

## **ACTIVE FIBRE COMPLAINTS PROCEDURE**

**THIS COMPLAINTS PROCEDURE IS TO BE READ IN CONJUNCTION WITH THE ACTIVE FIBRE GENERAL TERMS AND CONDITIONS.**

### **1. DEFINITIONS AND INTERPRETATION**

- 1.1. Capitalised terms not defined in this Complaints Procedure shall have the same meaning as defined in the Active Fibre General Terms and Conditions;
- 1.2. Unless inconsistent with the context, the words and phrases set out below shall mean as follows:
  - 1.2.1. **“Billing Dispute”** means an instance where a Customer states in good faith that their invoice contains incorrect charges, payments or adjustments. A Billing Dispute is a specific form of Complaint dealt with only in terms of the Billing Disputes Procedure set out herein;
  - 1.2.2. **“Billing Dispute Notice”** means a formal, written notice sent to Active Fibre by the Customer in accordance with this Complaints Procedure;
  - 1.2.3. **“Billing Disputes Procedure”** means the procedure set out herein for the initiation and resolution of Billing Disputes;
  - 1.2.4. **“Billing Enquiry”** means the situation where the Customer seeks information or clarification relating to an invoice issued to the Customer by Active Fibre, including, without limitation, seeking clarification of Charges or sources of usage. For the avoidance of doubt a Billing Enquiry is not a Billing Dispute;
  - 1.2.5. **“Complaint”** means a formal, written expression of dissatisfaction or grievance made by a Customer against Active Fibre in accordance with the terms of the General Complaints Procedure set out herein;
  - 1.2.6. **“Customer”** means an Active Fibre subscriber or potential subscriber.

### **2. GENERAL COMPLAINTS PROCEDURE**

- 2.1. This General Complaints Procedure applies to all Complaints other than Billing Disputes, which shall be dealt with in accordance with the Billing Dispute Procedure set out herein.
- 2.2. The Customer is required to direct a written Complaint to [accounts@activefibre.co.za](mailto:accounts@activefibre.co.za)
- 2.3. The Complaint must include the following:
  - 2.3.1. The Customer’s full particulars and contact details; and
  - 2.3.2. A description of the nature of the Customer’s relationship with Active Fibre, inclusive of any applicable customer reference number(s); and
  - 2.3.3. A comprehensive and detailed statement for the reason for the Complaint with enough information to enable Active Fibre to properly assess the Complaint; and
  - 2.3.4. Any relevant information or documentation which the Customer wishes to submit in support of the Complaint.
- 2.4. In accordance with the Independent Communications Authority of South Africa (“ICASA”), Active Fibre shall:

- 2.4.1. Acknowledge receipt of the Complaint and allocate a reference number within three (3) Business Days; and
- 2.4.2. Determine the outcome for the Complaint and communicate this to the Consumer in writing within 14 (fourteen) Business Days of receipt of the Complaint.

### **3. BILLING DISPUTES PROCEDURE**

- 3.1. All Billing Enquiries shall be directed to [accounts@activefibre.co.za](mailto:accounts@activefibre.co.za).
- 3.2. The Customer acknowledges and agrees that:
  - 3.2.1. Any Billing Dispute which is not submitted in accordance with this Billing Disputes Procedure is payable in full by the Customer on or before the respective invoice due date; and
  - 3.2.2. An amount that is not in dispute (“Undisputed Amount”) cannot be withheld for any reason, including, without limitation, when that amount is on an invoice together with an amount that is in dispute (“Disputed Amount”); and
  - 3.2.3. The Billing Disputes Procedure is only triggered when Active Fibre receives a Billing Dispute and it is only after this that a Customer may withhold payment of the Disputed Amount;
  - 3.2.4. Billing Enquiries, Complaints and requests for information are not considered to be Billing Disputes and do not trigger this Billing Disputes Procedure. Requests for information must be directed to [accounts@activefibre.co.za](mailto:accounts@activefibre.co.za); and
  - 3.2.5. Active Fibre will not entertain any Billing Dispute based on unauthorised use of the Services by a Customer or a third party as it is the Customer’s sole responsibility to safeguard access to the Services and to use such Services in accordance with the manner set out in the applicable Service Specific Terms and Conditions.

### **4. CUSTOMER ACKNOWLEDGEMENTS**

- 4.1. The Customer expressly agrees to allow Active Fibre a period of 14 (fourteen) Business Days to attempt to resolve a Billing Dispute before the Customer may raise the Billing Dispute with a third party (inclusive of any banking institution). Should Active Fibre receive a chargeback or other reversed charge from a third party on behalf of the Customer before the 14 (fourteen) Business Day period has lapsed then Active Fibre has the right to collect on the rendered Services and any Charges associated therewith.
- 4.2. Should the Billing Dispute not be resolved to the Customer’s reasonable satisfaction then on completion of the Billing Dispute Procedure the Customer may approach a third party for resolution of the Billing Dispute.

### **5. WITHHOLDING DISPUTED AMOUNT**

The Customer may only withhold payment of a Disputed Amount where Active Fibre has received a valid Billing Dispute Notice at least 5 (five) Business Days prior to the due date for payment in respect of the relevant invoice.

## **6. INITIATING BILLING DISPUTES**

- 6.1. A Billing Dispute Notice may be directed to Active Fibre for a period of up to 30 (thirty) calendar days from the date of the relevant invoice.
- 6.2. The Customer is required to direct a formal Billing Dispute Notice to [accounts@activefibre.co.za](mailto:accounts@activefibre.co.za).
- 6.3. The Billing Dispute Notice must include the following information:
  - 6.3.1. The Customer's full particulars and contact details;
  - 6.3.2. A description of the nature of the Customer's relationship with Active Fibre, inclusive of any applicable customer reference number(s); and
  - 6.3.3. Invoice number and date; and
  - 6.3.4. The amount in dispute ("Disputed Amount"); and
  - 6.3.5. The amount not in dispute ("Undisputed Amount"); and
  - 6.3.6. A comprehensive and detailed statement for the reason for the Billing Dispute with enough information to enable Active Fibre to properly assess the Billing Dispute; and
  - 6.3.7. Any relevant information or documentation which the Customer wishes to submit in support of the Billing Dispute.

## **7. RESPONSE TO BILLING DISPUTE NOTICE**

- 7.1. In accordance with the ICASA Code of Conduct Regulations Active Fibre will acknowledge receipt of the Billing Dispute Notice and allocate a reference number thereto within 3 (three) Business Days.
- 7.2. Active Fibre shall provide a formal written response with its determination within 14 (fourteen) Business Days following receipt of the Billing Dispute Notice.
- 7.3. Active Fibre may request additional information or documentation from the Customer lodging the Billing Dispute Notice, which information or documentation is reasonably required by Active Fibre in making a determination in the matter. The Customer shall provide such information or documentation as soon as possible, and the running of the 14 (fourteen) Business Days period shall be suspended until such time as the requested information or documentation has been received by Active Fibre.
- 7.4. Once Active Fibre has assessed the Billing Dispute it shall provide its determination to the Customer in one of the following forms:
  - 7.4.1. A confirmation that the Billing Dispute is valid and a statement indicating necessary adjustments to the relevant invoice; or
  - 7.4.2. A rejection of the Billing Dispute Notice on the basis that:
    - 7.4.2.1. The Billing Dispute Notice was not received within 30 (thirty) calendar days of the date of the relevant invoice; or
    - 7.4.2.2. The Billing Dispute Notice does not contain all of the information required nor was it submitted in the required manner as set out herein; or
    - 7.4.2.3. The Customer failed to make payment of any Undisputed Amounts; or
    - 7.4.2.4. Active Fibre has confirmation from the Customer that the Billing Dispute has been resolved; or

- 7.4.2.5. The Customer is disputing Charges on the basis of unauthorised use of the Services by the Customer or a third party; or
- 7.4.2.6. Active Fibre *bona fide* believes that the Customer's Billing Dispute has no merit;
- 7.4.3. Any alternate resolution that Active Fibre deems appropriate.

## **8. RESPONSE IMPLICATIONS**

- 8.1. If it is determined by Active Fibre that the Disputed Amount, or part thereof, is in fact due to Active Fibre then the Customer must make payment of such amount within 5 (five) Business Days of receipt of Active Fibre's determination.
- 8.2. If it is determined by Active Fibre that Active Fibre must reverse the Disputed Amount or refund the Customer for a Charge already paid the Active Fibre shall, as soon as practicable:
  - 8.2.1. Provide the Customer with a statement of account reflecting the necessary adjustment. The reversed Charge shall only be reflected on the next invoice, however the parties acknowledge that this may be delayed as a result of delayed respond times or Active Fibre's billing procedures; and
  - 8.2.2. Refund/credit the Customer for any Disputed Amount already paid by the Customer.

## **9. CONTINUED SERVICE PROVISION**

- 9.1. Active Fibre shall not disconnect a Service which is the subject of a Billing Dispute, or take adverse collection procedures or impose late payment penalties while attempting to resolve a Billing Dispute lodged in accordance with the Billing Dispute Procedure until such time as Active Fibre has assessed the Billing Dispute and provided the Customer with its determination in that regard, all provided that any Undisputed Amounts are paid timeously.
- 9.2. Active Fibre reserves the right to take steps against the Customer for non-payment where:
  - 9.2.1. Active Fibre has provided the Customer with its determination of a Billing Dispute; and
  - 9.2.2. Where the Customer has indicated that they are unable to pay the invoice or have filed for sequestration or committed another act of insolvency.
- 9.3. Subject to the above, the rights and obligations of each party under the Billing Dispute Procedure shall continue pending resolution of a Billing Dispute invoked under the Billing Disputes Procedure. For the avoidance of doubt, this includes that Active Fibre shall continue to have the right to terminate or suspend the Service in accordance with Active Fibre's rights under the General Terms and Conditions and any applicable Service Specific Terms and Conditions.

## **10. CONFIDENTIALITY**

Neither party shall use any information obtained from the other party during the course of any process invoked under the Billing Disputes Procedure for any purpose other than the resolution of the particular Billing Dispute.

## 11. REFERRAL OF COMPLAINTS TO ICASA

- 11.1. If the Customer is unhappy with the outcome of any Complaint or Billing Dispute, then the Customer has the right to escalate the dispute to ICASA for resolution. If ICASA are unable to resolve the dispute then the dispute may be referred to the ICASA Complaints and Compliance Committee for adjudication.
- 11.2. The Customer acknowledges that in accordance with the ICASA Code of Conduct Regulations 2008, the Customer is obliged to give Active Fibre a reasonable opportunity to resolve the dispute (14 (fourteen) Business Days) before the Customer may escalate the Complaint or Billing Dispute to ICASA.
- 11.3. ICASA can be contacted in the following ways:
  - 11.3.1. Telephone: 011 566 3000; or
  - 11.3.2. Fax: 011 444 1919; or
  - 11.3.3. Email: [consumer@icasa.org.za](mailto:consumer@icasa.org.za).

- End of Complaints Procedure -