



Product Terms

Website Self Build

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 Website Self Build 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 Website Self Build 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 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 Website Self Build, as same may be amended from time to time in terms of the Agreement;
 - 1.5.2 “**Customer’s Website**” means a website created by MWEB Business, as contemplated in clause 5.5, which is a template based website enabling Customer to make changes to it 24 hours a day, 7 days a week through use of an online wizard;
 - 1.5.3 “**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”;
 - 1.5.4 “**My Content Folder**” means an online web site folder which enables Customer to upload customised pages and link them to the front end of Customer’s Website;
 - 1.5.5 “**Website Hosting**” has the meaning ascribed to Website Hosting in the Product Terms applicable to Website Hosting, which can be found under the name “Website Hosting” 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 Website Hosting; and



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1.5.6 **"Website Self Build"** means the Services contemplated in these Product Terms MWEB Business renders to Customer in accordance with Customer's selection, as indicated on the Application Form under such heading or description whereby Customer is provided with (i) Website Hosting; and (ii) website design; and (iii) My Contents Folder (only if selected and it forms part of Customer's Website Self Build Service.

2. DURATION

- 2.1 Website Self Build shall commence on the date of activation of the Website Self Build 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 Website Self Build at the end of the Initial Period in accordance with the General Terms. 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, Website Self Build shall endure indefinitely thereafter on the same terms and conditions, provided that either Party shall be entitled to terminate Website Self Build in accordance with the General Terms.
- 2.4 In the event of a termination, Customer's use of Website Self Build shall be deemed terminated. However, in the event that Customer logs on to Website Self Build 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 Website Self Build without notice to Customer.
- 2.5 To the extent that Website Self Build provided to Customer is suspended by MWEB Business in terms of the provisions of clause 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 Website Self Build, 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 Website Self Build on a 24 (twenty four) hour per day basis on each and every day for the continued duration of Website Self Build.



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- 4.2 Although MWEB Business uses reasonable care and diligence to ensure that Website Self Build 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 Website Self Build 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 Website Self Build 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 Website Self Build and further that these circumstances and/or events are beyond MWEB Business' control: (i) use of Website Self Build 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 Website Self Build; and (viii) any other action, omission and/or failure not within MWEB Business' control which has an impact on Website Self Build.

5. TERMS AND CONDITIONS SPECIFIC TO WEBSITE SELF BUILD

- 5.1 Customer acknowledges the nature of Website Self Build and accordingly agrees that the specification and operation of Website Self Build is known to him/her/it and accepts that it is suitable for the purpose it is intended to be used.
- 5.2 Customer that selects Website Self Build – Lite in the Application Form will get less functionality than what is present in Website Self Build. Such Customers acknowledge the nature of Website Self Build – Lite and accordingly agree that the specification and operation of Website Self Build –Lite is known to them and accepts that it is suitable for the purpose it is intended to be used.
- 5.3 Customer agrees that Website Hosting is a pre-requisite for Website Self Build.
- 5.4 Customer acknowledges and agrees that Website Self Build does not support FTP access.
- 5.5 MWEB Business may in its sole discretion and without any obligation towards the Customer assist the Customer to integrate all information, artwork and other material provided by Customer to MWEB Business, into MWEB Business' Website Self Build website application and thereby establish the initial Customer's Website. MWEB Business shall also provide the necessary functionality to navigate within Customer's Website.



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- 5.6 Customer acknowledges that the Services provided by MWEB Business in terms of Website Self Build do not include: (i) updates by MWEB Business to Customer's Website and/or Customer's products or items incorporated therein; and (ii) any other services other than the service set out herein, including without limitation, e-commerce enablement and/or marketing services.
- 5.7 Customer acknowledges that all intellectual property rights in or related to the layout, design, look and feel, development and/or functionality of Customer's Website and the MWEB Business Website Self Build website application shall be and remain the exclusive property of MWEB Business.
- 5.8 Customer is responsible for ensuring that Customer's Website complies with the applicable legislation including without limitation the ECT Act.
- 5.9 The copyright in any artwork and material provided to MWEB Business by Customer for Customer's Website shall remain vested in Customer or the holder of the copyright therein and shall be the sole responsibility of Customer and Customer hereby indemnifies MWEB Business in respect of any loss or damage suffered by MWEB Business or any third party as a result of the use in any way of such artwork or material on Customer's Website.
- 5.10 Customer undertakes to use Website Self Build solely for its own purposes and shall not be entitled to directly or indirectly transfer, distribute, re-distribute, copy, sell, re-sell, lease, rent, lend, license, sub-license Website Self Build in whole or in part in any way whatsoever to any third party.
- 5.11 Customer acknowledges that all title and intellectual property rights in Website Self Build (including, those specified above, training manuals, user manuals, intellectual property rights in or related to the MWEB Business network infrastructure, the MWEB Business e-commerce network infrastructure and the MWEB Business Website Self Build website application) are owned by and shall remain vested in MWEB Business, its licensors or suppliers, as the case may be, including those obtained or developed by MWEB Business after commencement of these Website Self Build Services of Customer. Except if otherwise agreed the Customer accordingly agrees not to copy, duplicate, reproduce, transmit, modify, reverse engineer, decompile, or disassemble Web Site Self Build, any portion thereof, including any software associated with it or any of the intellectual property stipulated above in this clause 5.11 in any way whatsoever and shall only use it for the purpose it is supplied.

6. TERMS AND CONDITIONS SPECIFIC TO MY CONTENT FOLDER

- 6.1 Customer acknowledges the nature of the My Content Folder and accordingly agrees that the specification and operation of the My Content Folder is known to him/her/it and accepts that it is suitable for the purpose it is intended to be used.
- 6.2 Should the Parties have agreed that My Content Folder forms part of Customer's Website Self Build the specific terms and conditions contemplated in clause 5 shall not apply to My Content Folder, but it will be substituted with the terms and conditions in this clause 6.



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- 6.3 The terms and conditions of Website Hosting shall be applicable to the My Content Folder, but only insofar as the said terms and conditions do not contradict these Product Terms.
- 6.4 Customer acknowledges that the hosting of My Content Folder does not include any development of My Content Folder and/or any component thereof, which activities are the sole responsibility of Customer.
- 6.5 MWEB Business shall provide the Customer with the hosting space selected by Customer in the Application Form for the hosting of Customer's My Content Folder on the MWEB Business server. Customer acknowledges that access to My Content Folder shall be via FTP ("File Transfer Protocol") access. MWEB Business shall, as part of Website Self Build Professional and if required by Customer, provide Customer with monthly statistics relating to My Content Folder.
- 6.6 Customer acknowledges that MWEB Business will: (i) not support any custom DLL's; (ii) not support any third party software and/or application loaded by Customer on My Content Folder; (iii) any configurations, code settings or modifications under any circumstances; (iv) support its Web Servers Operating System (Windows 2000) and hardware; and (v) only provide Customer with technical support relating to FTP support for My Content Folder in the form of connectivity checks only.
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