

	Interprise (Pty) Ltd 35 Keyes Avenue, Rosebank, Johannesburg. PO Box 1161, Rivonia, 2128	Tel: 0861 17 17 17 and 011 447 7116 Fax: 0861 89 89 89 Email: sales@interprise.co.za www.interprise.co.za
	Dealership:	Contact:
	Existing Acc. No.	
Interprise Rapid Wireless DSL General Terms and Conditions		

GENERAL TERMS & CONDITIONS

DEFINITIONS

The general terms and conditions contained herein ("the terms") together with the application form ("Application Form") and any addendums thereto, are referred to herein collectively as the "agreement". The services ("Subscription Services") provided by INTERPRISE (PTY) LTD or it's elected representative ("INTERPRISE"), as elected by the customer on the application form, and thereafter, as may be added to or terminated from time to time are referred to herein as the "services". The customer, with whom INTERPRISE has contracted to provide the services in terms of the agreement and whose details are set out in the proposal, is referred to herein as the "customer".

APPOINTMENT

The customer appoints INTERPRISE, which appointment INTERPRISE hereby accepts, to supply the services to the customer, on the terms and conditions set out in the agreement. The customer hereby authorises:

- a representative of INTERPRISE to communicate with Telkom SA Limited ("Telkom"), cellular telecommunication service providers or any other service providers (collectively, "the service providers") so that INTERPRISE is able to obtain all information which may be necessary in order for INTERPRISE to render the services. Should INTERPRISE so require, the customer shall sign a separate letter authorising INTERPRISE to approach Telkom and the service providers to request such information as aforesaid which can be furnished as proof that INTERPRISE has been mandated by the customer to approach Telkom and the service providers for the purposes set out in this agreement,
- INTERPRISE to enter into such agreements and arrangements with third parties as may be necessary for INTERPRISE to render the services.

TERM

The agreement shall commence on the date on which the service is fully commissioned ("commencement date") and shall continue thereafter for an initial period based on the term selected on the application form. All new services contracted for by the customer from time to time shall commence on the date on which such service is fully commissioned and shall continue thereafter for an initial period as elected ("additional initial periods"). At the end of the initial period and additional initial periods, as the case may be, the service in question and the agreement shall be terminable by either party giving the other ninety days' written notice of termination prior to the end of each period. Notwithstanding 3.2, the terms shall remain in force for the entire contract term as elected on the face hereof.

SERVICES

INTERPRISE will, for the duration of the agreement, render the services elected by the customer in the application form, and as may be elected by the customer in writing from time to time and as set out in subsequent proposal forms.

EQUIPMENT

All risk in and to all equipment supplied by INTERPRISE to the customer under the agreement ("equipment") shall pass to the customer on installation. If the equipment or any part thereof is lost, stolen or damaged, the customer shall immediately notify INTERPRISE in writing and until such notification has been received by INTERPRISE the customer shall remain liable for all costs and charges pertaining to such equipment. INTERPRISE shall as soon as reasonably possible issue replacement equipment to the customer, and may in its discretion, require the customer to effect payment of a reasonable charge in respect of the cost of issuing such replacement. Such loss, theft of, or damage to and/or the issue of replacement equipment shall in no way be deemed to constitute a termination of the agreement which shall continue to be of full force and effect.

The customer agrees that any equipment supplied by INTERPRISE pursuant to the agreement is movable property and that notwithstanding any installation thereof at the customer's premises, it is the clear and expressed intention that the equipment shall at all times remain the property of INTERPRISE who has the right to remove the equipment on termination of the agreement for any reason. Accordingly, the customer undertakes forthwith upon the installation of the equipment to notify the landlord of the premises where the equipment is to be installed of INTERPRISE's ownership of the equipment.

INTERPRISE is not liable to the customer out of any defect or failure of the equipment and the customer agrees in the event of any defect or failure of the equipment that he shall nevertheless remain liable in full under this agreement during the term hereof.

CUSTOMER'S OBLIGATIONS

The customer shall:

- grant INTERPRISE access to its premises, equipment, and infrastructure so as to enable INTERPRISE to carry out its obligations in terms of this agreement;
- provide the infrastructure necessary for connection to INTERPRISE's equipment;
- grant INTERPRISE the first option to introduce to it new and/or improved service offerings should the need arise;
- grant INTERPRISE exclusivity for the provision of the services for the period of the contract.

CHARGES AND BILLING

In consideration for the provision of the services the customer shall pay INTERPRISE the amount set out in each invoice by no later than the due date as indicated on the invoice. The customer agrees to pay INTERPRISE, monthly in advance, the subscription fees as set out in the application form. Unless otherwise stipulated, all amounts payable by the customer to INTERPRISE in terms of this agreement are exclusive of VAT and any other statutory levies, taxes and imposts as may be levied thereon from time. The customer shall accordingly be liable for VAT and all rates, taxes, government or statutory levies as may be imposed in respect of the services from time to time.

The customer authorises INTERPRISE to collect payments by way of an electronic debit order or credit card transaction. Any cancellation of such a debit order or credit card without the prior written consent of INTERPRISE shall constitute a breach by the customer of the agreement. The customer shall pay INTERPRISE an amount equal to prime plus four percent (4%) per month of any overdue sums from the date on which such sums become payable.

The Customer agrees to, depending on the service/s selected, bear the cost of installation and/or activation fees that INTERPRISE may incur in order to commission the services.

BREACH

Should either party ("the defaulting party"):

- fail to pay any amount payable under the agreement within seven days after receipt of written demand requiring such payment; or
- commit a breach of any provision (other than a payment obligation) of the agreement and, if such breach is capable of remedy, fail to remedy such breach within fourteen days after receipt of written demand from the other party requiring it to do so; or
- be placed under liquidation, judicial management or any similar disability, whether provisionally or finally and whether voluntarily or compulsorily; or
- commit any act which if committed by a natural person would constitute an act of insolvency; or
- become insolvent; or
- compromise or attempt to compromise generally with any of its creditors; or
- have a final judgement taken against it which impairs its ability to carry out its obligations under the agreement which is not satisfied within thirty days after the granting of such judgement, then the other party ("the aggrieved party") shall be entitled, without prejudice to any of its other rights under the agreement and/or in law and by giving written notice, to immediately cancel the agreement or to claim immediate specific performance of all of the defaulting party's obligations whether or not due for performance, in either event without prejudice to the aggrieved party's right to claim damages.

The customer will be entitled to refer any dispute between itself and INTERPRISE relating to the availability of the services, to any Telecommunications Representative who may be appointed as such by the Director General: Communications or his successor in title, the South African Telecommunications Regulatory Authority, or any successor thereof.

AVAILABILITY

The services provided by INTERPRISE are subject to government regulated limitations, availability of telecommunications lines and infrastructure and may be temporarily/permanently refused, limited, interrupted or curtailed as necessary or appropriate for the proper operation of the services.

SUSPENSION

INTERPRISE may at any time, on notice to the customer, suspend the customer's use of the services in the event that the customer fails to perform any of its obligations or breaches any term/s of the agreement. The customer remains liable for the applicable charges payable by it in terms of the agreement during any period of suspension.

MODIFICATION OF TERMS

INTERPRISE frequently modifies and seeks to improve the services which it provides to its customers, and such changes may from time to time require that INTERPRISE at the same time modifies the terms and conditions regulating the use of such services. INTERPRISE shall have the right to modify the terms of the agreement (including, without limitation, the charges to be charged by INTERPRISE for the services) and to change/discontinue any feature or component of the services, as it may deem necessary. Any use by the customer of the services after any such modification has been implemented shall be deemed to constitute acceptance by the customer of such modification and the new terms and conditions of the agreement. The customer is responsible for reviewing any modifications made by INTERPRISE to the service from time to time and to make itself aware of any such changes. It shall not be a defence against any assertion that the customer accepted the modification and/or new terms and conditions of the agreement, that it was not aware of such modification.

ABUSE OF SERVICES

The customer hereby warrants and undertakes in favour of INTERPRISE that the customer shall comply with all relevant legislation and regulations imposed by any competent authority and all directives issued by INTERPRISE relating to the services, and hereby indemnifies INTERPRISE for any losses, expenses, damages, harm or amount for which INTERPRISE may become liable arising from or relating to the use of the services in any manner whatsoever which violates the terms of the agreement or any law, legislation or regulation and/or any claims made by any third party arising from the customer's use of the services.

OBLIGATIONS ON TERMINATION / CANCELLATION / SUSPENSION

The customer is liable for any obligation accrued at the date of termination, cancellation or suspension of the services, including without limitation the payment of any costs or charges that may arise in connection with such termination, cancellation or suspension, and the payment of all outstanding fees for the use of the services prior to said termination, cancellation or suspension. The payment obligations of the customer in terms of the agreement are not suspended, stayed, delayed or otherwise affected by any suspension of access to the services where such suspension arises from the customer's failure to comply with, or violation of, the terms and conditions of the agreement or any law or legal obligation of the customer. INTERPRISE shall be entitled to immediately deactivate the service/s on the date of termination or cancellation and further, has no obligation to the customer after any termination or cancellation of the services and/or the agreement, as the case may be.

SETTLEMENT FEE

Should:

1. the customer cancel a service at any time; or
2. the customer fails to comply with the terms of the agreement; and
3. through no fault of INTERPRISE and/or due to factors which are beyond the control of INTERPRISE,

the customer shall pay INTERPRISE a settlement fee calculated either by multiplying the total subscription fees or minimum billing amount by the number of remaining months.

CONFIDENTIALITY

Notwithstanding the cancellation or termination of this agreement for any reason whatsoever, neither party shall during the existence of this agreement or at any time after the date of termination use, divulge, disclose, exploit, permit the use of or in any other manner whatsoever use the other party's confidential information or disclose the existence or contents of this agreement provided that the receiving party may disclose the other party's confidential information and the existence and contents of this agreement:

1. to the extent required by law (other than in terms of a contractual obligation of the receiving party);
2. to, and permit the use thereof by, its employees, representatives and professional advisers to the extent strictly necessary for the purpose of implementing or enforcing this agreement or obtaining professional advice or conducting its business, it being specifically agreed that any disclosure or use by any such employee, representative or adviser of such confidential or other information for any other purpose shall constitute a breach of this agreement by the receiving party.

CERTIFICATE

A certificate by a director of INTERPRISE as to the amount owing by the customer to INTERPRISE at any time shall be sufficient proof thereof for provisional sentence or summary judgement.

NO WARRANTIES

Save as set out in the proposal, INTERPRISE gives no warranties or representations of whatever nature regarding the services and disclaims any implied warranty, including any warranties of merchantability or fitness for a particular purpose in connection with the services. Statements regarding or descriptions of the services by INTERPRISE or its agents are not made or given as a warranty of any kind. No employee or agent of INTERPRISE is authorised to make any warranty.

EXCLUSION OF LIABILITY

INTERPRISE shall not be liable to the customer for any loss, liability, damage or expense of whatever nature which the customer may suffer or incur as a consequence of utilising the services, irrespective of whether such loss or damage is direct or consequential. Without limiting the generality of the foregoing, INTERPRISE shall not be liable for any loss, liability, damage (whether direct, indirect or consequential) or expense suffered by the customer which is caused by and/or attributable to:

1. any of the services being interrupted, suspended or terminated, for whatsoever reason; and/or
2. circumstances that constitute a force majeure event referred to in this agreement; and/or
3. any telecommunication network operators or secondary operators infrastructure and/or communication line faults; and/or
4. the customer's failure to perform its obligations under this agreement; and/or
5. non-performance or delay in performance by any third party of any obligations which such third party is obliged to perform so as to allow INTERPRISE to render the services; and/or
6. failure in satellite connectivity; and/or
7. any power failure or power interruption; and/or
8. the failure of any hardware, software programme, operating system, networks, telecommunications lines infrastructure and/or any other computer system (or any component thereof) of any third party on whom INTERPRISE and/or the customer relies (whether directly or indirectly) to supply and/or receive, as the case may be, the services.

WAIVER

INTERPRISE's failure at any time to require strict performance by the customer of any of the provisions of the agreement will not waive or negate INTERPRISE's right thereafter to require strict compliance with any provision of the agreement.

ASSIGNMENT

INTERPRISE may assign in whole or in part its rights or duties under the agreement without the consent of the customer. The customer may not assign any of its rights or obligations in terms of the agreement without INTERPRISE's prior written consent. Subject to this restriction the agreement shall be binding on the successors in title of the respective parties.

NOTICES

The customer and INTERPRISE choose the following addresses as their chosen address ("domicilium") for all purposes:

For INTERPRISE:
35 Keyes Avenue
Rosebank
Johannesburg

For the customer:

This is the address specified by the customer on the customer's Customer Signup Form

Either party may change its domicilium on written notice to the other. Any notice given or any payment made by a party to the other ("the addressee") which:

1. is delivered by hand during the normal business hours of the addressee to the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee at the time of delivery;
2. is posted by prepaid registered post from an address within the Republic of South Africa to the addressee at the addressee's domicilium for the time being shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting. Where in terms of the agreement, any communication is required to be in writing the term "writing" shall include communications by telex and/or facsimile and/or e-mail and shall, unless contrary is proved by the addressee, be deemed to have been received by the addressee forty-eight hours after the time of transmission.

SEVERABILITY

Should any part of the agreement be found invalid, the balance of the provisions shall remain enforceable, unless INTERPRISE's rights or obligations hereunder are materially impaired.

FORCE MAJEURE

If either party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under the agreement by reason of any event constituting force majeure (being any cause beyond the reasonable control of either party, including without limitation the unavailability of any communications lines and/or facilities and/or network operator facilities), then that party shall be relieved of its obligations hereunder during the period that such event continues, and shall not be liable for any delay and/or failure in the performance of its obligations under the agreement during such period, provided that if the force majeure event continues for a period longer than fourteen days, either party may cancel the agreement.

GOVERNING LAW AND JURISDICTION

The agreement shall be governed by the laws of the Republic of South Africa. The customer, by its signature hereto and in terms of the provisions of Section 45 of the Magistrates Court Act. No 32 of 1944, as amended, consents to the jurisdiction of the Magistrate's Courts in relation to any actions or proceedings instituted against the customer in terms of, or arising out of the provisions of the agreement, provided that INTERPRISE in its sole and absolute discretion shall be entitled to institute any such actions or proceedings, in any division of the High Court of South Africa possessed of the requisite jurisdiction. In the event of INTERPRISE instituting legal proceedings against the customer to recover amounts due to INTERPRISE or take any other legal steps arising out of the agreement, the customer

shall be liable for legal costs on the scale as between attorney and own client.

SOLE MEMORIAL

This agreement contains the entire agreement between INTERPRISE and the customer regarding the matters provided for herein and no other warranties, undertakings and/or representations have been made by INTERPRISE. No amendment to the agreement shall be valid unless approved in writing by a duly authorised representative of INTERPRISE.

DISCLOSURE

The customer hereby authorises INTERPRISE to disclose the customer's name, address, and personal details to any party whenever it is deemed reasonably necessary by INTERPRISE to enable it to properly perform its functions or protect its interests. In addition, INTERPRISE may disclose information if required to do so to any regulatory authorities in connection with any investigation of fraud or other activity that is illegal or may expose INTERPRISE to legal liability.

AUTHORITY

The customer warrants that it has the necessary legal capacity and authority to enter into the agreement. The signatory of the customer warrants that he/she is authorised to sign on behalf of the customer.