



## **MetroFibre Network Standard Terms and Conditions for Fibre to the Home (FTTH) Services**

### **1. INTERPRETATION**

- 1.1. Unless a contrary intention is clear from the context, the following words and phrases shall have the following meanings:
- 1.1.1. "Activation" means the enabling of a service to the Customer's premises;
  - 1.1.2. "Agreement" means the current version of these Terms and Conditions, the Purchase Order signed by the Customer, and all schedules and addenda to these documents, as amended from time to time;
  - 1.1.3. "The Authority" means the Independent Communications Authority of South Africa established in terms of the Independent Communications Authority of South Africa Act 13 of 2000 and its successors who oversee the telecommunications and electronics industry in the Republic of South Africa;
  - 1.1.4. "Business Day" means any day which is not a Saturday, Sunday or a day which is defined as a public holiday in terms of the Public Holidays Act, Act 36 of 1994;
  - 1.1.5. "Charges" means installation charges, monthly service charges, usage and all other charges relating to the provision of the services by the MFN to the Customer or relating to the cancellation of the Agreement;
  - 1.1.6. "Contractor" means a contractor appointed by MFN to install, maintain, repair, connect, disconnect or perform any similar tasks related to the provision of the CPE or the Services by MFN to the Customer;
  - 1.1.7. "Customer" means the person entering into this Agreement with MFN for the provision of FTTH Services and/or the use of equipment;
  - 1.1.8. "Customer Premises" means the premises specified in the Purchase Order at which the Services are to be provided;
  - 1.1.9. "Customer Premises Equipment" or "CPE" means all devices supplied by MFN to the Customer to enable MFN to provide the services to the Customer, including the optical network terminal (ONT), hardware, cables and connections;
  - 1.1.10. "Event of Force Majeure" means any event or circumstance, other than a lack of funds required for payment, which is not within the reasonable control of the affected party including, without limitation, war, national emergency, strike, civil disturbance, theft, fire, flood, explosion, natural disaster, unusually severe weather conditions, prohibitive legislation or regulations, inability to secure materials or services and failure of power or utility supplies (including electronic communications);
  - 1.1.11. "FTTH" means architecture of electronic communication to the Customer's Premises where the final connection to the Customer's Premises is optical fibre;

- 1.1.12. "Installation" means the physical act of providing the FTTH service to the Customer Premises;
  - 1.1.13. "MFN" means Metro Fibre Networx (Proprietary) Limited, registration number 2007/024366/07, a company incorporated in terms of the laws of the Republic of South Africa;
  - 1.1.14. "Month" means a calendar month beginning at 0h00 on the first day of the calendar month in question;
  - 1.1.15. "Network Provider" means an entity authorised by the Authority to provide telecommunication services including, but not limited to, fixed line operators, mobile operators, wireless operators or any other operator that provides access and network services (including value added services);
  - 1.1.16. "Network Services" means any services provided by a Network provider and which are made accessible to the Customer in terms of this agreement;
  - 1.1.17. "Parties" means the parties to this agreement, being MFN and the Customer, and "Party" means either one of them;
  - 1.1.18. "Product" means any combination of equipment and services provided by MFN to the Customer;
  - 1.1.19. "Purchase Order" means the document which is completed by the Customer in writing, electronically or telephonically, which contains the Customer's details and the Customer's request that MFN provides it with Services, and may reference and include additional terms and conditions and any other annexures or schedules or documents referred to in the Purchase Order form document from time to time;
  - 1.1.20. "Republic" means the Republic of South Africa;
  - 1.1.21. "RICA" means
  - 1.1.22. "Services" means the services provided by MFN to the Customer;
  - 1.1.23. "SLA" means the Service Level Agreement annexed to this Agreement;
  - 1.1.24. "Social Media Platforms" shall mean internet-based social media platforms and/or blog sites, such as (but not limited to) Facebook, Twitter, Instagram, Pinterest and all similar sites which grants a user a platform from which to air an opinion, whether moderated or not, which is accessible to the general public, whether now in existence or which may come into existence in future;
  - 1.1.25. "Uptime" means the total number of minutes available to a Customer via the Network services in a calendar month;
  - 1.1.26. "Use charges" means the costs charged by MFN to the Customer for recorded use of the Network services.
- 1.2. In this agreement, unless a contrary intention is clear from the context:
- 1.2.1. the singular includes the plural and vice versa;
  - 1.2.2. a reference to any gender includes the other genders and a reference to a person includes any individual, body corporate or unincorporated or any other entity recognised in law as having a separate legal existence;
  - 1.2.3. when any number of days is prescribed, this shall be calculated by excluding the first and including the last day, unless the last day is not a Business Day in which case the days shall be calculated up to the next Business Day;
  - 1.2.4. headings of clauses have been inserted for convenience only and shall not be taken into account in the interpretation of the agreement;
  - 1.2.5. if there is any conflict between the provisions of this agreement and any schedule or annexure, the provisions of this agreement shall prevail;

- 1.2.6. words defined in this clause shall have the same meaning in the schedules and any word defined in a clause or schedule shall have that meaning in the clause or schedule concerned and if used elsewhere in this Agreement.

## **2. PROVISION OF SERVICES AND AUTHORISATION**

- 2.1. The Customer wishes to acquire Services and Product from MFN, which Services and Product MFN agrees to provide to the Customer subject to these Standard Terms and Conditions.
- 2.2. In order to provide the Services:
  - 2.2.1. MFN may require information from other Network Providers. The Customer authorises MFN to approach any Network Provider or other party in order to obtain such information;
  - 2.2.2. MFN may need to enter into agreements or arrangements with third parties which may be necessary for MFN to deliver the Services. The Customer authorises MFN to enter into any such agreement or arrangement as may be necessary;
  - 2.2.3. if so required, the Customer shall provide MFN with such written authorisation as may be necessary for MFN to obtain the information referred to in 2.2.1 or to enter into an agreement or arrangement referred to in 2.2.2;
  - 2.2.4. the Customer undertakes to provide MFN with all information and documentation required under RICA prior to the Service being activated. The Customer acknowledges that MFN may not provision any Service to the Customer until such a time as the Customer has complied with this sub-clause.

## **3. TERM**

- 3.1. The Agreement shall apply to each Purchase Order and any Services provided in terms thereof, calculated from the date of Activation.
- 3.2. The Customer may terminate the Agreement at any time by giving 30 calendar days' notice in writing to MFN.
- 3.3. If the conclusion of the Agreement is as a result of direct marketing, the Customer has the right to terminate the Agreement without reason or penalty within 5 business days of the later of the date upon which the Agreement was entered or the CPE or any other goods to be supplied to the Customer are delivered to the Customer. If such goods are not returned in their original, unopened packaging, MFN shall be entitled to claim a reasonable amount from the Customer for the use and/or depletion of the CPE or other goods.

#### **4. DELIVERY AND INSTALLATION**

- 4.1. MFN shall deliver the CPE required for the provision of the Services and as specified in the Purchase Order, to the Customer Premises against payment of the Installation Fee and deposit, if any, as set out in the Purchase Order.
- 4.2. MFN will use its reasonable endeavours to comply with the installation date requested by the Customer. However, the Customer acknowledges that this will depend on the availability of equipment, service providers and contractors and MFN gives no undertaking that it will meet any installation date. MFN will not be liable in any manner to the Customer for any loss arising from failure in delay in the provision of the services or the CPE whether arising from an Event of Force Majeure or for any other reason whatsoever.
- 4.3. The Customer shall, at its own cost and expense, be responsible for:
  - 4.3.1. ensuring that the communication services and facilities, including, without limitation, installation areas, electrical outlets, are suitable for the installation, passage and electrical connection of the equipment and Services when they are delivered for installation and thereafter. Where any device or equipment is required which is not provided by MFN, the Customer shall be responsible for installing it at its own cost, risk and expense. Only devices and equipment which are approved by the Authority and which have all the technical and operational characteristics and modifications which have been approved may be used in conjunction with the Services and the CPE; and
  - 4.3.2. obtaining all the necessary permissions, approvals and authorities necessary for the purposes of the supply and installation of the equipment and Services, including permission from the owner of the premises where the Customer is not the owner. The Customer hereby indemnifies MFN against any liability or costs which MFN may incur because of the Customer's failure to obtain any approval or permission.
- 4.4. Should the installation require an access build in excess of 30 running metres, an additional installation charge shall apply.
- 4.5. After installation acceptance, any subsequent callout will be subject to a callout fee.
- 4.6. Unless the Customer advises MFN of any problems with the installation or the Services within 5 business days from the time of Activation, the Customer shall be deemed to have accepted that the Services work as intended.

#### **5. USE OF THE EQUIPMENT**

- 5.1. The Customer acknowledges that the CPE is and remains the property of MFN and shall use the CPE only for the purpose for which it is intended and in accordance with any laws or regulations.

- 5.2. Upon delivery to the Customer, or collection by the Customer, of the CPE, risk in respect of the CPE, but not ownership thereof, shall pass to the Customer who shall ensure that:
- 5.2.1. the CPE is kept in the Customer's possession and control, protected against any material loss or damage and free from any attachment, lien, hypothec or other encumbrance;
  - 5.2.2. the CPE is used with due care and diligence, The Customer specifically acknowledges that the fly-lead is extremely fragile and may not be bent, tightly coiled or manhandled;
  - 5.2.3. should the Customer move from the Customer's premises, the CPE shall remain at the premises, or be returned to MFN.
- 5.3. Should the Customer not be the owner of the Premises the Customer shall notify the owner of such premises of MFN's ownership of the equipment.
- 5.4. In the event of theft of or loss or damage to the CPE, the Customer shall immediately inform MFN thereof in writing. The Customer shall be responsible for the cost of repairing or replacing the CPE.
- 5.5. The Customer shall ensure that the CPE remain at the Premises. Only MFN is allowed to relocate the CPE. The Customer will be charged a relocation fee if relocation is requested by the Customer after having accepted the Service.
- 5.5. MFN may, at any time during the Agreement, reconfigure, upgrade or exchange any part of the CPE should MFN, in its sole discretion, deem it necessary to do so in order to meet its obligation to provide the Services. MFN shall not be obliged to make any upgrades unless it deems it necessary to do so.

## **6. USE OF SERVICE**

- 6.1. The Customer warrants and undertakes in favour of MFN, that the Customer:
- 6.1.1. shall not use or permit the services to be used for improper, immoral or unlawful purposes;
  - 6.1.2. shall not resell capacity arising from the Services;
  - 6.1.3. shall comply with relevant legislation, including any regulations by the Authority, and any directives or instructions from MFN, including MFN's Acceptable Fair Use and Access Policy, annexed hereto and available on MFN's website, relating to the use of the equipment or Services;
  - 6.1.4. acknowledges that the service is not designed for business use.

## **7. FEES AND PAYMENT**

- 7.1. Unless otherwise specifically agreed in the Purchase Order, the Customer shall make payment monthly in advance, into the bank account nominated by MFN for this purpose, in full, without deduction or set-off and free of bank charges, on date of invoice:
- 7.1.1. for the supply and delivery of Services, irrespective of whether the service is used or not;
  - 7.1.2. the Customer shall be liable for the applicable reactivation charges to restore any services suspended due to non-payment or late payment of charges due and payable in terms of this Agreement.
- 7.2. MFN shall be entitled to change the fees payable by the Customer upon 30 (thirty) days' notice.

- 7.3. A certificate signed by any director of MFN shall be prima facie proof of the amount owing by the Customer for the purposes of obtaining provisional sentence or summary judgment. The burden of proof should the Customer dispute the correctness of such signed certificate, shall rest with the Customer.

## **8. SUSPENSION OF SERVICES**

- 8.1. MFN may, upon notice to the Customer, suspend the Customer's full use of Services, if the Customer fails to perform any obligation under or breaches any term of this Agreement.
- 8.2. Billing of all fees and charges will continue to accrue during suspension in accordance with Clause 8.1.
- 8.3. Should the Customer's failure to meet obligations in terms of this Agreement continue for longer than sixty days, MFN reserves the right to terminate this Agreement without any further notice.

## **9. CANCELLATION AS A RESULT OF IMPOSSIBILITY OF PERFORMANCE**

- 9.1. If any party is restricted or prevented from carrying out any or all of its obligations as a result of an Event of Force Majeure, unpredictable delays caused by traffic congestion, diversion or road works, or any other event or circumstance giving rise to impossibility or performance delay by either party, then that party will be relieved of its affected obligations during the period that such event continues and will not be liable for any costs or damages arising from such delay or the failure in performance of any obligations as a result of such event.
- 9.2. If the event in 9.1 continues for a period more than 21 (twenty-one) days, either party may cancel this Agreement with immediate effect by written notice to the other party.

## **10. OBLIGATIONS ON TERMINATION**

- 10.1. The Customer remains responsible for all amounts due in terms of the Agreement up until the date of termination, together with any costs or expenses relating to the termination of the Agreement and the cancellation of the Services, including, but not limited to: the replacement cost of any CPE which MFN is unable to recover for any reason.
- 10.2. MFN is entitled to immediately deactivate the Services on date of termination or cancellation and shall have no further obligation to the Customer after such termination or cancellation of this Agreement.
- 10.3. MFN's obligation shall be limited to removal of the CPE.
- 10.4. The Customer shall grant access to MFN, or shall ensure that such access is granted, to enable MFN to remove the CPE or any other equipment related thereto from the Premises.

## **11. GUARANTEES, EXCLUSION AND LIMITATION OF LIABILITY**

- 11.1. It is specifically agreed that MFN shall not be liable for any damages or losses incurred by the Customer because of:
- 11.1.1. the Services being interrupted, suspended or terminated for whatsoever reason; or
  - 11.1.2. communications to or from the Customer not being sent and/or received at all or on time for any reason whatsoever;

- 11.1.3. the Customer using the Services for illegal, immoral or improper purposes.

## **12. CESSION, ASSIGNMENT AND SUB-CONTRACTING**

- 12.1. The Customer may not cede or assign any of its rights or obligations under this Agreement, nor transfer the CPE or any part thereof to any third party or permit any third party to use the CPE or any part thereof without MFN's prior written consent.
- 12.2. MFN shall be entitled to cede and/or assign any of its rights or obligation under the Agreement or to appoint Contractors to carry out any of its obligations under the Agreement.

## **13. DOMICILIA AND NOTICES**

- 13.1. The Parties select as their respective domicilia citandi et executandi, and for the purposes of giving or sending any notice or communication provided for or required in terms of this Agreement, the addresses (including email addresses) as set out below:

MFN

Physical Address:

Eco Square, 298 Witch-Hazel Avenue, Highveld Ext. 71,  
Centurion, 0157

Postal Address: P O Box 50112, Randjiesfontein, 1683

E-mail: [legal@metrofibre.co.za](mailto:legal@metrofibre.co.za)

The Customer: As per the Purchase Order

- 13.2. The physical or residential address and the e-mail address specified in the Purchase Order. The Customer must notify MFN in writing of any change in any one or all of these details within 7 days of any such change taking effect.
- 13.3. MFN may change its domicilium address by written notice to the Customer, provided that any such change shall only become effective on the 7th (seventh) day after the giving of such notice.
- 13.4. Any notice required or permitted to be given in terms of this Agreement shall be given in writing and shall be delivered by hand to the physical domicilium address of the other party or sent via e-mail to the chosen e-mail address.
- 13.5. Notwithstanding anything to the contrary in this clause, a written notice or communication actually received by any Party, shall be adequate written notice or communication to it notwithstanding that the notice was not sent to or delivered at its chosen address.

**14. DISCLOSURE**

- 14.1. The Customer warrants and represents that all information provided in the Purchase Order or elsewhere relating to this Agreement, is true, correct and complete and the Customer indemnifies MFN against any claim that may arise as a result of a breach of this warranty.
- 14.2. The Customer authorises MFN to make general credit reference enquiries about the Customer and to disclose any information, which has been supplied, or any information relating to the Customer's account to any registered credit bureau.
- 14.3. MFN shall further be entitled to disclose any information of the Customer to enable the provision of emergency services, directory or repair services to the Customer and for any purpose for which such information is required in law.
- 14.4. MFN undertakes not to disclose any of the Customer's information for any purpose, except as provided for in this clause or as agreed to elsewhere in this Agreement or in writing by the Customer.

**15. GENERAL**

- 15.1. This Agreement constitutes the whole agreement between the parties relating to the subject matter hereof and no party shall be bound to any express or implied term nor to any representation or warranty nor to any extension, relaxation or waiver of any provision hereof, unless reduced to writing and agreed to by the parties. Any such extension, relaxation or waiver will be strictly interpreted as applying only to the matter in respect of which it is made or given.
- 15.2. The Customer acknowledges that MFN seeks, on an on-going basis, to improve the services that it offers to its Customers. This, together with other changes which may be required as a result of legislation or regulation or arising from the environment in which MFN operates, may require MFN to amend the terms and conditions of this Agreement from time to time. Subject always to the Customer's rights to terminate this Agreement, MFN shall have the sole discretion to amend this Agreement and to modify or discontinue any function or component of the Services. Any use by the Customer of such Services after such amendment has been implemented and notified to the Customer in writing, shall be deemed to be an acceptance by the Customer of such amendment.
- 15.3. If any part of this Agreement is found to be invalid, the balance of the provisions shall remain enforceable. The rule that, in the case of any ambiguity in an agreement, the agreement shall be interpreted against the party responsible for the preparation thereof, shall not apply to this Agreement.
- 15.4. This Agreement shall be subject to and shall be governed by the laws of the Republic of South Africa.
- 15.5. The Customer agrees, in accordance with the provisions of the Magistrates Court Act of 1944, as amended from time to time, to the jurisdiction of the Magistrates Court having jurisdiction over its person in connection with any action or proceeding instituted against the Customer in terms of or arising out of this Agreement, provided that either party may institute any action or proceedings in any division of the High Court of South Africa which has the necessary jurisdiction. In the case of either party ("the aggrieved party") taking legal action against the other party ("the defaulting party") for the recovery of any amounts due or any other legal action in terms of this Agreement, the aggrieved party will be entitled to recover legal costs from the defaulting party on the scale as between an attorney and its own client.
- 15.6. Dispute resolution and escalation:



- 15.6.1. The Customer shall be entitled to refer any dispute between itself and MFN regarding the installation and/or accessibility of Services to the Authority or to refer any matter to any other regulatory body having jurisdiction in respect thereof.
- 15.6.2. However, the Customer shall first exhaust MFN's internal escalation route for dispute resolution and fault reporting before escalating any such matter to the Authority or other regulatory body having jurisdiction.
- 15.6.3. The Customer shall refrain from attacking MFN or its sub-contractors on any Social Media Platforms for delays in installation and/or Service interruption repairs, without first following the escalation routes and remedies stated above. Failure to comply with this clause shall entitle MFN to cancel the Agreement without any further notice to the Customer. MFN furthermore reserves the right to take legal action for slander/defamation against the Customer for any untrue statements made on Social Media in addition to cancelling the Agreement as aforementioned.

## **ANNEXURE 1 TO FTTH STANDARD TERMS AND CONDITIONS**

### **SERVICE LEVEL AGREEMENT**

#### **1. OVERVIEW**

- 1.1. This is a Service Level Agreement between MFN and the Customer for the support and maintenance of the Services provided by MFN to the Customer.
- 1.2. This SLA outlines the parameters of all Services as mutually understood by the Parties. This SLA does not supersede current processes and procedures unless explicitly stated.
- 1.3. This SLA forms an Annexure to Metrofibre Network Standard Terms and Conditions and shall be incorporated therein. Words and phrases defined in the Metrofibre Network Standard Terms and Conditions bear the same meaning in this Annexure.

#### **2. PURPOSE AND OBJECTIVES**

- 2.1. The purpose of the SLA is to ensure that the proper elements and commitments are in place to provide consistent support and delivery to the Customer by MFN.
- 2.2. The objectives of the SLA are to:
  - 2.2.1. provide clear reference to service ownership, accountability, roles and/or responsibilities;
  - 2.2.2. present a clear, concise and measurable description of service provision to the Customer;
  - 2.2.3. match perceptions of expected service provision with actual service support and delivery.

#### **3. DURATION AND APPLICABILITY**

- 3.1. The SLA shall commence on the date of Activation and, subject to 3.2, shall remain in force for the duration of the Agreement.
- 3.2. The parties agree that the SLA may be updated if circumstances dictate. Any reference to the SLA in the Agreement or in this Annexure, shall be a reference to such current version of the SLA as amended from time to time.

#### **4. COMMITMENT**

- 4.1. MFN is committed to providing a reliable, high quality network to support its FTTH services to the Customer.

#### **5. MFN FTTH SERVICE LEVELS**

##### **5.1 Planned Network Availability**

The MFN FTTH GPON network is designed to provide an average availability of FTTH services of **95%** per year.

##### **5.2 FTTH Service Hours**

MFN Operates a Network Operations Centre (NOC) specifically for its FTTH network. The following table indicates the NOC's operating hours.

<b>FTTH NOC Hours of Operation</b>		
	Monday – Friday	08:00 -18:00
	Saturday	08:00 – 13:00
<b>FTTH Fault Reporting</b>		
Telephonically	Monday – Friday	08:00 -18:00
	Saturday	08:00 – 13:00
	Sunday & Public holidays	Closed
<b>Physical Repairs on Customer Premises</b>		
<b>Monday to Saturday, subject to Customer availability, and safe work conditions</b>		

### 5.3 FTTH Service Level Definitions

Service levels for the FTTH Network are divided into two levels based on the nature of the faults, with the understanding that the Service is intended solely for home use:

(ii) **Serious Faults**

Faults that cause a Customer to still be completely offline after all remote, [first line](#) diagnostics have been completed. Force majeure, Customer caused damage, as well as negligent or malicious damage by third parties, may be excluded from this service level.

(i) **Minor Faults**

Faults that cause service impairment in the quality of the Services. With minor faults the Services remain connected, operational and usable, but materially lower than the agreed quality parameters on the fibre, after all remote diagnostics have been completed. Wi-Fi issues are expressly excluded from the service levels for Minor Faults, due to the lack of control over Customers' Wi-Fi use and physical environments.

Service Level	Serious Faults	Minor Faults
<b>Maximum Time To Repair</b>	90% within 4 business days 10% within 6 business days	Within 4 business days
<b>Service Times</b>	08:00-18:00	08:00-18:00
<b>Days</b>	Monday to Friday <b>Excluding</b> Public Holidays	Monday to Friday <b>Excluding</b> Public Holidays
INSTALLATIONS & ACTIVATIONS		
<b>Installation after PO (provided the complex is live and in production)</b>	90% within 15 business days 10% within 18 business days	
<b>Activation (after ONT has been installed and provided the complex is live and in production)</b>	90% within 4 business days 10% within 8 business days	

#### 5.4 FTTH NOC Contact Details

**E-mail:** [ftthsupport@metrofibre.co.za](mailto:ftthsupport@metrofibre.co.za)

E-mails to this address will be responded to within three business days.

*This address must not be used for account queries, use [ftthfinance@metrofibre.co.za](mailto:ftthfinance@metrofibre.co.za).*

- 5.5. The MFN FTTH Service is a Best Effort service which means the potential speed that can be obtained will depend on the overall load on the line and the speeds achieved via third party networks.
- 5.6. MFN does not give any guarantees with regards to the quality, speed and consistency of the Wi-Fi performance of the CPE.

#### 6. REPAIRS AND MAINTENANCE

- 6.1. Scheduled maintenance of the MFN network, or any portion thereof, will not normally result in Service interruption or outage. MFN will exercise commercially reasonable efforts to provide the Customer prior notice of scheduled maintenance that requires a service interruption or outage.
- 6.2. MFN will arrange for any necessary repairs arising in terms of this Agreement. Unless specifically otherwise provided in the Agreement, MFN will be responsible for the costs of any repairs arising from faults in MFN's equipment, except where such fault was due to Customer activity or negligence, which costs shall be for the Customer's account.
- 6.3. Should a fault be on Customer's own equipment, or as a result of Customer's equipment connected to the ONT, a call-out fee may be charged.

## ANNEXURE 2 TO FTTH STANDARD TERMS AND CONDITIONS

### METROFIBRE NETWORK ACCEPTABLE FAIR USE AND ACCESS POLICY

#### 1. PURPOSE

- 1.1. This policy serves to define the accepted behaviour of users on the MFN network.
- 1.2. The policy is intended to allow MFN to:
  - 1.2.1. maintain the integrity and quality of its service;
  - 1.2.2. protect its Customers and infrastructure from abuse;
  - 1.2.3. adhere to current laws and regulations governing organisations and service providers in the Republic of South Africa;
  - 1.2.4. co-exist with the global internet community as a responsible service provider.

#### 2. THE NETWORK

- 2.1. The Customer acknowledges that MFN is unable to exercise control over the data passing over the infrastructure and the Internet including, but not limited to, any websites, electronic mail transmissions, news groups or other material created or accessible over its infrastructure. Therefore, MFN is not responsible for data transmitted over its infrastructure.
- 2.2. The MFN infrastructure may be used to link in to other networks worldwide and the Customer agrees to abide by the acceptable use policies of these networks.
- 2.5. The Customer is prohibited from obtaining, disseminating or facilitating any unlawful materials over the MFN network including, but not limited to:
  - 2.5.1. copying or dealing in intellectual property without authorisation;
  - 2.5.2. child pornography; and/or
  - 2.5.3. any unlawful hate-speech materials;
  - 2.5.4. facilitation or funding of terrorist activities.
- 2.6. In order to ensure that all Customers have fair and equal use of the service and to protect the integrity of the network, MFN reserves the right, and will take whatever steps MFN deems necessary, to prevent improper or excessive usage of the service. These steps may include but are not limited to:
  - 2.6.1. Any action required to prevent prohibited usage (whether intended or unintended) i.e., actions to prevent the spread of viruses, worms, malicious code. etc;
  - 2.6.2. Limiting throughput;
  - 2.6.3. Preventing or limiting services through specific ports or communication protocols; and/or
  - 2.6.4. Complete termination of service to Customers who grossly abuse the network through improper or excessive usage.
  - 2.6.5. Suspending the Customer's account;
  - 2.6.6. Charge the offending Customer for administrative costs incurred as well as for machine and human time lost due to the incident;
  - 2.6.7. Implement appropriate mechanisms in order to prevent usage patterns that violate this policy;
  - 2.6.8. Share information concerning the incident with other Internet access providers or publish the information and/or make available the Customer's details to law enforcement agencies.

### **3. SYSTEM AND NETWORK SECURITY**

- 3.1. Any reference to systems and networks under this section refer to all systems and networks to which the Customer is granted access through MFN, including, but not limited to, the infrastructure of MFN itself and the Internet.
- 3.2. The Customer may not circumvent user authentication or security of any host, device, network or account (referred to as “hacking” or “cracking”), nor interfere with service to any user, host, device or network (referred to as “denial of service attacks”). The host, device, network or account shall also not be used for any illegal purpose, including phishing.
- 3.3. Violations of system or network security by the Customer are prohibited and may result in civil or criminal liability. MFN will investigate incidents involving any violation or suspected violation and shall involve and co-operate with law enforcement officials if a criminal violation is suspected. Examples of system or network security violations include, without limitation, the following:
  - 3.3.1. Unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of any system or network or to breach any security or authentication measures without the express authorisation of MFN;
  - 3.3.2. Unauthorised monitoring of data or traffic on the network or systems without the express authorisation of MFN;
  - 3.3.3. Interference with service to any user, device, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks;
  - 3.3.4. Forging of any TCP-IP packet header (spoofing) or any part of the header information in an e-mail or a newsgroup posting.

### **4. INTERCEPTION**

The Customer acknowledges that MFN is lawfully required to intercept communications in accordance with the provisions of the Regulation of Interception and Provision of Communication-Related Information Act 70 of 2002. Any interception of communications shall be strictly in accordance with the provisions of the said Act.

### **5. GENERAL**

- 5.1. This policy forms part of MFN's standard terms and conditions in respect of any of MFN's services and the usage of any MFN service shall be subject to this Annexure 2.
- 5.2. Any cases of violation of this Acceptable Fair Use and Access Policy must be reported to [legal@metrofibres.co.za](mailto:legal@metrofibres.co.za).