

SURE's INTERNET TERMS AND CONDITIONS FOR BUSINESS INTERNET LEASED CIRCUIT CUSTOMERS



1.0 GENERAL: Sure South Atlantic Limited ("**Sure**") will make available the SHDSL Business Internet Leased Circuit Service ("**Service**") together with various IP based services available to subscribers e.g. email facilities, personal web space access to the world wide web and other services and applications that we may introduce from time to time. The terms set forth below, the terms on the Sure order form ("**Application Form**") and the terms of any documents referenced or otherwise incorporated herein (collectively, "**Agreement**") govern the provision by Sure, of service to its customer specified on the Application Form ("**Customer**"), which service provides access to the combination of computers and computer networks that are owned and operated by a variety of entities and which is generally known collectively as the "**Internet**". This service provides access to the Internet only for the Customer's use; it does not include any usage of the Internet itself nor does it include any third party charges thereof. This Agreement is effective upon its acceptance by Sure as set forth on the Application Form ("**Effective Date**"). Sure reserves the right to refuse your application for the Service

1.2 The Company will notify the Customer in writing 7 working days in advance of any change to the non-pricing terms and conditions.

2.0 TERM: This Agreement shall continue in force from the Effective Date until either party provides the other with thirty (30) days' advance written notice of termination.

3.0 SERVICE ACCEPTANCE: Sure shall notify the Customer as to the date Service is operational and available for the Customer's use ("**Service Start Date**"). Any Customer-provided equipment and/or facilities not being installed, operational or otherwise available for use by the Service Start Date shall not be grounds for the Service not being accepted by the Customer.

4.0 CHARGES: Effective as of the Service Start Date, for all usage of the Service, whether such usage is authorised or known by the Customer, the Customer shall pay the monthly charges set forth in the Sure Tariff of charges (see www.sure.co.sh for current Sure Tariffs). The Customer shall also incur an installation or other specified one-time Charge as of the date Sure commences the work for which that Charge applies. Sure may revise the Charges, or the terms and conditions of this Agreement, at any time upon twenty eight (28) days' advance notice.

5.0 PAYMENT: Sure shall provide invoices regularly covering Sure's monthly billing periods. The Customer shall pay for these charges before the end of each billing month (i.e.: before the last day of each calendar month). If payment becomes overdue Sure reserves the right to suspend the Service and or any other services provided to the Customer. The Customer shall be liable to Sure for any and all costs and/or expenses incurred directly or indirectly, including reasonable legal costs and expenses, in the collection or attempted collection of any amounts overdue. Sure Credit Control Policy will apply to the service.

6.0 PROVISION AND USE OF SERVICE, SOFTWARE, AND EQUIPMENT:

6.1 The Service is offered subject to the availability of the necessary facilities and equipment. Sure does not have any responsibility for any failure to provide the Service which is due to any acts, omission, neglect or default of any foreign administration and/or other company/persons.

6.2 If so requested on the Application Form, Sure shall provide a domain name to the Customer and all charges for the same shall be billed to the Customer by Sure.

6.3 Sure shall provide the Customer with an Internet protocol address ("**IP Address**"). Title to the IP Address shall at all times remain with Sure and accordingly, the IP Address is not transferrable to Customer or any third party. If, in Sure's sole determination, the Customer fails to fully utilise all the IP addresses assigned to it by Sure, Sure may withdraw all underutilised IP Addresses from the Customer. Sure may at any time on notice to the Customer change the Customer's IP address. Additionally, Sure shall assume no responsibility for obtaining a Customer's existing IP address from Customer's previous Internet provider.

6.4 The Customer may not resell the Service to any third party or permit any third party to use the Service, Service Agreement Software, or the Equipment unless accepted, by prior arrangement with Sure. The Customer shall not allow the Service to be used, modified or adapted to transmit voice on the public telecommunications system of either Sure or any foreign telecommunications provider, and the Customer shall not connect to the PSTN at either the local or the distant end. The Customer shall comply with any Sure and other applicable Internet instructions, rules, and regulations concerning the use of the Service, Software, Equipment, and the Internet, as may be applicable from time to time, and the Customer shall only use the Service in full compliance with any applicable local laws and the Sure Acceptable Use Policy (see www.sure.co.sh for policy). Although Sure may configure the Service so as to provide some security features, the Customer shall be solely responsible for providing for any security

Or privacy that it may desire for its computer network and any data stored on that network or accessed through the Service. The Customer acknowledges and assumes all liabilities relating to, and risks associated with, unauthorised access by a third party via the Service to such computer network and data.

6.5 The Customer IP Address is intended for the exclusive use of the Customer, and the Customer shall keep the Customer IP secure from unauthorized use. The Customer shall be solely responsible for any usage of the Service and the Internet, including posting, downloading, additions, deletions, and changes made via the Customer IP Address, whether made with the Customer's authorization or knowledge. The Customer shall immediately notify Sure, to be confirmed in writing as soon as possible thereafter, if the Customer becomes aware of or suspects that the security of a Customer IP Address has been broken. Upon receipt of such notice, Sure shall either issue a replacement Customer IP to the Customer or take such other reasonable measures as Sure deems appropriate given the circumstances.

6.6 If Sure provides any software (and any related documentation) under this Agreement which is embedded in hardware as firmware and which is not accompanied by a license agreement (collectively "**Service Agreement Software**"), the Customer shall use the Service Agreement Software only with the Equipment, if any, and the Services. The Customer shall not (i) reproduce, reverse engineer, disassemble, decompile, modify, adapt, translate, create derivative works from, or transfer or transmit the Service Agreement Software in any form or by any means, or (ii) use the Service Agreement Software for any purpose other than as set forth in this paragraph. The Customer shall not have any ownership rights in, or obtain rights to, the Service Agreement Software. If a license agreement ("**Software License**") accompanies the Sure-provided software, whether such software is owned by Sure ("**Sure License Agreement Software**") or its third-party supplier(s) ("**Third-Party License Agreement Software**"), the Customer shall abide by the terms of the Software License. Sure shall have no obligations or liabilities whatsoever in connection with any Third-Party License Agreement Software, whether such Third Party License Agreement Software is used in connection with the Sure provided Service or is used independent of the Sure-provided Service, including, without limiting the generality of the foregoing, in connection with the use thereof. The Customer agrees to look exclusively to the Third-Party License Agreement Software supplier(s) with respect to all matters relating to its software. The Service Agreement Software, the Sure License Agreement Software, and the Third-Party License Agreement Software are collectively referred to as "Software".

6.7 Title to any Sure-furnished equipment ("**Equipment**") shall at all times remain with Sure. The Customer shall not permit any liens or encumbrances to be placed upon the Equipment, and Sure shall have the right to take all actions necessary (including taking possession from the Customer's premises) to protect its ownership interest in the Equipment. Risk of loss for any Equipment shall pass to the Customer upon its delivery to the Customer's premises.

6.8 Sure shall supply the Customer with the relevant information to enable the customer suitably to prepare the Premises for the delivery and installation of the Equipment. The Customer shall provide the Company at all times with suitable accommodation including, where required, environmental control, electrical and other installations and fittings and electrical protection. The Customer shall ensure that such preparation and provision are effected at its sole cost before the Equipment is installed at the Premises

6.9 This Agreement does not constitute a license for the Customer to copy, reproduce, distribute, or otherwise use any proprietary information provided or accessible through the Service.

6.10 The customer may not extend the Service beyond the confines of the customer's property by wireless or cable.

7.0 TERMINATION/CANCELLATION/DISCONTINUATION OF SERVICE:

7.1 In the event the Customer terminates the Service after the Service Start Date in accordance with clause 2 above the Customer shall pay for all Charges incurred up to and including the date Service is discontinued. The Customer may cancel a Service prior to the Service Start Date by providing prior written notice to Sure. In such event, the Customer shall pay for all Charges incurred up to and including the date of cancellation.

7.2 In addition to any other remedies available, Sure may immediately terminate this Agreement in the event of a breach by the Customer of this Agreement, the Sure Acceptable Use Policy, of the Software License, or of any other Agreement between the parties pursuant to which Sure provides telecommunications services for the Customer ("**Telecoms Agreement**"). Sure may terminate this Agreement on notice to the Customer in any of the following circumstances: (i) initiation of proceedings by the Customer in voluntary bankruptcy; (ii) initiation of proceedings against the Customer in involuntary bankruptcy which are not dismissed within sixty (60) days of initiation; (iii) the appointment of a receiver or trustee for the Customer; (iv) a general assignment for the benefit of the Customer's creditors; (v) the Customer's insolvency; (vi) non-payment of amounts due to Sure under this Agreement or under any Telecoms Agreement.

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7.3 Upon any termination, the Customer shall (i) immediately cease utilising the Service, (ii) immediately return any Service Agreement Software, (iii) permit Sure to have access to and remove any Equipment from the Customer's premises, (iv) pay Sure for all Charges incurred by Customer up to and including the date Service is discontinued.

7.4 In addition to any other remedies available, Sure may immediately (without notice and without liability to the Customer) discontinue the provision of Service if any of the following occurs: (a) Sure deems in its absolute discretion that it is necessary to discontinue the Service in order to protect against its fraudulent or illegal use or to otherwise protect Sure, its equipment, or facilities; (b) Sure receives complaints or claims from third parties regarding the Customer's use of the Service; or (c) the Customer fails to comply with the warranties set forth below.

8.0 INDEMNIFICATION/LIMITATION OF LIABILITY:

8.1 The Customer shall defend, indemnify and hold Sure harmless from and against all claims, demands, actions, causes of action, judgments, costs and reasonable legal costs and expenses of any kind or nature for any damages of any kind arising from or related to any use of the Service, Software, Equipment, or the Internet including any breach by the Customer of the terms of this Agreement, whether such use is by the Customer or any third party irrespective of whether the Customer has authorised or known about such usage, or otherwise arising under or related to this Agreement, the Service, the Software, the Equipment, or the Internet.

8.2 Sure shall not be liable for any delay or interruption in or failure to provide or restore the Service howsoever caused including, without limitation, anything caused by or attributable to any customer equipment or any services provided by any person providing the on-line service connection to the Internet. In no event shall Sure be liable for any unauthorised access by a third party to Customer's computer network or data, loss of profits or data, or for any incidental, special, exemplary, or consequential damages. For all other claims that may arise under the terms of this Agreement (and whether in contract, tort, negligence or otherwise), then, to the extent allowed by law Sure's total liability to the Customer, shall be capped at 100% of the fees paid by the Customer to Sure in the 12 months immediately prior to the event giving rise to the claim.

8.3 If Sure has been notified that any Customer's usage of the Service, Software, Equipment, or the Internet is infringing any third party's rights or is in violation of any applicable law or regulation or if Sure otherwise has reason to believe this to be so, if requested by Sure, the Customer shall immediately cease all such usage of the Service, Software, or Equipment.

9.0 REPRESENTATIONS AND WARRANTIES:

9.1 Sure shall provide Service, Software and Equipment as set forth in this Agreement. SURE DOES NOT WARRANT THAT THE SERVICE, SERVICE AGREEMENT SOFTWARE OR EQUIPMENT SHALL BE UNINTERRUPTED OR ERROR FREE OR PROVIDE ANY SECURITY OR PRIVACY FOR ANY COMPUTER NETWORK OR ANY DATA, OR THAT THE INFORMATION AVAILABLE AND/OR ACCESSED THROUGH THE INTERNET SHALL BE ACCURATE, CORRECT, APPROPRIATE FOR ANY PARTY'S NEEDS, FREE FROM VIRUSES OR OTHER DISABLING CODES, OR THAT SUCH INFORMATION SHALL NOT INFRINGE UPON ANY PROPRIETARY OR OTHER RIGHTS OF OTHERS THE USE OF THE INTERNET, ANY INFORMATION AVAILABLE AND/OR ACCESSED THROUGH THE INTERNET, ANY DOMAIN NAME, AND ANY SECURITY FEATURES PROVIDED FOR THE SERVICE SHALL BE AT THE USER'S SOLE RISK. OTHER THAN ANY EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT, SURE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR YEAR/ DATE ACCURACY. Sure MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, AS TO THE FITNESS, QUALITY, SUITABILITY, MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR PERFORMANCE OF ANY THIRD-PARTY LICENSE AGREEMENT SOFTWARE, IT BEING AGREED THAT ANY SUCH SOFTWARE IS BEING SUPPLIED "AS IS" AND THAT ALL SUCH RISK, AS BETWEEN SURE AND CUSTOMER, ARE TO BE BORNE BY CUSTOMER AT ITS SOLE RISK AND EXPENSE.

THE CUSTOMER HEREBY REPRESENTS AND WARRANTS THAT USE OF THE SERVICE HEREUNDER (INCLUDING ANY USE OF ANY DOMAIN NAME) SHALL NOT VIOLATE OR INFRINGE UPON ANY PROPRIETARY OR OTHER RIGHTS OF OTHERS, BE ABUSIVE, THREATENING, OBSCENE, PROFANE OR OTHERWISE OFFENSIVE, OR VIOLATE ANY APPLICABLE LAWS OR REGULATIONS. THE CUSTOMER SHALL NOT REPRESENT TO ANY THIRD PARTY THAT SURE HAS MADE ANY WARRANTY OR REPRESENTATION OF ANY KIND WITH RESPECT TO THE SERVICE, SOFTWARE, EQUIPMENT, OR THE INTERNET.

10.0 ADDITIONAL TERMS: (a) This Agreement is governed by and shall be construed in accordance with the laws of the St. Helena Island (b) The Customer may not assign or transfer this Agreement or any rights or obligations hereunder without the prior written consent of Sure. An assignment shall be deemed to include any change of control of the Customer. (c) Sure shall not be liable for, and is excused from, any failure or delay in performance that is due to acts of God, acts of civil or military authority, acts of the public enemy, war or threats of war, accidents, fires, explosions, earthquakes, floods, hurricanes, unusually severe weather, epidemics, or due to any other cause beyond its reasonable control. (d) Sure may at any time on giving 30 days notice to Customer vary these Terms and Conditions. (e) Any notice required to be given by either party under this Agreement may be sent by post in the case of Sure to the Company's Main Office, and in the case of the Customer, to the address set out in the Application Form or to the Customer's E-Mail address and shall in the case of notice by post be deemed to be effective three days after posting and in the case of notice to the Customer by E-Mail 24 hours after transmission. (f) This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof, and it supersedes all prior and/or contemporaneous oral and written agreements, understandings, and/or representations thereto. (g) Notwithstanding any purchase orders or similar documents submitted by the Customer to Sure only the terms of this Agreement shall apply.

11.0 FAULTS AND REPAIRS/MAINTENANCE

11.1 If the Customer reports a failure or impairment in the provision of the Services, Sure shall, subject to the other terms and provisions of this agreement, restore the Service or correct the impairment as soon as reasonably practicable following the Customer's notification of the same. Sure shall not be obliged to take any step to restore the Services otherwise than during the Company's normal working hours being 0800 to 1600 Monday to Friday (excluding Public Holidays). If Sure agrees to attend to a fault outside normal working hours, the Customer will pay Sure reasonable charges in connection with the compliance with such a request. If Sure undertakes work to correct a fault or impairment but in its sole opinion considers that either there was no such fault or impairment or such a fault or impairment was due to any act, omission or fault of the Customer or any improper use of the Services, the Customer shall pay Sure reasonable costs in undertaking such work.

11.2 Sure will not undertake any repairs/maintenance of customer-provided Equipment

12.0 CUSTOMER QUERIES AND DISPUTES

12.1 The Company has available a Customer Care Centre at Bishops Rooms, Jamestown and can be visited to resolve any queries or disputes the customer may have during normal opening hours 09:00am to 15:30pm Monday to Friday, excluding statutory holidays.

12.2 Alternatively the customer can contact the Customer Care Centre on telephone number 22900 during normal work hours 08:00am to 16:00pm Monday to Friday, excluding statutory holidays.

12.3 In the event that the Customer has not been able to resolve a query or dispute through the Customer Care Centre as detailed in 12.1 or 12.2 above the Customer can request the Chief Magistrate to conduct an independent review of that query or dispute. The Customer must allow the Company the opportunity to resolve the query or dispute before making any such request to the Chief Magistrate.



Customer

Date

Sure South Atlantic Limited
PO Box 2,
Bishop's Rooms,
Jamestown,
St. Helena Island,
South Atlantic Ocean
STHL 1ZZ

Customer Care Centre Tel: + 290 22900
Call Centre Fault line (Free) Tel: 121
Internet Helpline: 2 4000
Email: service@sure.co.sh