbox size is 1 Gig or larger, MWEB will not purge your mail;

3.5.3.3 if you exceed your mailbox size, no new mail or attachments will be delivered to your mailbox;

3.5.3.4 you will, however, be able to receive mail again if you either delete mail and/or attachments from your mailbox or by purchasing additional mailbox space;

3.5.3.5 subject to any other technical limitations, MWEB restricts the size of an individual mail, sent or received, to 10Mb per mail; and

3.5.3.6 the number of recipients on your mailing list may not exceed 20 (twenty).

3.5.4 If you subscribe to MTALK Webcall on a pay as you go basis and if no chargeable calls are made and if no further pre-paid credit is purchased during any 90 (ninety) day period, MWEB reserves the right to terminate you Mailbox service, without further notice to you.

3.6 Number:

3.6.1 You acknowledge and agree that the allocation of a number is made subject to the relevant terms and conditions of use imposed by the authority.



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3.6.2 MWEB cannot guarantee the provision of any specific number/s to you and although it shall use its reasonable endeavours to provide sequential numbers, if requested, MWEB cannot guarantee that it shall be able to do so.

3.6.3 Subject to the provisions of clause 3.5.4 any number/s supplied to you is/are supplied to you for the purpose of use in terms of MTALK Webcall and whilst such number is personal to you for the duration of MWEB's provision of the Service to you, you acknowledge that you shall never become the owner of such number. Accordingly you may not sell, lease, transfer, assign or otherwise alienate your rights in respect of such number/s, contrary to the provisions of these MTALK Webcall product terms and the use thereof shall only be for the duration of MWEB's provision of MTALK Webcall to you.

3.6.4 Although MWEB will use its reasonable endeavours not to change any number/s provided to you it reserves the right to change any such number from time to time as it deems fit, which includes any changes to the numbering plan. Without limiting the generality of the General Terms, MWEB shall not be liable for any direct or indirect loss, damage, costs, expense or injury of whatever nature, including consequential loss, suffered or incurred from such change of a number/numbers.

3.6.5 If the MTALK Webcall Service is suspended by MWEB 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, MWEB cannot guarantee that the same number/s allocated previously would be allocated to you again. Without limiting the generality of the General Terms, MWEB shall not be liable for any direct or indirect loss, damage, costs, expense or injury of whatever nature, including consequential loss, suffered or incurred by you as a result of the aforesaid.

3.6.6 MWEB does not make any representation of whatever nature that the number allocated to you will be reachable from Telkom's PSTN or its electronic communications network service licence, as envisaged in the Electronic Communications Act, or from any other telecommunication platforms. MWEB shall however use its reasonable endeavours to ensure that the number allocated to you will be reachable by other users of MTALK Webcall or related Services, but cannot supply any guarantees in this regard. Without limiting the generality of the General Terms, MWEB shall not be liable for any loss, damage, costs, expense or injury of whatever nature, including consequential losses, arising from such unavailability or as a result of the aforesaid.

3.7 The Service is personal to you and is linked with your Account. You may not resell or transfer the Service without our prior written consent.

3.8 You shall use the Service for lawful purposes only.

4. THE MTALK WEBCALL DEVICE

4.1 You can obtain a MTALK Webcall Device in one of the following manners:

4.1.1 you can purchase the MTALK Webcall Device from the MWEB member shop; or

4.1.2 you can use any SIP-compliant MTALK Webcall Device purchased from a retailer of your choice or

4.1.3 you can get it for free when signing a 24-month MTALK Webcall subscription contract with MWEB.



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4.2 You shall notify us immediately, in writing or by calling our Customer Support Centre, if your MTALK Webcall Device has been stolen or lost, or if the Service provided to you hereunder is fraudulently applied, or if the MTALK Webcall Device or Service is applied in any other unauthorized manner.

4.3 You shall not change the electronic serial number or equipment identifier of the MTALK Webcall Device.

5. CHARGES

5.1 You can apply for MTALK Webcall packages, which have inclusive free minutes (depending on the package selected on the Application Form). Any free minutes remaining at the end of the month will not be carried over from one month to the next.

5.2 MTALK Webcall is intended for normal residential and/or business usage. Normal usage specifically excludes calling behaviour that may be considered as Least Cost Routing Behaviour. MWEB reserves the right, in its sole discretion, to downgrade your Service to MTALK Webcall Easy (pay-per-call product), or alternatively suspend and/or cancel your Service if your calling patterns, and specifically usage of your free minutes, illustrate Least Cost Routing Behaviour. As a guideline, MWEB will consider your calling patterns to be Least Cost Routing Behaviour in any of the following situations:

5.2.1 Consistent, excessive calling to the same destination(s);

5.2.2 Consistent, excessive usage of available free minutes to the most expensive bundled destinations (for example: to international destinations on a Global package, or to cellular destinations on a Total package);

5.2.3 Excessive, repetitive and systematic calling (for example: at regular intervals and for regular call lengths);

5.2.4 As a guide, anything exceeding 50% (fifty percent) of your free minutes will be considered as excessive.

5.3 MTALK Webcall operates on the basis of a Fair Usage Policy. The Fair Usage Policy is designed to ensure that other customers do not negatively impact the minutes available to the vast majority of our customers because of excessive usage. This is why MWEB continuously monitors usage patterns and may restrict the service to very heavy users or to users who fall into any of the categories described in 5.2 above. This applies to customers on all packages.

5.4 You can also apply for the Service on a pay-per-call basis whereby no free minutes are included and each call is chargeable (apart from free calls made from one MTALK telephone number to another MTALK telephone number).

5.5 The MTALK Webcall package selected will determine how your allocated call minutes will be utilised.

5.6 The charges payable for the Service are displayed on the Service Website. Rates per minute vary according to the destination which is called

5.7 You will not be charged for the activation of the Service.



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5.8 If you have a pre-paid MTALK Webcall product, your pre-paid credit will expire within 6 (six) months from date of purchase, if no chargeable calls are made during the 6 (six) month period and if no further pre-paid credit is purchased. You can reset the 6 (six) month period, by making a chargeable call before the expiry of the 6 (six) month period, or by purchasing more credit.

5.9 Making a chargeable call or purchasing more credit will reset the expiry date of all remaining credits.

5.10 We reserve the right to limit the amount of your pre-paid purchases.

5.11 All fees and amounts paid for the Service provided hereunder are non- refundable.

6. TERMINATION OF THE SERVICE

6.1 Should you be in breach of clause 8.5 of the General Terms or any other provision of this Agreement, then MWEB shall be entitled, without prejudice to any other rights it may have and without notice to you, to forthwith:

6.1.1 claim immediate payment of all outstanding amounts payable in terms of this Agreement;

6.1.2 suspend your access to the Service; and/or

6.1.3 terminate this Agreement, retain all amounts already paid by you and recover all costs incurred by MWEB, including (without being limited to) legal costs on an attorney and own client scale.

6.2 MWEB is entitled to terminate the Service without notice to you at any time if MWEB decides in its sole discretion to stop offering the Service.

7. DISCLAIMER

7.1 You acknowledge and agree that:

7.1.1 MWEB makes the Service available to you "as is" and "as available", without any guarantees, warranties and/or representations of any kind, either express or implied;

7.1.2 MWEB makes use of a number of third-party network providers in order to provide the Service. You also acknowledge and agree that the public Internet is used to carry voice traffic. MWEB does not guarantee, warrant or represent the availability or performance of any third-party service providers or the Internet;

7.1.3 the quality of the Service depends on various factors, including your location, line quality, Internet traffic, fluctuations in the Internet, your underlying broadband service, service outages, etc. We accordingly do not guarantee, warrant or represent the quality of the calls or the clarity of voice;

7.1.4 MTALK Webcall will not function during an electrical power or broadband outage;

7.1.5 the Service may not be compatible with certain broadband services; and

7.1.6 the Service may be impaired when you upload or download data using the connectivity over which the Service is used, at the same time as making or receiving an MTALK Webcall call.

7.2 Without limiting the generality of the foregoing, MWEB specifically does not guarantee, warrant or represent that:



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- 7.2.1 the Service will always be available;
- 7.2.2 the Service will be free of errors or interruptions;
- 7.2.3 the Service will be free of viruses or other harmful components;
- 7.2.4 the Service is fit for any purpose;
- 7.2.5 the Service does not infringe third party or Intellectual Property rights;
- 7.2.6 the Service is secure and reliable;
- 7.2.7 the Service conforms with your timeline requirements; or
- 7.2.8 our rates are cheaper than normal PTSN calls; or
- 7.2.9 all local or international telephone numbers can be called.

8 LIMITATION OF LIABILITY

- 8.1 You Subscribe to and use the Service at your own risk.
- 8.2 We are not liable to you or any third party for any damages suffered by you or a third party howsoever arising from your use of or Subscription to the Service including, without limitation, any damages suffered by you as a result of:-
 - 8.2.1 any interruption of or error in the Service; or
 - 8.2.2 our failure to fulfil our obligations as a result of uncontrollable events.
- 8.3 If you suffer damages or if you are not satisfied with the Service your only remedy is to desist from using the Service.
- 8.4 In this clause:
 - 8.4.1 “damages” means damages of any 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 whether 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.



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9 INDEMNITY

You hereby unconditionally and irrevocably indemnify MWEB and agree to hold MWEB free from any and all damages, losses, claims or costs, of whatsoever nature suffered or incurred by MWEB, or instituted against MWEB, arising from or relating to your use of and subscription to the Service, and/or your breach of the General Terms and/or these Terms and Conditions.

10 PRIVACY

10.1 Without derogating from the provisions of our Privacy Policy, you acknowledge and agree that:

10.1.1 during the process of registering for, and using the Service, you may be required to disclose certain personal information to MWEB, including without limitation your Sign-Me-In user identity and password (collectively referred to as your "Personal Information"); and

10.1.2 MWEB endeavours to safeguard your Personal Information but may be required to provide certain regulatory entities and authorities, or other entities as may be required by law, with your Personal Information in order to provide the Service to you.

10.2 Accordingly, you hereby agree that:

10.2.1 MWEB may disclose to those entities such part of your Personal Information as MWEB, in its sole discretion, deems appropriate to enable the provision of the Service to you; and

10.2.2 MWEB shall not be liable to you or any other third party for any damages, losses, claims or costs suffered by or instituted against you or any other third party arising from, or in any way relating to, the disclosure of your Personal Information.

10.3 Your sole and exclusive remedy under such circumstances shall be to stop using the Service.

11 DURATION AND TERMINATION

11.1 Subject to the provisions of clause 3.8 of the General Terms and Conditions, this agreement commences on the Effective Date and will continue indefinitely, subject to termination by either party on 1 (one) calendar months prior written notice.

11.2 Upon the termination of the Agreement, your use of the Service shall terminate. However, in the event that you continue to use the Service following a termination, these terms and conditions will apply and you shall be liable to make payment to MWEB of any fees due for the use of the Service. This shall in no way constitute a revival of the Agreement, and MWEB shall be entitled to terminate the Service without notice to you.

11.3 Where the Service is suspended by MWEB 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, you acknowledge that you will forfeit your access to and/or use of the Service, but that you shall still be liable to pay the monthly subscription fee or any other fees due to us during such suspension.



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11.4 Upon termination of this agreement, any outstanding amounts will be due and payable within 30 (thirty) days of termination.