



## Product Terms

### Wireless Broadband iBurst

#### 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 Wireless Broadband iBurst 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 Wireless Broadband iBurst 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 Wireless Broadband iBurst, as same may be amended from time to time in terms of the Agreement;
  - 1.5.2 “**Data**” means a protocol in which information is sent, received and/or transmitted via a designated network to a recipient base;
  - 1.5.3 “**Desktop Modem**” means the wireless electronic communications facility used by Customer to transmit and/or receive Data via the Network;
  - 1.5.4 “**Equipment**” means depending on Customer’s choices as set out in the Application Form (under the heading or description of Desktop Modem/ USB Modem and/or Laptop Modem) the equipment which will be sold to Customer as envisaged in these Product Terms;
  - 1.5.5 “**General Terms**” means the terms and conditions set out in the general terms and conditions for MWEB Business’ customers, which are available at <http://www.mwebbusiness.co.za/legal/GeneralTerms.aspx> under the heading “General Terms”;
  - 1.5.6 “**Internet**” means the collection of local area networks and wide area networks that all use the same protocol, namely Transmission Control Protocol / Internet Protocol (“TCP/IP”) to form a seamless packet switched network;



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- 1.5.7 “**Internet Booster**” means the amount of Data Customer is allowed to receive on a monthly basis when using Wireless Broadband iBurst and which is in addition to the package selected by Customer in the Application Form;
- 1.5.8 “**Internet Connectivity**” means the Internet connectivity services to be provided to Customer by MWEB Business via the Network;
- 1.5.9 “**Laptop Data Card**” means an electronic communications facility used by Customer to transmit or receive Data via the Network;
- 1.5.10 “**Network**” means the: (i) portion of the Radio Frequency Spectrum that has been assigned to the Network Operator for the purposes of wireless network coverage as envisaged in the Electronic Communications Act; and (ii) the Wireless Platform, owned and managed by the Network Operator;
- 1.5.11 “**Network Coverage**” means the geographical area within which the Wireless Broadband iBurst Service can be accessed and used by Customer;
- 1.5.12 “**Network Operator**” means Wireless Business Solutions (Pty) Ltd;
- 1.5.13 “**Radio Frequency Spectrum**” means that portion of the electromagnetic spectrum used as a transmission medium for electronic communications;
- 1.5.14 “**USB Data Card**” means the electronic communications facility used by Customer to transmit or receive Data via the Network;
- 1.5.15 “**USB Modem**” means the wireless electronic communications facility used by Customer to transmit and/or receive Data via the Network;
- 1.5.16 “**Wireless Broadband Account**” means the wireless broadband account that Customer’s Wireless Broadband iBurst Service and MWEB Business’ value added services are enabled on as a connection to the Network via the Equipment;
- 1.5.17 “**Wireless Broadband iBurst**” means the Services MWEB Business renders to Customer in accordance with Customer’s choices, as set out in the Application Form under such heading or description; and
- 1.5.18 “**Wireless Platform**” means the software and hardware forming part of the Network, which the Network Operator uses to grant Customer access to the Wireless Broadband iBurst.

## 2. DURATION



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- 2.1 Wireless Broadband iBurst shall commence with effect from the date of activation of the Wireless Broadband iBurst Services by MWEB Business and endure for the 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 Wireless Broadband iBurst Services at the end of the Initial Period in accordance with the provisions of 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 In the event of termination by you prior to the expiry of the Initial Period, we will be entitled to claim payment from you for the balance of the Service Fees due in respect of the Initial Period. Early termination will be accepted on 1 (one) calendar month prior written notice to us.
- 2.4 If neither Party has given notice as contemplated in clauses 2.2 and 2.3 above, Wireless Broadband iBurst Services shall endure indefinitely thereafter on the same terms and conditions, provided that either Party shall be entitled to terminate the Wireless Broadband iBurst service in accordance with the provisions of the General Terms.
- 2.5 In the event of a termination, Customer's use of the Wireless Broadband iBurst shall be deemed terminated. However, in the event that Customer logs on to the Wireless Broadband iBurst 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 Wireless Broadband iBurst without notice to Customer.
- 2.6 To the extent that the Wireless Broadband iBurst 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 Wireless Broadband iBurst, 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.
- 3.2 Any Service Fees payable for the Internet Booster shall be billed in arrears.
- 3.3 Customer acknowledges and agrees that MWEB Business shall be entitled to levy usage charges for each megabyte of Internet traffic in excess of the limit selected by Customer in the Application Form. MWEB Business shall invoice Customer monthly in arrears for any excess usage charges.



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- 3.4 Should Customer downgrade to a lower Internet traffic package as envisaged in clause 5.3.3.2 below, Customer shall be liable to pay MWEB Business a penalty fee which shall be determined by MWEB Business from time to time.

#### 4. UNDERTAKINGS AND ACKNOWLEDGEMENTS

- 4.1 MWEB Business undertakes to use its reasonable endeavours to provide Customer with Wireless Broadband iBurst on a 24 (twenty four) hour per day basis on each and every day for the continued duration of the Wireless Broadband iBurst Service.
- 4.2 Although MWEB Business uses reasonable care and diligence to ensure that Wireless Broadband iBurst 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 the Wireless Broadband iBurst will be 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 Wireless Broadband iBurst is rendered "as is" and "as available" and is used at the Customers' own discretion and risk.
- 4.3 Customer acknowledges that: (a) the following circumstances and events may impact upon its use of the Wireless Broadband iBurst and/or the quality and coverage availability of the Wireless Broadband iBurst; and (b) that these circumstances and/or events are beyond MWEB Business' control: (i) use of Wireless Broadband iBurst by other customers; (ii) the Internet; (iii) the Network; (iv) the Network Coverage; (v) limitations upon national and/or international bandwidth capacity; (vi) telecommunication service operator failures, which includes telecommunication links and line failures; (vii) mobile telecommunication service operator failures; (viii) mobile network failures; (ix) wireless network failures; (x) operating systems; (xi) access technology failures; (xii) quality of service of telecommunication links or lines and/or; (xiii) quality wireless telecommunications links, quality of the Network and Network Coverage; (xiv) physical features such as buildings and underpass; (xv) atmospheric conditions including without limitation bad weather conditions and other causes of interference; and (xvi) any action, omission and/or failure by Customer and/or his/her/its systems, software, network and/or equipment which has an impact on Wireless Broadband iBurst; and (xvii) any other action, omission and/or failure not within MWEB Business' control which has an impact on Wireless Broadband iBurst.
- 4.4 Customer further acknowledges that: (i) MWEB Business does not warrant, represent nor in any way guarantee the quality and availability of the Network Coverage for the Wireless Broadband iBurst; (ii) the quality and availability of the Network Coverage for the Wireless Broadband iBurst shall be limited to that provided by the Network.

#### 5. TERMS AND CONDITIONS SPECIFIC TO WIRELESS BROADBAND IBURST



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- 5.1 MWEB Business shall as part of the Wireless Broadband iBurst Services provide Customer with Internet Connectivity limited to the Internet traffic specified in the Application Form together with the value added services which are limited to the following: (i) Mwebbiz.co.za e-mail address; (ii) mail box at the size specified by Customer in the Application Form; and (iii) wifi minutes specified in the Application Form.
- 5.2 Customer acknowledges that:
- 5.2.1 Laptop Modem/USB Modem is required to access and use the Wireless Broadband iBurst;
- 5.2.2 only a Desktop Modem can be configured and used to connect Customer's computer systems to enable dual access to the Wireless Broadband iBurst;
- 5.2.3 Laptop Data Card/USB Data Card is only enabled to receive and/or transmit Data;
- 5.2.4 the nature and specifications of Wireless Broadband iBurst is known to him/her/it and accepts that the Wireless Broadband iBurst is suitable for the purpose Customer intends to use it;
- 5.2.5 the Wireless Broadband iBurst may be impaired whilst Customer is using its Wireless Broadband iBurst to upload or download Data;
- 5.2.6 Wireless Broadband iBurst is intended to be used only for Internet related services including without limitation to carry and/or transmit Data and not voice;
- 5.2.7 MWEB Business shall configure such Internet traffic into Customer's Wireless Broadband Account; and
- 5.2.8 Customer acknowledges and agrees that:
- 5.2.8.1 Internet traffic shall be provided subject to the Network Operator's terms and conditions of use policies which are accessible at [http://www.iburst.co.za/default.aspx?link=profile\\_legaldoc&blogs=2](http://www.iburst.co.za/default.aspx?link=profile_legaldoc&blogs=2) (hereinafter referred to as the "**Network Operators' Terms**");
- 5.2.8.2 he/she/ it connects to the Internet via the Network and subject to the Network Operator's Terms;
- 5.2.8.3 MWEB Business shall not be responsible for the maintenance and/or management of the Internet Connectivity and/or Network;
- 5.2.8.4 MWEB Business will not carry over all the unused Internet traffic to the following month. Accordingly, Customer is advised to use the allocated Internet traffic in a month;



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5.2.8.5 although MWEB Business shall use its reasonable endeavours to prevent Customer from exceeding his/her/its Internet traffic limit, MWEB Business does not guarantee that Customer's Internet Connectivity will automatically terminate upon Customer reaching his/her/its Internet traffic limit. Customer is therefore responsible for ensuring that it (including any third party who has access to the Wireless Broadband iBurst Service) does not exceed the allocated Internet traffic limit. Customer is obliged to monitor and measure the amount of Data and/or e-mail Customer sends or receives including the sending of Data which is associated with Internet access by using a tool provided to it as envisaged in clause 5.6 below. Should Customer exceed his/her/its Internet traffic limit as envisaged herein, MWEB Business shall charge Customer the excess usage charges as envisaged in clause 3.3 above.

5.3 Without limiting the applicability of the Network Operator's Terms and/or the General Terms Customer:

5.3.1 agrees not to use Wireless Broadband iBurst for any unlawful, abusive or any other purpose including, without limitation, using Wireless Broadband iBurst in any manner that (i) interferes with MWEB Business' ability to provide Wireless Broadband iBurst or any other service to its customers; (ii) interferes with the quality and/or availability of the Network and/or (iii) infringes upon any applicable legislation and/or regulation including without limitation the Electronic Communications Act;

5.3.2 agrees not to use Wireless Broadband iBurst to infringe the intellectual property rights or other proprietary rights of MWEB Business and/or any other person or to post or transmit anything which contains viruses or any other destructive features, regardless of whether or not damage is intended.

5.3.3 The Parties record and agree that Customer is entitled to:

5.3.3.1 upgrade to a higher Wireless Broadband iBurst Service offered as part of the Wireless Broadband iBurst at any time during the Initial Period, provided however that such upgrade shall be seen as an amendment to the Agreement and the terms and conditions of the Agreement including these Wireless Broadband iBurst Product Terms shall at all times apply to such amendment without specifically referring to it at that time; and

5.3.3.2 downgrade to the lowest Internet traffic package offered as part of the Wireless Broadband iBurst, provided that such downgrade is not done within 3 (Three) months from the date of activation of the Wireless Broadband iBurst Services. Customer further acknowledges that MWEB Business shall subject to the provisions of clause 3.2 above authorize such downgrade which, will be seen as an amendment to the Agreement and the terms and conditions of the Agreement including these Wireless Broadband iBurst Product Terms shall at all times apply to such amendment without specifically referring to it at that time.

#### 5.4 Provision of the Equipment



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5.4.1 MWEB Business shall in accordance with Customer's selections as indicated in the Application Form, sell the Equipment to Customer who accepts such sale.

5.4.2 Customer acknowledges and agrees that:

5.4.2.1 ownership in and to Equipment supplied and delivered to Customer as envisaged in these Product Terms shall vest in MWEB Business until payment of the full purchase price and/or payment all amounts due and payable to MWEB Business in respect of the Equipment or until the expiry of the Initial Period, whichever is applicable.

5.4.2.2 MWEB Business shall use its reasonable commercial endeavours to comply with the agreed delivery dates. Notwithstanding the foregoing, Customer acknowledges that the agreed delivery dates are only estimated delivery dates. Accordingly, Customer shall, subject to clause 7.10 of the General Terms, not be entitled to terminate this Agreement or refuse to accept delivery of the Equipment because of MWEB Business' failure to meet such delivery dates unless such delay is in excess of 14 (Fourteen) business days. Customer shall, without limiting the generality of the General Terms, not be able to hold MWEB Business, its suppliers or its agents 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 from failure to deliver the Equipment on the agreed delivery dates. Notwithstanding the aforesaid, the provisions of this clause 5.4.2.2 are subject to Customer's termination rights detailed in clause 7.11 of the General Terms where clause 7.11 of the General Terms is applicable to Customer.

5.4.2.3 delivery shall be deemed to have occurred when the Equipment has been delivered to Customer at the delivery address specified in the Application Form, at which time the risk of loss in or damage to the Equipment shall pass to Customer.

5.4.2.4 it is his/her/its responsibility to take out insurance on the Equipment;

5.4.2.5 the Equipment will be activated by MWEB Business prior to the delivery date;

5.4.2.6 until ownership passes to Customer as envisaged in clause 5.4.2.1 above, Customer shall not do or omit to do anything which may adversely affect MWEB Business' proprietary rights in and to the Equipment. Without limiting the generality of the foregoing, Customer shall notify its landlord (if applicable) that the Equipment is owned by MWEB Business and provide MWEB Business upon reasonable written request, with evidence of all necessary steps taken.



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5.4.2.7 until ownership passes to Customer as envisaged in clause 5.4.2.1 above, he/she/it shall at his/her/its own costs and expense take all necessary steps to keep Equipment free from attachment, hypothec or other legal charge or process and provide MWEB Business upon reasonable written request, with evidence of all necessary steps taken.

5.4.2.8 any warranty pertaining to the Equipment shall be limited to a period of 12 (Twelve) months calculated from the date of delivery. Should Customer discover any fault or defect in the Equipment, Customer shall within 3 (Three) days of delivery return the Equipment to MWEB Business in the same condition and packaging along with proof of receipt. MWEB Business shall replace the damaged or faulty Equipment. Customer shall not engage in any action which contravenes or voids the supplier's terms of warranty or guarantee. In the event that Customer engages in any action which contravenes or voids the supplier's warranty, Customer shall bear the costs of any repairs, replacements or extended warranties and guarantees.

5.4.2.9 Customer shall:

5.4.2.9.1 be responsible for the installation of the Equipment;

5.4.2.9.2 ensure that such installation is in accordance with the supplier's instructions;

5.4.2.9.3 ensure that the usage of such Equipment is in accordance with the supplier's instructions and will not contravene and/or void the supplier's warranty or guarantee. In the event that Customer's usage contravenes and/or voids the supplier's warranty which then results in the unavailability of Wireless Broadband iBurst and/or any component thereof, MWEB Business shall (without limiting the generality of the General Terms) not be held responsible for any direct and/or indirect loss, damage or any costs suffered by Customer as a result thereof including the unavailability of Wireless Broadband iBurst Services.

5.4.3 Upon becoming the owner of the Equipment, Customer shall be fully responsible for such Equipment and Customer shall not have any claim of whatever nature for the breakdown and/ or failure of the Equipment in any manner whatsoever against MWEB Business.

## 5.5 Internet Booster

### 5.5.1 i-Go Lite and i-Go Packages

5.5.1.1 Customer acknowledges that in order to avoid suspension of the Internet Connectivity, Customer is advised to top up his/her/its Internet traffic limit by subscribing to Internet Booster from MWEB Business. Customer acknowledges that the purchasing of the Internet Booster must be done prior to reaching his/her/its allocated Internet traffic, failing which Customer's Internet Connectivity will automatically be suspended.



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#### 5.5.2 G1; G3; G6 and G9 Packages

5.5.2.1 MWEB Business shall use its reasonable endeavours to monitor Customer's Internet traffic and should Customer exceed his/her/its Internet traffic, MWEB Business shall throttle Customer Internet Connectivity until Customer purchases further Internet connectivity by subscribing to Internet Booster.

5.5.3 For the purposes of purchasing further Internet traffic as envisaged in clauses 5.5.1.1 and 5.5.2.1 above, Customer may apply for the Internet Booster online. Customer acknowledges and agrees that the terms and conditions contained in the MWEB Business Terms including these Product Terms shall apply to each transaction.

5.5.4 The Internet Booster shall commence on the date of activation of it by MWEB Business and shall continue until the last day of the following calendar month after which the Internet Booster will automatically terminate irrespective of whether Customer has utilised it fully or not. It is specifically agreed that should Customer not have used the Internet Booster fully it shall not be entitled to any credit and/or refund for the unutilised portion in any manner whatsoever.

5.5.5 MWEB Business may in its own discretion limit the amount of Internet Boosters, Customer may be able to subscribe to during a calendar month, provided that it shall act reasonably.

#### 5.6 Dashboard

5.6.1 Included as part of the Wireless Broadband iBurst is the dashboard which is an online tool providing Customer with the ability to: (i) connect to the Internet; (ii) monitor its Internet traffic usage; and (iii) access support services (hereinafter referred to as the "Dashboard").

5.6.2 Customer acknowledges and agrees that MWEB Business does not maintain and/or manage the: (i) Dashboard; (ii) Dashboard to ensure that the usage report produced by the Dashboard is up-to-date, current, and/or correct; (iii) Internet; and (iv) support services to be provided to Customer with regard to Internet Connectivity.

5.6.3 MWEB Business' monitoring equipment shall be used to do the monitor and measure Customer's Internet traffic usage and shall be the sole source to determine usage or if Customer has exceeded its Internet traffic limit.

## 6. VALUE ADDED SERVICES

#### 6.1 Mailbox and Mwebbiz.co.za e-mail address

6.1.1 MWEB Business shall as part of the Wireless Broadband iBurst Services provide Customer with a mailbox at the size specified in the Application Form and a Mwebbiz.co.za email address. MWEB Business shall configure Customer's mail box and Mwebbiz.co.za e-mail address into Customer's Wireless Broadband Account.



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6.1.2 Customer acknowledges and agrees that:

6.1.2.1 the mailbox service shall be provided to Customer subject to the terms and conditions applicable to mailbox which can be found under the name "Mailbox" at <http://www.mwebbusiness.co.za/legal/ProductTerms.aspx> under the heading "Product Terms" but with the exclusion of the duration clause; and

6.1.2.2 although Mwebbiz.co.za e-mail address forms part of the Wireless Broadband iBurst, Customer will not be required to subscribe to any of the MWEB Business Internet Access Services and such Internet Access Services shall not form and/or be deemed to form part of the Wireless Broadband iBurst Services.

6.1.3 Customer accepts full responsibility for the content of any e-mail sent and/or received via the Wireless Broadband iBurst Service. Customer furthermore agrees that MWEB Business has no interest in the contents of any such e-mail and agrees that nothing that MWEB Business, its licensors or its suppliers do in the performance of its/their obligations in terms of the Wireless Broadband iBurst Service shall be construed as an assumption of responsibility or liability by MWEB Business, its licensors or suppliers with regard to the content of such e-mails whether or not MWEB Business, its licensors or suppliers had knowledge of such content. Without limiting the generality of the General Terms, Customer indemnifies MWEB Business, its licensors or suppliers and agrees to hold MWEB Business, its licensors or suppliers harmless from and against any costs, losses, harm, liabilities, expenses, damages, fines or injury, including without limitation direct, indirect, incidental, special, punitive or consequential loss, loss of profit, loss of anticipated savings, loss of goodwill or legal fees on an attorney and own client scale, directly and/or indirectly suffered or incurred by MWEB Business or for any such claims instituted against MWEB Business by a third party, arising out of or relating to the content of Customer's e-mail.

6.1.4 Included in the Mwebbiz.co.za –e-mail address is the anti spam protection service which enables MWEB Business to monitor the e-mails sent to Customer via Wireless Broadband iBurst.

6.1.5 Customer acknowledges that MWEB Business:

6.1.5.1 does not warrant, represent and/or guarantee that the spamming of e-mails send via Wireless Broadband iBurst shall be successful; and

6.1.5.2 shall use its reasonable commercial endeavours to prevent spamming of e-mails.

## 6.2 Wifi Minutes

6.2.1 MWEB Business shall as part of the Wireless Broadband iBurst and at the beginning of each month provide Customer with free monthly wifi minutes to enable Customer to connect to the Internet.

6.2.2 Customer acknowledges and agrees that:



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6.2.2.1 wifi minutes are only provided to him/her/it as a value add to the Wireless Broadband iBurst;

6.2.2.2 in the event that Customer has used all the free monthly wifi minutes provided to him/her/it as envisaged in clause 6.2.1 above, Customer will use the Network in order to connect to, access and/or use the Internet;

6.2.2.3 he/she/ it will have to use all wifi minutes provided to it in a month;

6.2.2.4 all unused wifi minutes cannot be carried over to the following month.