



Product Terms

Telkom ADSL Line Rental

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 Telkom ADSL Line Rental Customer agrees that he/she/it has read, understand and are bound by:
 - 1.3.1 the General Terms and Conditions and Use Policies under “**General Terms**” and other notices under “**Notices**” on MWEB Business Legal Website; and
 - 1.3.2 the Product Terms set out herein;
(collectively the “**MWEB Business Terms**”).
- 1.4 Customer’s use of the Telkom ADSL Line Rental indicates Customer’s acceptance without modification of the MWEB Business Terms, which will constitute a legal agreement between Customer and MWEB Business.
- 1.5 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.
- 1.6 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.
- 1.7 Unless the context clearly indicates to the contrary, the following words bear the meanings ascribed thereto:
 - 1.7.1 “**ADSL**” means the: (i) Internet access provided by MWEB Business to Customer to send and receive data and e-mail via an ADSL Line which Services are provided in accordance with the selections as indicated by Customer in the Application Form under such heading or description but subject to any applicable Rate Limit;
 - 1.7.2 “**ADSL Line**” Asymmetric Digital Subscriber Line provided by Telkom in accordance with the provisions of the Electronic Communications Act and Telkom’s PSTN license (including any conversion of that licence in terms of section 93 of the Electronic Communications Act) which is rented by Telkom to MWEB Business for the provision of the Telkom ADSL Line Rental Services;
 - 1.7.3 “**ADSL Services Packages**” means the ADSL Multi-Site and/or ADSL Uncapped and/or Fixed IP ADSL services selected by Customer in the Application Form;
 - 1.7.4 “**ADSL Traffic**” means any and all Internet data of whatever nature-
 - 1.7.4.1 downloaded, uploaded and/or transmitted (including e-mail) by Customer or any User; or



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- 1.7.4.2 for which Customer is responsible,
over an ADSL Line. For the purposes of the calculation of Service Fees the amount of such ADSL Traffic used is measured in GB;
- 1.7.5 "**ADSL Line Rental Agreement**" means the agreement signed by Customer which authorizes MWEB Business to apply for an ADSL Line in MWEB Business' name which will be accessed and used by Customer;
- 1.7.6 "**Equipment**" means depending on the Customer's selection as indicated by Customer in the Application Form under the heading or description of Telkom ADSL Line Rental the router owned by MWEB Business and rented to Customer in terms of the Product Terms for Equipment Rental and shall include any software, hardware, cables, connectors, programmes, interfaces, associated media, printed materials, and/or on-line or electronic documentation associated with it;
- 1.7.7 "**GB**" means gigabytes;
- 1.7.8 "**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/GeneralTerms.aspx> under the heading "General Terms";
- 1.7.9 "**POTS**" means the plain old telephone service;
- 1.7.10 "**Premises**" means the Customer's premises specified in the Application Form at which the Equipment will be installed;
- 1.7.11 "**Product Terms for Equipment Rental**" 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/ProductTerms.aspx> and under the heading "Product Terms". **The Product Terms for Equipment Rental will be deemed to form part of the Agreement for this purpose;**
- 1.7.12 "**Rate Limit**" means subject to the provisions of the Fixed IP ADSL Product Terms and/or the Agreement, the dropping of the ADSL Line speed from Customer's current ADSL Line speed to another ADSL Line speed;
- 1.7.13 "**Static IP (Internet Protocol)**" means the same IP address used by the computer every time it connects to the network;
- 1.7.14 "**Telkom ADSL Line Rental Services**" means the Telkom ADSL line rental service as described in clause 5 below; and
- 1.7.15 "**Telkom**" means Telkom SA Limited or its successors.

2. DURATION



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- 2.1 ADSL Line Rental Service shall commence with effect from the date of activation of the Telkom ADSL Line Rental 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 ADSL Line Rental Service 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 Notwithstanding the provisions of clauses 2.1 and 2.2 above, MWEB Business shall be entitled to terminate the Telkom ADSL Line Rental Service at any time (without incurring any liability of whatsoever nature), on written notice to Customer, should MWEB Business' agreement with Telkom which relates to the Telkom ADSL Line Rental Services be terminated.
- 2.4 If neither Party has given notice as contemplated in clause 2.2 above, ADSL Line Rental Service shall endure indefinitely thereafter on the same terms and conditions, provided that either Party shall be entitled to terminate Telkom ADSL Line Rental Service on 3 (three) calendar months written notice to the other to that effect.
- 2.5 In the event of a termination, Customer's use of ADSL Line Rental Service shall be deemed terminated. However, in the event that Customer logs on to ADSL Line Rental Service 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 ADSL Line Rental Service without notice to Customer.
- 2.6 To the extent that the ADSL Line Rental Service provided to Customer is suspended by MWEB Business in terms of the provisions of clauses 9 and 12 of the General Terms or for any other reason whatsoever, Customer acknowledges that it will forfeit its access to and/or use of 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.



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3.2 Customer will be liable to pay the Service Fees stipulated in the Application Form for ADSL Traffic exceeding the ADSL Traffic limit contemplated in the Application Form in arrears and in accordance with the provisions set out in the General Terms. Such Service Fees are charged per GB of ADSL Traffic exceeding the ADSL Traffic limit contemplated in the Application Form. Should only a portion of such GB be used Customer shall be charged for a complete GB.

4. UNDERTAKINGS AND ACKNOWLEDGEMENTS

4.1 MWEB Business undertakes to use its reasonable endeavours to provide Customer with ADSL Line Rental Service on a 24 (twenty four) hour per day basis on each and every day for the continued duration of Telkom ADSL Line Rental Services.

4.2 Although MWEB Business uses reasonable care and diligence to ensure that ADSL Line Rental Service 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 ADSL Line Rental Service 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 ADSL Line Rental Service 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 ADSL Line Rental Service including the ADSL Services Packages and further that these circumstances and/or events are beyond MWEB Business control: (i) use of ADSL Line Rental Service 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) atmospheric conditions including without limitation bad weather conditions and/or other causes of interference; (vii) quality of service of telecommunication links or lines; (viii) any action, omission and/or failure by Customer and/or his/her/its systems, software, network and/or equipment which has an impact on ADSL Line Rental Service; (ix) any other action, omission and/or failure not within MWEB Business' control which has an impact on ADSL Line Rental Service.

5. TERMS AND CONDITIONS SPECIFIC TO TELKOM ADSL LINE RENTAL

5.1 Customer acknowledges and agrees that:

5.1.1 The ADSL Line Rental Service shall only apply for self install services;

5.1.2 in order to have access to the Telkom ADSL Line Rental Services an ADSL Line and the Equipment are required to enable MWEB Business to supply the Telkom ADSL Line Rental Services.

5.2 Customer hereby authorizes MWEB Business as set out in the ADSL Line Rental Agreement to contract directly with Telkom in MWEB Business' name, for the provision of the ADSL Line in order to enable MWEB Business to provide Customer with access to and use of the Telkom ADSL Line Rental Services.



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- 5.3 Customer acknowledges that MWEB Business shall only apply for the ADSL Line as envisaged in clause 5.2 above:
- 5.3.1 if Customer has selected this on the Application Form;
 - 5.3.2 if Customer has signed the ADSL Line Rental Agreement;
 - 5.3.3 upon receipt of the duly signed Application Form and the ADSL Line Rental Agreement, MWEB Business will submit the ADSL Line Rental Agreement to Telkom in order to activate the ADSL Line. Customer acknowledges that the provision and activation of the ADSL Line depends on whether the Telkom ADSL exchange supports the Telkom ADSL Line Rental self install service.
- 5.4 Customer acknowledges that the ADSL Line Rental Agreement authorizes MWEB Business to:
- 5.4.1 apply for the ADSL Line in MWEB Business' name; and
 - 5.4.2 manage the ADSL Line with Telkom including the application, installation and maintenance thereof.
- 5.5 Customer further acknowledges that:
- 5.5.1 ADSL Lines are not available everywhere and MWEB Business will advise Customer if the Telkom exchange supports self install ADSL Line service;
 - 5.5.2 he/she/it must have a pre-existing POTS line in order for the ADSL Line to operate;
 - 5.5.3 he/she/it shall be solely responsible for complying with all terms and conditions and/or limitations imposed by Telkom on the ADSL Line, which will be attached to the ADSL Line Rental Agreement;
 - 5.5.4 MWEB Business uses Telkom's network to provide ADSL Line. ADSL Line is therefore provided subject to the limitations and terms imposed by Telkom upon MWEB Business in this regard, which includes limitations on bandwidth and/or the amount of data/e-mail that may be sent during a given period of time. Should Telkom amend any of the said terms and/or conditions, which may have an impact on ADSL Line then MWEB Business may amend ADSL Line accordingly and will use its reasonable endeavours to provide Customer with reasonable notice of such amendments; and
 - 5.5.5 he/she/it shall solely and directly be responsible for all monthly Services Fees and shall ensure the payment of such Services Fees on due date to enable a continued access to and use of the ADSL Line. Customer acknowledges that failure to pay the Services Fees will result in the suspension of the ADSL Line which will then impact on Customer's access and use of the ADSL Service.
- 5.6 Should Telkom discontinue ADSL Line service with MWEB Business for any reason whatsoever, Customer's option will only be to terminate the ADSL Line Rental Service in accordance with the provisions of the General Terms.



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- 5.7 Customer shall use its best endeavours to supply the necessary consent and co-operation required by MWEB Business to enable MWEB Business to manage the relationship with Telkom and the ADSL Line, including the application, installation and maintenance of the ADSL Line.
- 5.8 Customer acknowledges and agrees that MWEB Business may be required by Telkom to limit the amount of data and/or email Customer sends during intervals and that MWEB Business shall have the right to limit the amount of data and/or email Customer sends during intervals.
- 5.9 Upon termination of the ADSL Line for any reason whatsoever and notwithstanding anything to the contrary contained in the ADSL Rental Agreement and/or as contemplated in clauses 5.1 and 5.4 above, MWEB Business shall inform Customer of the termination of such ADSL Line and Customer will be solely responsible for applying for a new ADSL Line directly with Telkom.
- 5.10 Customer acknowledges that should the ADSL Line be terminated for any reason whatsoever, MWEB Business cannot transfer and/or cede the ADSL Line into Customer's name.
- 5.11 Customer shall, without limiting the generality of the General Terms, not be able to hold MWEB Business liable under any circumstances, for any loss, damage, costs, expense or injury, including without limitation direct, indirect, incidental, special, punitive or consequential loss, loss of profit, loss of anticipated savings, loss of goodwill, loss of revenue, loss of customers or clients caused or arising in any manner whatsoever (directly or indirectly) from: (i) the termination of the ADSL Line by Telkom and/or MWEB Business for any reason whatsoever; (ii) suspension and/or discontinuation of the ADSL Line as envisaged above ; and/or (iii) Customer's breach of Telkom's terms and conditions applicable on the ADSL Line and/or breach of any of the provisions of the Agreement . Customer furthermore hereby unconditionally and irrevocably indemnifies MWEB Business and agrees to hold MWEB Business harmless from and against any costs, losses, harm, liabilities, expenses, damages, fines or injury of whatever nature, directly and/or indirectly suffered or incurred by MWEB Business or for any such claims instituted against MWEB Business by a third party, including Telkom, arising out of or relating to a breach of any of the provisions of the Agreement.

6. IMPROPER USE OF ADSL SERVICES

- 6.1 Customer acknowledges and agrees that (without limiting the generality of the General Terms and the Use Policies) it shall:
- 6.1.1 use ADSL Services only for the purposes it is designed;
- 6.1.2 not use ADSL Services directly or indirectly in such a manner that it interferes with any third party's use of any of the ADSL Services; and
- 6.1.3 use ADSL Services 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 ADSL Services in whole or in part in any manner whatsoever to any third party without MWEB Business' prior written consent.



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6.2 In addition to the General Terms and the ADSL Product Terms, Customer agrees not to (nor to authorise or permit any other person to) use ADSL Services and/or MWEB Business's network:

6.2.1 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;

6.2.2 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;

6.2.3 to post or transmit any message, data, image or programme which is defamatory, or violates any other personality rights;

6.2.4 to post or transmit any message, data, image or programme which is illegal, offensive, threatening, abusive, harassing, harmful or hateful;

6.2.5 to post or transmit any message, data, image or programme which violates the intellectual property rights of others;

6.2.6 to post or transmit any file which contains viruses or any other destructive features, regardless of whether or not damage is intended by the Customer;

6.2.7 to compromise the security or tamper with system resources or account(s) on computer(s) at MWEB Business, or at any other site; and/or

6.2.8 to violate the privacy of any person, which shall include but shall not be limited to, hacking.