



**ACTIVE FIBRE
GENERAL TERMS AND CONDITIONS**

The Customer expressly acknowledges that any amendments effected by them to these General Terms and Conditions or any Service Order Form or Active Fibre Quotation shall not, under any circumstances be accepted, nor shall such amended General Terms and Conditions or applicable Service Order Form or Active Fibre Quotation establish any contractual relationship between the Parties unless such amendment is brought to the attention of Active Fibre and a duly authorised senior representative of Active Fibre signifies their acknowledgment and acceptance of the amendment by initialling alongside the amendment so effected by the Customer.

1. DEFINITIONS AND INTERPRETATION

- 1.1. Unless they appear differently from the context or under this clause 1, words and phrases used in these General Terms and Conditions or in any applicable Active Fibre Quotation or Service Order Form shall have the meanings ascribed to them in the Electronic Communications Act No. 36 of 2005;
- 1.2. Words importing the singular shall include the plural and vice versa.
- 1.3. Words denoting persons shall include natural persons, legal entities and unincorporated associations of persons, and vice versa.
- 1.4. The headings in these terms and conditions shall not affect their interpretation.
- 1.5. Unless inconsistent with the context, the words and phrases set out below shall mean as follows:
 - 1.5.1. **“Active Fibre”** means Beginning 2 End Technologies Proprietary Limited, trading as Active Fibre Internet Services;
 - 1.5.2. **“Active Fibre Quotation”** means a quotation for a Service or Services, prepared by Active Fibre at the request of a prospective Customer;
 - 1.5.3. **“Agreement”** means these General Terms and Conditions together with its annexures, applicable Active Fibre Quotation or Service Order Form, relevant Service Specific Terms and Conditions and any amendments or variations hereto or thereto;
 - 1.5.4. **“Billing Dispute Notice”** is as defined in the Active Fibre Complaints Procedure;
 - 1.5.5. **“Billing Disputes Procedure”** is as defined in the Active Fibre Complaints Procedure;
 - 1.5.6. **“Business Day”** means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
 - 1.5.7. **“Calendar Month”** means any one of the 12 (twelve) months in the year according to the Gregorian calendar, from the first day to the last day of the respective month;
 - 1.5.8. **“Charges”** means the fees, line and CPE rentals and any other charges levied by Active Fibre as set out in the Active Fibre Quotation or Service Order Form;
 - 1.5.9. **“Confidential Information”** means all information (in whatever form) which: (i) relates to the Agreement; or (ii) is designated as confidential by either Party; or (iii) relates to the business, affairs, networks, customers, products, developments, trade secrets; know-how and personnel of either Party (including in the case of the Customer, Customer Data) and which may reasonably be regarded as the confidential information of the disclosing party;
 - 1.5.10. **“Customer Data”** includes, but is not limited to, data transmissions (including the originating and destination numbers and IP addresses, date, time and duration of voice or data transmissions, and other data necessary for the establishment, billing or maintenance of the transmission), data containing personal and/or private information of the Customer, its employees or authorised users of the Services, and other data provided to or obtained by Active Fibre and their respective agents in connection with the provision of Services;
 - 1.5.11. **“Customer Premises”** means the Customer’s site/s where the CPE is to be installed and the Services are to be rendered as specified in the Active Fibre Quotation or Service Order Form;
 - 1.5.12. **“CPE”** means the electronic communications equipment and/or related hardware or software owned by Active Fibre and installed on the Customer Premises by Active Fibre to facilitate the provision of the Service(s);
 - 1.5.13. **“Digital Signature”** means an electronic signature;



- 1.5.13.1. that uses a certificate based digital identification;
- 1.5.13.2. issued by an accredited certificate authority or trust service provider;
- 1.5.13.3. uniquely linked to the signatory;
- 1.5.13.4. that binds the signature to the document with encryption; and
- 1.5.13.5. can be verified using public key infrastructure, but need not be an advanced electronic signature as defined in the Electronic Communications and Transactions Act No. 25 of 2002;
- 1.5.14. **“Effective Date”** means the date on which an Active Fibre Quotation is accepted by the Customer or the date on which a Service Order Form, duly completed by the Customer, is formally accepted by Active Fibre. On the Effective Date these General Terms and Conditions shall become binding on the Parties;
- 1.5.15. **“Initial Term”** means the period indicated as such on the Active Fibre Quotation or Service Order Form;
- 1.5.16. **“Internet”** means the international interconnected network of networks using the TCP/IP protocol to exchange data communications;
- 1.5.17. **“Internet Service”** means a Service providing access to the Internet together with any related Service equipment or support services, as specified in the relevant Active Fibre Quotation or Service Order Form;
- 1.5.18. **“Network Operator”** means a person licensed in terms of the Electronic Communications Act No. 36 of 2005 who provides Active Fibre with electronic communications network services;
- 1.5.19. **“Party” or “Parties”** means either Active Fibre or the Customer;
- 1.5.20. **“Regulated Customer Data”** is that Customer Data of which the use, processing or transfer is regulated by law or regulation as “personal data” where Active Fibre or its respective agents come into possession of such Customer Data;
- 1.5.21. **“RICA”** means the Regulation of Interception of Communications and Provision of Communication Related Information Act No. 70 of 2002;
- 1.5.22. **“Services”** means the products and services provided by Active Fibre to the Customer as more fully described in the Active Fibre Quotation or Service Order Form, whichever is applicable;
- 1.5.23. **“Service Commencement Date”** means the date on which Active Fibre notifies the Customer that the Services are ready for use, alternatively the date on which the Services are used by the Customer, whichever date occurs first in time;
- 1.5.24. **“Service Order Form” or “SOF”** means a request for a specific Service completed by the Customer and delivered to Active Fibre and accepted by Active Fibre in accordance with this Agreement;
- 1.5.25. **“Service Specific Terms and Conditions”** means the terms and conditions dealing specifically with a particular Service and which are available on Active Fibre’s website and which terms and conditions may be updated from time to time and are incorporated by reference in an Active Fibre Quotation or Service Order Form;
- 1.5.26. **“Service Term”** means, in relation to a Service, the total period for which a Service is provided pursuant to an Active Fibre Quotation or Service Order Form.

2. SUSPENSIVE CONDITIONS

- 2.1. Active Fibre shall not be obligated to provide the Services to the Customer unless the following suspensive conditions are fulfilled:
 - 2.1.1. the Customer consents to Active Fibre conducting all reasonable credit checks and searches to establish the creditworthiness of the Customer, and in this regard the Customer shall provide all required information and documentation to Active Fibre to enable it to conduct such checks and searches;
 - 2.1.2. Active Fibre is satisfied that the Customer is creditworthy;
 - 2.1.3. the Customer provides Active Fibre with any suretyship or debit order forms as may be required by Active Fibre in Active Fibre’s discretion;
 - 2.1.4. the Customer complies fully with all RICA requirements.



3. NO RESALE PERMITTED

Unless the Customer has entered into a written reseller agreement with Active Fibre, the Customer is not entitled to resell, charge, transfer or otherwise dispose of the Service(s) (or any part thereof) to any third party.

4. THE SERVICES

- 4.1. At the Customer's request, Active Fibre may quote the Customer for specific Services. On acceptance by the Customer of the Active Fibre Quotation, the Customer shall be bound by the General Terms and Conditions, the Service Specific Terms and Conditions and Active Fibre's Acceptable Use Policy. Active Fibre Quotations remain valid for a period of 7 (seven) calendar days from date of issue. Active Fibre Quotations older than 7 (seven) calendar days may not be accepted, in Active Fibre's sole discretion.
- 4.2. Alternative to the Active Fibre Quotation, the Customer may, from time to time, complete and deliver a request for a Service(s) in the form of the Service Order Form to Active Fibre. The Service Order Form shall be in such format as is provided to the Customer by Active Fibre and Active Fibre may in its sole discretion decide whether or not to accept a Service Order Form delivered by the Customer.
- 4.3. A Service Order Form shall only be binding on both Parties once it has been formally accepted by Active Fibre or the Service(s) has been provided to the Customer, whichever date comes first.
- 4.4. Each Active Fibre Quotation or Service Order Form delivered and accepted pursuant to these General Terms and Conditions shall create an individual contractual relationship between the Parties for the duration of the Service Term. The Parties agree and confirm that their contractual relationship shall be governed by these General Terms and Conditions, together with the relevant Active Fibre Quotation or Service Order Form and any applicable Service Specific Terms and Conditions.
- 4.5. In addition to the terms of this Agreement, the Services shall at all times be subject to all laws and regulations applicable in the jurisdiction where the Service(s) is to be provided.
- 4.6. In the event of any conflict between the terms of an Active Fibre Quotation or Service Order Form, the Service Specific Terms and Conditions and the terms of these General Terms and Conditions then the order of precedence shall be as follows:
 - 4.6.1. Active Fibre Quotation or Service Order Form;
 - 4.6.2. Service Specific Terms and Conditions; and
 - 4.6.3. These General Terms and Conditions.
- 4.7. Without releasing it from any of its obligations, Active Fibre shall be entitled at any time and without notice to use subcontractors to perform some or all of its obligations, however such appointment shall not absolve Active Fibre from any non-performance and Active Fibre shall at all times remain fully liable to the Customer for the performance of its Services.
- 4.8. From time to time Network Operators change the configuration of their network services and in such an event the Customer acknowledges and agrees that such an amendment shall be effected by means of an automatic variation to the SOF as between the Customer and Active Fibre.
- 4.9. Active Fibre reserves the right to, from time to time, change the configuration of the Service or the CPE, provides always that such change will not materially affect the relevant Service(s). In this event, Active Fibre undertakes to give the Customer as much notice as is reasonably possible in the circumstances.



5. TERM

- 5.1. These General Terms and Conditions shall commence on the date signed by both parties.
- 5.2. Each Active Fibre Quotation or Service Order Form shall commence on the signature date thereof. The Initial Period shall commence on the Service Commencement Date and shall endure for the duration of the thereof unless terminated in accordance with these General Terms and Conditions.
- 5.3. Once the Initial Term of an Active Fibre Quotation or Service Order Form has concluded and no notice of cancellation has been received from the Customer, the Agreement shall continue on a month-to-month basis subject to either Party's right to terminate on 1 (one) Calendar Month's written notice to that effect.

6. CHARGES AND PAYMENTS

- 6.1. The Customer agrees to pay all Active Fibre Charges.
- 6.2. All payments made by the Customer to Active Fibre shall be made by debit order between the 1st and 4th day of each Calendar Month.
- 6.3. All payments shall be made without deduction or set-off and shall be free of any bank charges.
- 6.4. In the event that the Customer disputes any amount on an invoice the Customer is required to following the Billing Disputes Procedure detailed in Active Fibre's Complaints Procedure which can be viewed on the Active Fibre website: www.activefibre.co.za or provided to the Customer on request. The Customer may not withhold any amount unless a Billing Dispute Notice has been received by Active Fibre at least 5 (five) Business Days prior to the due date for payment of the respective invoice.
- 6.5. Charges shall be invoiced monthly in advance on the 26th day of every month and invoices shall be due and payable without demand by no later than the 4th day of the following month.
- 6.6. Any amounts not paid on due date shall attract interest at the prevailing Prime Rate plus 2% (two percent) until date of payment, both days included.
- 6.7. A certificate signed by a director of Active Fibre, whose appointment and authority need not be proved, shall, unless the Customer can prove that the amount stated is incorrect, be proof of any amount owing by the Customer to Active Fibre under this Agreement.
- 6.8. Active Fibre may effect an annual increase in the Charges on 1 (one) Calendar Month's notice to the Customer.

7. UPGRADES AND DOWNGRADES

- 7.1. The Customer may request an upgrade of their Service at any stage subject to the following:
 - 7.1.1. Request an updated Active Fibre Quotation or the Customer must complete and submit a new Service Order Form to Active Fibre; and
 - 7.1.2. the Customer shall be charged pro-rata Charges from the date the upgraded Service is activated;
 - 7.1.3. any upgrade in Service is subject to a feasibility assessment; and
 - 7.1.4. the Customer may be liable for additional Customer Premises Equipment Charges.
- 7.2. After the expiry of the Initial Term, the Customer may request a downgrade of a Service provided that:
 - 7.2.1. any such request must be submitted to Active Fibre after the expiration of the Initial Term; and
 - 7.2.2. should the request be made before the 10th day of a Calendar Month then the downgrade shall be effective at the end of the respective Calendar Month; and
 - 7.2.3. should the request be made after the 10th day of a Calendar Month then the downgrade shall only be effective at the end of the Calendar Month following the Calendar Month in which the downgrade was requested.

8. SUSPENSION AND TERMINATION

- 8.1. Active Fibre may, without notice and without prejudice to any of its rights, suspend the Service(s) (or any part thereof) in any of the following circumstances:
 - 8.1.1. Customer fails to make payment on due date of any undisputed amount owed to Active Fibre;
 - 8.1.2. Active Fibre is obliged to comply with an order, instruction or request of a court, government agency, emergency service organisation or other administrative or regulatory authority;



- 8.1.3. Active Fibre has reasonable grounds to consider that the Service(s) is being used fraudulently or illegally or in violation of clause 12;
- 8.1.4. Active Fibre has reasonable grounds to consider that the Customer will not, or is unable to, make any payment of an undisputed amount which is due or is to fall due to Active Fibre;
- 8.1.5. Active Fibre has reasonable grounds to consider that the Customer is, or has been, involved or connected with criminal activity or any other activity which may be detrimental to Active Fibre.
- 8.2. Active Fibre has reasonable grounds to consider that the Customer has contravened Active Fibre's Acceptable Use Policy.
- 8.3. Active Fibre reserves the right to charge any applicable disconnection fee or reconnection fee that may be incurred as a result of suspension of a Service due to the fault of the Customer.
- 8.4. Notwithstanding anything else contained in this Agreement and without prejudice to any other remedies a Party may have against the other, a Party shall have the right at any time, and by giving written notice to the other Party, to terminate this Agreement with immediate effect if the other Party commits an act of insolvency or is placed under curatorship, provisional or final liquidation or sequestration, provisional or final judicial management or other similar disability.
- 8.5. If either Party breaches any material provision or term of this Agreement and fails to remedy such breach within 10 (ten) Business Days of written notice requiring it to do so from the other Party ("the Aggrieved Party") then the Aggrieved Party shall be entitled without further notice to terminate this Agreement.
- 8.6. The right to terminate this Agreement is in addition to any other remedy available to the Aggrieved Party at law or under this Agreement, including (but not limited to) obtaining an interdict, claiming specific performance of any obligation or claiming damages.

9. EFFECT OF SUSPENSION AND TERMINATION

- 9.1. During a period of suspension Active Fibre incurs costs to ensure that the Service is immediately available once the grounds for the suspension has been removed, and accordingly, the Customer remains liable for the cost of the Services for the duration of any period of suspension.
- 9.2. Any termination or expiry of this Agreement shall not relieve the Customer of its payment obligations in respect of Charges incurred up to the time of termination or expiration. Active Fibre may immediately invoice the Customer for any and all outstanding Charges accrued up to the time of termination or expiration and payment shall immediately become due by the Customer.
- 9.3. On termination or expiry of this Agreement the Customer shall ensure that all CPE is immediately returned to Active Fibre. If after 30 (thirty) days Active Fibre is still unable to recover its CPE from the Customer in good condition (fair wear and tear accepted) because of the acts or omissions of the Customer, Active Fibre shall be entitled to levy an invoice against the Customer for the replacement cost of the lost CPE, which invoice the Customer undertakes to pay immediately on presentation.
- 9.4. Should:
 - 9.4.1. the Customer terminate this Agreement or any specific Services prior to the expiry of the Initial Term for any reason other than where Active Fibre is in breach or is unable to provide the Services any longer; or
 - 9.4.2. Active Fibre terminates this Agreement or any specific Services pursuant to clause 8.5 above, then the Customer shall be liable to Active Fibre for reasonable early termination fees as set out in clause 9.5 below.
- 9.5. Early termination fees are calculated according to the number of months still remaining of the Initial Term at the time of early termination.

10. CANCELLATION PROCESS

- 10.1. The Customer may terminate their Service(s) on 1 (one) Calendar Month's written notice to Active Fibre. Such written notice must be sent by email to accounts@activefibre.co.za.
- 10.2. The Customer shall be liable for the Charges in respect of the cancelled Services for the duration of the cancellation notice period.



- 10.3. The Customer shall be liable for early termination fees and other costs specified in the respective Service Specific Terms and Conditions and must ensure that such Charges are paid in full on or before the conclusion of the cancellation notice period.

11. ACTIVE FIBRE'S OBLIGATIONS

Active Fibre undertakes to:

- 11.1. comply with all applicable laws;
- 11.2. subject to clause 8.1, ensure that its employees, agents, or contractors shall not do anything, or omit to do anything, which:
 - 11.2.1. damages Customer's network or any part thereof; or
 - 11.2.2. impairs or precludes Customer use of the Services; and
- 11.3. provide the Services to the Customer in a manner that is in accordance with industry standards;
- 11.4. use its reasonable endeavours to keep the Services available at all times, taking into consideration that Active Fibre cannot be held liable for any failure or disruptions as a result of the actions or omissions of Network Operators;
- 11.5. use its reasonable endeavours to ensure that each Service conforms to applicable service descriptions and/or service levels as set out, or referred to, in the applicable Active Fibre Quotation or Service Order Form and/or any applicable ancillary service level agreement.

12. THE CUSTOMER'S OBLIGATIONS

- 12.1. The Customer shall, in making use of the Services or the CPE, ensure that it, its employees, agents, contractors or other users of the Customer's Services comply with all applicable laws.
- 12.2. The Customer shall not, and shall ensure that its employees, agents, contractors or other users of the Customer's Services shall not, do anything or omit to do anything which directly or indirectly:
 - 12.2.1. damages Active Fibre's or the Network Operator's network or any part thereof; and/or
 - 12.2.2. impairs or precludes Active Fibre (and any person with whom Active Fibre interconnects or shares facilities with) from being able to provide its Services in a professional manner; and/or
 - 12.2.3. constitutes, in the opinion of Active Fibre, a contravention of its Acceptable Use Policy available at <https://www.activefibre.co.za>.
- 12.3. The Customer undertakes that they, and where relevant, their employees, will deal with Active Fibre employees and designated contractors in a courteous, respectful and professional manner and not in any manner act in an abusive way.
- 12.4. The Customer shall grant or shall procure the grant to Active Fibre or its authorised representatives all rights of access to the Customer Premises, including any necessary licences, waivers or consents to enable it to perform its obligations or exercise its rights under this Agreement. The Customer shall advise Active Fibre in writing of all health and safety rules and regulations and any other reasonable security requirements applicable at the Customer Premises, and Active Fibre shall use all reasonable endeavours to observe and ensure that its employees and authorised representatives observe such regulations and requirements as advised whilst at the Customer Premises.
- 12.5. The Customer shall provide Active Fibre with such facilities and information as Active Fibre may reasonably require, to enable it to perform its obligations or exercise its rights under the Agreement.
- 12.6. The Customer shall indemnify Active Fibre and its affiliates/representatives for any and all losses, damages, costs or expenses resulting from or arising out of any breach of the warranties set out in this clause 12 and/or any third party claim or allegation arising out of or relating to the use of the Service, and which relates to any act or omission of the Customer which is, or if substantiated would be, a breach of this clause 12.

13. CUSTOMER PREMISES EQUIPMENT

- 13.1. Active Fibre shall at all times retain ownership over the CPE unless the contrary is provided for in the applicable Active Fibre Quotation or Service Order Form.



- 13.2. When the Services require that CPE be installed at the Customer Premises, the Customer shall provide the necessary space, electricity supply and environmental conditions required for the CPE, subject to the Customer being provided with at least 2 (two) Business Days' notification from Active Fibre.
- 13.3. Leased CPE delivered to the Customer shall not become the property of the Customer and the leased CPE shall be returned to Active Fibre on termination of this Agreement.
- 13.4. All risk in and responsibility for the CPE shall pass to the Customer on delivery of leased CPE, which delivery shall be evidenced by the Digital Signature or signature of a representative of the Customer or a waybill issued by a courier company.
- 13.5. Active Fibre will instruct contractors to install the CPE at the Customer Premises and further instruct such contractors to maintain the CPE for the duration of this Agreement. Active Fibre's agents, representatives, employees and contractors may at all reasonable times enter the Customer Premises to inspect the CPE or carry out any necessary repairs, replacement of CPE or other maintenance work or to discontinue the service should payment not be made on the due date.
- 13.6. The Customer shall always keep leased CPE in its possession and control at the Customer Premises and may not give up possession of the leased CPE, in whole or in part, to any third party or remove and/or re-install the leased CPE at a different location. The Customer shall, in writing, advise the landlord of the Customer Premises of Active Fibre's ownership of the leased CPE. Unless expressly authorised by Active Fibre, the Customer may not make any alteration or modification to the CPE, including the software incorporated in the CPE. If the CPE is lost, stolen or damaged, the Customer shall immediately notify Active Fibre thereof in writing. The Customer shall be liable to Active Fibre for the replacement cost and re-installation cost of the CPE or the cost of repair if it is economically feasible to repair the CPE.

14. SUPPORT

- 14.1. Support for technical issues must be logged telephonically, per email or via the online customer portal. Active Fibre's relevant support contact details can be found on our website: www.activefibre.co.za.
- 14.2. Any request for support sent to the incorrect parties may result in a delayed response and turnaround time for which Active Fibre shall not be held liable.
- 14.3. When logging a request for support the Customer undertakes to provide Active Fibre with accurate and up-to-date information. Active Fibre shall not be held liable for any loss suffered as a result of the Customer's failure to provide accurate information.

15. MAINTENANCE

- 15.1. Scheduled maintenance on the systems and equipment owned or controlled by Active Fibre network will be performed after hours or on weekends.
- 15.2. Active Fibre reserves the right to change these maintenance times, where necessary, on prior notice to the Customer.
- 15.3. Active Fibre also reserves the right to perform emergency maintenance without prior notice.
- 15.4. The Customer acknowledges that each Network Operator and third-party supplier has its own maintenance periods over which Active Fibre has no control. However, Active Fibre shall endeavour – without providing any guarantee – to provide as much notice as is possible to the Customer of maintenance work by third parties affecting service availability.

16. CONFIDENTIALITY

- 16.1. Subject to clause 16.2 below, both Parties shall:
 - 16.1.1. only use Confidential Information for the purposes of this Agreement; and
 - 16.1.2. only disclose Confidential Information to a third party with the prior written consent of the other Party (except that either Party may disclose Confidential Information to its employees, agents or contractors, including professional advisors or auditors; and
 - 16.1.3. ensure that any third party to whom Confidential Information is disclosed executes a confidentiality undertaking substantially similar to the terms of this clause 16.



- 16.2. The provisions of clause 16.1 shall not apply to any Confidential Information which: (i) is in or comes into the public domain other than by breach of this clause 16; or (ii) is or has been independently generated by the recipient Party; or (iii) is properly disclosed pursuant to a separate written consent or a statutory obligation, the order of a court of competent jurisdiction or the requirement of a competent regulatory body.

17. INTELLECTUAL PROPERTY, IP ADDRESS AND DOMAIN NAMES

- 17.1. The Customer acknowledges that any and all patents, registered and unregistered designs, copyrights, trademarks and all other intellectual property rights whatsoever and where so ever enforceable, which are used in connection with the Service and/or Service equipment, shall remain the sole property of Active Fibre or its affiliates/contractors .
- 17.2. Without limitation to clause 17.1. the Customer acknowledges that it shall not be entitled to use the name, trademarks, trade names or other proprietary identifying marks or symbols of Active Fibre without Active Fibre's prior written consent.
- 17.3. The Customer warrants that any domain name registered or administered on its behalf will not contravene the trademark or other intellectual property rights of any third party and that it shall comply with the rules and procedures of the applicable domain name authorities, registries and registrars. The Customer shall indemnify Active Fibre in respect of any and all losses, damages, costs and expenses arising from or in connection with breach of this clause 17.2. The Customer irrevocably waives any claims against Active Fibre which may arise from the acts or omissions of domain name registries, registrars or other authorities.
- 17.4. Any Internet Protocol (IP) addresses assigned to the Customer by Active Fibre in connection with an Internet Service shall be used solely in connection with the Internet Service. If such Internet Service is discontinued for any reason (including termination of the Agreement or the Internet Service), the Customer's right to use the IP addresses shall immediately cease and the IP addresses shall be returned immediately to Active Fibre.
- 17.5. If the Customer does not move the domain name(s) registered by Active Fibre to another Internet provider within one month after termination of the Agreement and/or the Internet Service, Active Fibre reserves the right to terminate the domain name(s) registered by Active Fibre for the Customer with the applicable domain name authorities, registries and registrars.

18. LIMITATION OF LIABILITY AND INDEMNITY

The Customer's attention is drawn to the limitation of risk and liability of Active Fibre in accordance with section 49(1) of the Consumer Protection Act No. 68 of 2008. The Customer acknowledges and confirms that this specific clause of the Agreement has been brought to the Customer's attention and that limitations and liabilities of this Agreement have been explained to the Customer.

- 18.1. Subject to clause 18.4 but otherwise notwithstanding anything else in this Agreement, each Party's total liability to the other in contract, delict or otherwise arising in connection with the Agreement, except in respect of any liability arising pursuant to the Customer's obligations set out in this Agreement, shall be limited to:
- 18.1.1. For any event or series of connected events a value equal to 6 (six) times the value of the average monthly billing of the affected Service(s); and
- 18.1.2. Notwithstanding clause 18.1.1 a maximum amount in aggregate in any 12 (twelve) month period of 12 (twelve) times the value of the average monthly billing of the affected Service(s). (The average being calculated using 3 (three) months of billing prior to the aforementioned event or series of connected events).
- 18.2. For the avoidance of doubt, for the purposes of clause 18.1 the limits on liability expressed above are cumulative and apply across all Services.
- 18.3. Neither Party shall be liable to the other for indirect or consequential losses or otherwise for harm to business, loss of revenues, loss of anticipated savings or lost profits, whether or not reasonably foreseeable at the time when the Agreement was entered into.
- 18.4. The Customer acknowledges that Active Fibre is unable to exercise editorial or other control over any content placed on or accessible through the Customer's use of the Services and Active Fibre shall have no liability as to the quality, content or accuracy of information received through or as a result of the use of the Services.



- 18.5. Nothing in this Agreement shall serve to limit either Party's liability in respect of death or personal injury caused by or arising from its negligence.
- 18.6. The Customer indemnifies Active Fibre, its associates, directors, officers and employees against any loss, damage, liability and expense, arising from any occurrence caused by a negligent act or omission of the Customer, or any of its associates, directors, officers, employees, representatives, agents, independent contractor of the Customer or its customers, which indemnity shall survive this Agreement.

19. CUSTOMER DATA, PRIVACY AND RICA

- 19.1. The Customer acknowledges that Active Fibre and its respective contractors will, by virtue of the provision of Services, come into possession of Customer Data.
- 19.2. Active Fibre has implemented and maintains appropriate technical and organisational measures to protect Customer Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against other unlawful forms of processing. The Customer acknowledges that it has the right to access Regulated Customer Data upon written notice and have any agreed errors in such Regulated Customer Data rectified.
- 19.3. The Customer acknowledges and agrees that Active Fibre and its respective subcontractors may use or process Customer Data:
 - 19.3.1. in connection with the provision of Services;
 - 19.3.2. to incorporate Customer Data into databases controlled by Active Fibre for the purpose of administration, provisioning, billing and reconciliation, verification of Customer identity and solvency, maintenance, support and product development, fraud detection and prevention, sales, revenue and customer analysis and reporting, market and customer use analysis; and
 - 19.3.3. to communicate to the Customer by voice, letter or email regarding products and services of Active Fibre; andthe Customer may withdraw consent for such use, processing or transfer of Customer Data as set out above by sending a written notice to Active Fibre to such effect, unless it is required to (i) provision, manage, account and bill for the Services; (ii) carry out fraud detection; or (iii) comply with any statutory obligation, regulatory requirement or court or other public authority order.
- 19.4. The Customer warrants that it has obtained and will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of Customer Data as described in this clause 19.
- 19.5. The Customer acknowledges that it is required to comply with the provisions of RICA and warrants that all information and documents provided are true and correct. Active Fibre may withhold Services if the Customer fails to comply with RICA.

20. EXCLUSION OF WARRANTIES AND REPRESENTATIONS

Save for those warranties expressly set out in this Agreement, Active Fibre makes no representations or warranties whatsoever, whether express or implied, to the Customer as to the condition of the CPE or as to the fitness of the Services for any purpose whatsoever.

21. EXCLUSIONS

Active Fibre shall not be in breach of this Agreement, nor liable for any failure or delay in performance of any obligations under this Agreement arising from or attributable to supervening impossibility including but not limited to acts, events, omissions or accidents beyond its reasonable control.

22. DISPUTE RESOLUTION

- 22.1. All disputes between Active Fibre and the Customer, whether a dispute of a general nature regarding Active Fibre's treatment of a Customer or a billing dispute, shall be resolved in accordance with the Active Fibre Complaints Procedure, as amended from time to time.



- 22.2. The Active Fibre Complaints Procedure can be viewed on the Active Fibre website: www.activefibre.co.za or can be made available on request.

23. LEGAL ADDRESS FOR SERVICE

- 23.1. Except as otherwise expressly provided for herein, any notice required or authorised to be given under the Agreement shall be delivered by hand or by email to the address stated on the SOF and shall be deemed to have been served (unless the contrary is proven):
- 23.1.1. if delivered by hand, on the next Business Day;
 - 23.1.2. if sent by email, on the next Business Day following successful transmission.
- 23.2. Notwithstanding the provisions of this clause, any legal notice that has been sent or transmitted and that has been received by the other Party shall be deemed to have been delivered in accordance with the terms of these General Terms and Conditions.

24. GENERAL

- 24.1. This Agreement constitutes the whole agreement between the Parties as to the subject matter hereof and no agreement, representations or warranties between the Parties other than those set out herein are binding on the Parties.
- 24.2. Each Party warrants to the other Party that it has the authority to enter into this Agreement.
- 24.3. No addition to or variation, consensual cancellation or novation of this Agreement and no waiver of any right arising from this Agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by both Parties either by hand or with the use of Digital Signature.
- 24.4. The Customer shall be liable for all costs including legal costs on an attorney and client scale, tracing costs and collection commission incurred by Active Fibre in respect of the enforcement of any obligations of the Customer under this Agreement.
- 24.5. No latitude, extension of time or other indulgence which may be given or allowed by a Party to the other Party shall under any circumstances be construed to be an implied consent or a waiver by such Party.
- 24.6. The Customer may not assign, cede, delegate, transfer or otherwise dispose of its rights and obligations under this Agreement without the written consent of Active Fibre. Active Fibre may assign, cede, delegate, transfer or otherwise dispose of its rights and obligations under this Agreement.
- 24.7. If any provision of this Agreement is rendered void, illegal or unenforceable the remaining provisions will not in any way be affected or impaired thereby and the Parties undertake to try to reach agreement on an alternative provision to the void, illegal or unenforceable provision.



25. SIGNATURE CLAUSE

The Customer confirms their acceptance of these General Terms and Conditions by signing hereunder.

Signature:	XXXX
Full Name(s) Signatory:	
Designation of Signatory (if Customer is a juristic entity):	
Customer Name (if Customer is a juristic entity):	
Date of Signature:	
Place of Signature:	