

MetroFibre Go
Standard Terms and Conditions
For
Fibre-To-The-Home



TABLE OF CONTENTS

NO.	CLAUSE	PAGE NO.
1.	DEFINITIONS AND INTERPRETATION	3
2	PROVISION OF SERVICES AND AUTHORISATION	8
3	TERM.....	9
4	ACCESS BUILD	9
5	DELIVERY AND INSTALLATION	10
6	USE OF THE EQUIPMENT	11
7	CHANGE OF ADDRESS	12
8.	USE OF SERVICE	13
9.	FEES AND PAYMENT	14
10.	SUSPENSION OF SERVICES	16
11.	CANCELLATION AS A RESULT OF FORCE MAJEURE	16
12.	OBLIGATIONS ON TERMINATION.....	16
13.	LIMITATION OF LIABILITY	18
14.	CESSION AND ASSIGNMENT	18
15.	DOMICILIA AND NOTICES	18
16.	DISCLOSURE	19
17.	PERSONAL INFORMATION	20
18.	GENERAL	22
	ANNEXURE 1 – SERVICE LEVEL ANNEXURE	24
	ANNEXURE 2 – FAIR USAGE POLICY	28
	ANNEXURE 3 – METRO UP.....	32



1. DEFINITIONS AND 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 **“Access Build”** civil construction and maintenance work required at the Customer’s Premises to connect the Network Services to the Customer by Installation of a Termination Point on the Customer Premises;
- 1.1.2 **“Activation”** the enabling of the Services by the Network Provider at the Customer Premises to facilitate Authentication;
- 1.1.3 **“Activation Fee”** the fee charged by MetroFibre to activate the Services at the Customer Premises;
- 1.1.4 **“Authentication”** the method through which the Customer connects to the internet; PPPoE (Point to Point Protocol over Ethernet) or IPoE (Internet Protocol over Ethernet) on the Router gateway site.
- 1.1.5 **“Authority”** the Independent Communications Authority of South Africa established in terms of the Independent Communications Authority of South Africa Act 13 of 2000 and its applicable regulations, as amended, and its successors who oversee the electronic communications industry in the Republic of South Africa;
- 1.1.6 **“Business Day”** 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 36 of 1994, and its applicable regulations, as amended;
- 1.1.7 **“Charges”** Installation Fee, Activation Fee, Connection Fee, Monthly Subscription Fee, usage and all other charges relating to the provision of the MetroFibre Go Services to the Customer or relating to the cancellation of these Terms and Conditions;
- 1.1.8 **“Connection Fee”** the charges incurred by MetroFibre, including but not limited to, the activation of the Network Services by the Network Provider and provisioning by MetroFibre to the Customer in respect of the MetroFibre Go Services;


- 1.1.9 **“Connectivity Account”** the profile created on behalf of the Customer to record information needed to provision the MetroFibre Go Services and bill the Customer;
- 1.1.10 **“Content”** any content, personal information, game, message or similar service that is supplied to any person by means of the Network or by means of a third party’s network in the form of data, information, graphics, pictures, text, video or any other relevant format, which has the potential to become lost or corrupted from time to time;
- 1.1.11 **“Contract Obligation Period”** the agreed term that the Customer commits to, which is 12 (twelve) months from the completion of the installation.
- 1.1.12 **“Customer”** the person entering into these Terms and Conditions with MetroFibre for the provision of MetroFibre Go Services and/or the use of Customer Premises Equipment;
- 1.1.13 **“Customer Premises”** the dwelling, house, apartment, unit or location of the Customer where the Services are delivered;
- 1.1.14 **“Customer Premises Equipment” or “CPE”** all devices supplied by MetroFibre and by the Network Provider to the Customer to enable MetroFibre to provide the MetroFibre Go Services to the Customer, including but not limited to the ONT, hardware, cables and connections;
- 1.1.15 **“Event of Force Majeure”** 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, state of emergency, epidemic, pandemic, plague, national lockdown, strike, civil disturbance, theft, fire, flood, explosion, natural disaster, unusually severe weather conditions, prohibitive legislation or regulations, unpredictable delays caused by traffic congestion, diversion or road works, inability to secure materials or services and failure of power or utility supplies (including electronic communications);
- 1.1.16 **“Fair Usage Policy”** the MetroFibre Go Fair Usage Policy, attached hereto as Annexure 2;

- 1.1.17 **“FTTH”** the architecture of electronic communication to the Customer Premises where the final connection to the Customer Premises is optical fibre;
- 1.1.18 **“Installation”** the physical act of supplying and connecting the CPE required to provide the Services to the Customer Premises by the Network Provider and includes, but is not limited to, Access Builds;
- 1.1.19 **“Installation Fee”** the charges incurred by MetroFibre for the Installation of the CPE or any other product requiring Installation at the Customer’s Premises;
- 1.1.20 **“MetroFibre”** Metro Fibre Network Proprietary Limited, registration number 2007/024366/07, a company incorporated in terms of the laws of the Republic of South Africa under registration number 2007/024366/07, with registered address at 298 Witch-Hazel Avenue, Highveld Ext. 71, Centurion, 0157;
- 1.1.21 **“Month”** a calendar month beginning at 0h00 on the first day of the calendar month in question;
- 1.1.22 **“Monthly Subscription Fee”** is the prevailing commercial rate to be paid for the MetroFibre Go Services by the Customer to MetroFibre, which amount shall be due and payable each month in advance;
- 1.1.23 **“Network Provider”** an entity authorised by the Authority to provide electronic communications services including, but not limited to, fixed network operators, mobile operators, wireless operators, or any other operator that provides network access and Network Services, including value added services;
- 1.1.24 **“Network Provider Equipment”** the ONT, Termination Point, cabling and any other peripheral equipment that is owned by the Network Provider, which equipment enables the Customer to access the Network Services;
- 1.1.25 **“Network Services”** any services provided by a Network Provider and which are made accessible to the Customer in terms of these Terms and Conditions;
- 1.1.26 **“ONT”** the optical network terminal being the interface where optical signals are converted into electrical signals and vice versa;
- 1.1.27 **“Order Form”** the MetroFibre Go document which is completed telephonically or digitally on behalf of the Customer by the MetroFibre telesales or


orders representative, which contains the Customer's details and the Customer's request that MetroFibre provides it with the MetroFibre Go Services, and may reference and include additional terms and conditions and any other annexures or schedules or documents referred to in the Order Form document from time to time;

- 1.1.28 **"Parties"** the parties to these Terms and Conditions, being MetroFibre and the Customer collectively, and **"Party"** means either one of them;
- 1.1.29 **"Personal Information"** any information relating to a Party, its holding company, subsidiaries and divisions, directors, officers, employees, agents, contractors and customers, including (without limitation) information of the nature contemplated in the definition of "personal information" in POPIA and information processed by a Party pursuant to or as a result of these Terms and Conditions;
- 1.1.30 **"POPIA"** the Protection of Personal Information Act 4 of 2013 and its applicable regulations, as amended;
- 1.1.31 **"Process"** in relation to Personal Information shall mean any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:
- 1.1.31.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - 1.1.31.2. dissemination by means of transmission, distribution or making available in any other form; or
 - 1.1.31.3 merging, linking, as well as restriction, degradation, erasure or destruction of information;
- 1.1.32 **"RICA"** the Regulation of Interception of Communications and Provision of Communication-Related Information Act 70 of 2003 and its related regulations, as amended;
- 1.1.33 **"Router"** a networking device that forwards data packets between computer networks and performs traffic directing functions on the internet, provided by MetroFibre;

- 1.1.34 **“Services” or “MetroFibre Go” or “MetroFibre Go Services”** the internet access services provided by MetroFibre to the Customer via a third party Network Provider, which includes Access Builds, Installation and connections together with the provision of any CPE required for such services, as detailed in the body of these Terms and Conditions as well as any additional services set out in any of the Annexures hereto, which the Customer subscribes for;
- 1.1.35 **“Services Confirmation”** the notice to the Customer detailing the nature of the Network Services delivered, the products, costs and fees, the Activation date and other applicable terms after completion of any Access Build or Installation;
- 1.1.36 **“SLA”** the Service Level Annexure annexed to these Terms and Conditions as Annexure 1;
- 1.1.37 **“Social Media Platforms”** internet-based social media platforms and/or blog sites, including but not limited to, Facebook, Twitter, Instagram 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;
- 1.1.38 **“Termination Fee”** the reasonable fee charged by MetroFibre if any specific MetroFibre Go Service is cancelled outside the agreed time frames where MetroFibre has incurred an expense to deliver the MetroFibre Go Service to the Customer including without limitation, the Charges;
- 1.1.39 **“Termination Point”** the point where the Customer is connected to the fibre broadband network and includes the ONT; and
- 1.1.40 **“Terms and Conditions”** the current version of these standard terms and conditions for the Services, the Order Form completed by the Customer telephonically, and all annexures and addenda to these documents, as amended from time to time and available at www.MetroFibre.co.za.
- 1.2. In these Terms and Conditions, 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, unincorporated entity or any other entity recognised in law as having a separate legal existence;

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- 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 these Terms and Conditions; and
 - 1.2.5. if there is any conflict between the provisions of these Terms and Conditions, its annexures and the Order Form, the provisions of the Order Forms shall prevail over these Terms and Conditions and these Terms and Conditions shall prevail over the provisions of Annexure 1.
 - 1.3. No provision in these Terms and Conditions is intended to contravene the applicable provisions of the Consumer Protection Act 68 of 2008 and its applicable regulations, as amended (“CPA”) and therefore all provisions of these Terms and Conditions to the extent that the Terms and Conditions or any goods and services provided under these Terms and Conditions are governed by the CPA, must be treated as qualified, to the extent necessary, to ensure that the applicable provisions of the CPA are complied with.
 - 1.4. **THESE TERMS AND CONDITIONS ONLY APPLY WHERE A CUSTOMER UTILISES THE METROFIBRE GO SERVICES IN AN AREA WHERE METROFIBRE IS NOT THE UNDERLYING FIBRE NETWORK OPERATOR. WHERE METROFIBRE IS THE UNDERLYING FIBRE NETWORK OPERATOR AND THE CUSTOMER IS A DIRECT METROFIBRE CUSTOMER, THE STANDARD METROFIBRE FTTH TERMS AND CONDITIONS WILL APPLY.**

2 PROVISION OF SERVICES AND AUTHORISATION

- 2.1. The Customer wishes to acquire the MetroFibre Go Services from MetroFibre, which Services MetroFibre agrees to provide to the Customer, subject to the provisions of these Terms and Conditions.
 - 2.2. In order to provide the MetroFibre Go Services, MetroFibre and the Network Provider may be required to conduct an economic and network feasibility process to determine the viability of any Installation including Access Builds. **METROFIBRE MAY NEED TO ENTER INTO AGREEMENTS OR ARRANGEMENTS WITH NETWORK PROVIDERS OR THIRD PARTIES WHICH MAY BE NECESSARY FOR METROFIBRE TO DELIVER THE SERVICES. THE CUSTOMER HEREBY AUTHORISES METROFIBRE TO ENTER INTO ANY SUCH AGREEMENT OR ARRANGEMENT ON THE CUSTOMER’S BEHALF, WHICH MAY REQUIRE METROFIBRE TO SHARE CERTAIN OF THE CUSTOMER’S PERSONAL INFORMATION WITH SUCH NETWORK PROVIDERS OR THIRD PARTIES.**
 - 2.3. **IF SO REQUIRED, THE CUSTOMER SHALL PROVIDE METROFIBRE WITH SUCH WRITTEN AUTHORISATION AS MAY BE NECESSARY FOR METROFIBRE TO OBTAIN THE INFORMATION REFERRED TO IN CLAUSE 2.2 OR TO ENTER INTO AN AGREEMENT OR**
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ARRANGEMENT REFERRED TO IN CLAUSE 2.2.

- 2.4. **THE CUSTOMER UNDERTAKES TO PROVIDE METROFIBRE WITH ALL THE INFORMATION AND DOCUMENTATION REQUIRED UNDER RICA, INCLUDING A CERTIFIED PHOTOCOPY OF THE IDENTIFICATION DOCUMENT OF THE CUSTOMER AS WELL AS PROOF OF RESIDENCE, PRIOR TO THE SERVICE BEING ACTIVATED. THE CUSTOMER ACKNOWLEDGES THAT METROFIBRE MAY NOT PROVISION ANY SERVICE TO THE CUSTOMER UNTIL SUCH TIME AS THE CUSTOMER HAS COMPLIED WITH THIS CLAUSE. THE INFORMATION PROVIDED TO METROFIBRE AS PER THIS CLAUSE 2.4 WILL BE PROCESSED IN ACCORDANCE WITH THE PRINCIPLES AS SET OUT IN CLAUSE 17 (PERSONAL INFORMATION) BELOW.**
- 2.5. Where an electronic Order Form for the MetroFibre Go Services is placed telephonically through a MetroFibre telesales agent, the order as selected and executed by MetroFibre will be billed to the person whose name is inserted on the Order Form.

3 TERM

- 3.1. These Terms and Conditions shall apply to each Order Form and any Services provided in terms thereof, calculated from the date of Services Confirmation.
- 3.2. Subject to clause 9.2 below, the Customer may terminate these Terms and Conditions at any time by giving 30 (thirty) calendar days' notice in writing to MetroFibre.
- 3.3. If the conclusion of these Terms and Conditions is as a result of direct marketing, the Customer has the right to terminate these Terms and Conditions without reason or penalty within 5 (five) Business Days of the later of the date upon which these Terms and Conditions was entered into or the Network Services was provided or the Router was delivered to the Customer. **IF THE ROUTER IS NOT RETURNED TO METROFIBRE IN ITS ORIGINAL, UNOPENED PACKAGING, METROFIBRE SHALL BE ENTITLED TO CLAIM A REASONABLE AMOUNT FROM THE CUSTOMER FOR THE CUSTOMERS'S USE OF THE ROUTER.**

4 ACCESS BUILD

- 4.1. Where an Access Build is included in any Service order, marketing materials, package or quote, the Access Build shall encompass the civil works relating to the Installation of a Termination Point in the Customer Premises.
- 4.2. The Access Build shall be limited to reasonable civil construction costs and is subject to the installation terms as prescribed by the Network Provider. To the extent that the parameters of the Access Build will exceed the Network Provider's standard trenching and reticulation (site survey to be conducted), the Network Provider shall be entitled to charge an increased cost based on labour and materials which will be for the Customer's account.
- 4.3. MetroFibre reserves the right from time to time to vary, suspend or terminate the Services provided, if the Services are unavailable or if any agreement, whether or not with a Network

Provider allowing MetroFibre to render the Services are terminated, or to change the configuration of the Network or the Service Equipment, or to change any applicable access code for receipt of a Service, provided always that such change does not materially affect the relevant Service. MetroFibre shall use commercially reasonable endeavours to give the Customer timeous notice of any such changes, variations or changes to access codes.

- 4.4. **THE CUSTOMER ACCEPTS AND AGREES THAT IT SHALL NOT HAVE ANY CLAIMS FOR DAMAGES, LOSSES OR THE LIKE AGAINST METROFIBRE, NOR WILL THE CUSTOMER BE ENTITLED TO WITHHOLD PAYMENT FOR ANY TEMPORARY SERVICE FAILURE OR MALFUNCTION OR LOSS OF DATA OR CONTENT OR FAILURE OF THE NETWORK, FACILITIES, SERVICES, OR COVERAGE.**

5 DELIVERY AND INSTALLATION

- 5.1. Subject to the result of the feasibility process and payment of any Access Build (where applicable), the Network Provider shall deliver the CPE, to the extent applicable, and MetroFibre shall deliver the Router required for the provision of the MetroFibre Go Services and as specified in the Order Form, to the Customer Premises against payment of the Charges and deposit, if any, as set out in the Order Form.
- 5.2. Once the MetroFibre Go Order Form has been successfully processed by MetroFibre's sales department, the Customer will receive an email confirming the order. If the Customer has not received an email or has not been contacted by a Network Provider installer within 15 (fifteen) Business Days of submitting the order, the onus rests on the Customer to contact MetroFibre immediately on 087 151 4000.
- 5.3. If the Premises contains a Termination Point (small box for the fibre router to plug into), a CPE installation will be required. Once the Customer has received the order confirmation email, contact will be made with the Customer within 15 (fifteen) Business Days by a Network Provider installer to arrange a convenient date and time for the Installation, subject to the availability of equipment and installers. MetroFibre will provide the Customer with the standard Router to Authenticate the Services for internet connectivity.
- 5.4. If the Customer Premises requires a Termination Point, an Access Build will be required. Once the Customer has received the Services Confirmation notice, contact will be made with the Customer within 15 (fifteen) Business Days to arrange an Access Build. The Customer must ensure that the required Installation area in the Customer Premises is suitable for Installation and that the Customer is satisfied with the chosen Installation area, which should be centrally located in the Customer Premises and located near a plugpoint.
- 5.5. MetroFibre 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 THE NETWORK PROVIDER AND CONTRACTORS USED BY THE NETWORK PROVIDER AND METROFIBRE GIVES NO UNDERTAKING THAT IT WILL**

MEET ANY REQUESTED INSTALLATION DATE. METROFIBRE WILL NOT BE LIABLE IN ANY MANNER TO THE CUSTOMER FOR ANY LOSS ARISING FROM ANY DELAY IN THE PROVISION OF THE SERVICES OR THE SUPPLY OF THE CPE OR ROUTER OR ANY FAILURE OF THE SERVICES OR THE CPE OR ROUTER, WHETHER ARISING FROM AN EVENT OF FORCE MAJEURE OR DUE TO ANY OTHER REASON WHATSOEVER.

5.6. THE CUSTOMER SHALL, AT ITS OWN COST AND EXPENSE, BE RESPONSIBLE FOR:

5.6.1. ENSURING THAT THE COMMUNICATION SERVICES AND FACILITIES, INCLUDING, WITHOUT LIMITATION, INSTALLATION AREAS ELECTRICAL OUTLETS, PASSAGES AND ELECTRICAL CONNECTIONS OF THE EQUIPMENT AND THE SERVICES ARE ALL SUITABLE FOR THE INSTALLATION DURING INSTALLATION AND THEREAFTER. WHERE ANY DEVICE OR EQUIPMENT IS REQUIRED, WHICH IS NOT PROVIDED BY METROFIBRE, THE CUSTOMER SHALL BE RESPONSIBLE FOR INSTALLING SUCH EQUIPMENT 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 BY METROFIBRE MAY BE USED IN CONJUNCTION WITH THE SERVICES, THE CPE AND THE ROUTER; AND

5.6.2. OBTAINING ALL THE NECESSARY PERMISSIONS, APPROVALS AND AUTHORITIES NECESSARY FOR THE PURPOSES OF THE SUPPLY AND INSTALLATION OF THE CPE AND SERVICES, INCLUDING PERMISSION FROM THE OWNER OF THE CUSTOMER PREMISES WHERE THE CUSTOMER IS NOT THE OWNER. THE CUSTOMER HEREBY INDEMNIFIES METROFIBRE AGAINST ANY LIABILITY OR COSTS WHICH METROFIBRE MAY INCUR BECAUSE OF THE CUSTOMER'S FAILURE TO OBTAIN ANY APPROVAL OR PERMISSION.

5.7. After Installation, any subsequent callout may be subject to a callout fee charged by MetroFibre or the Network Provider to the Customer.

5.8. UNLESS THE CUSTOMER ADVISES METROFIBRE OF ANY PROBLEMS WITH THE INSTALLATION OR THE SERVICES WITHIN 5 (FIVE) BUSINESS DAYS FROM THE TIME OF INSTALLATION, THE CUSTOMER SHALL BE DEEMED TO HAVE ACCEPTED THAT THE INSTALLATION WAS SUCCESSFUL AND THE SERVICES WORK, AS INTENDED.

6 USE OF THE EQUIPMENT

6.1. THE CUSTOMER ACKNOWLEDGES THAT THE NETWORK PROVIDER EQUIPMENT IS AND REMAINS THE PROPERTY OF THE NETWORK PROVIDER AND THAT THE ROUTER IS AND REMAINS THE PROPERTY OF METROFIBRE AND THE CUSTOMER UNDERTAKES TO USE THE CPE AND ROUTER ONLY FOR THE PURPOSE FOR WHICH IT IS INTENDED AND IN ACCORDANCE WITH ANY LAWS OR REGULATIONS.

- 6.2. Should the Customer not be the owner of the Customer Premises, the Customer shall notify the owner of the Customer Premises of the Network Provider and MetroFibre's ownership of the Network Provider Equipment and Router respectively, in writing as soon as possible before any provision of any service.
- 6.3. Upon delivery to the Customer, or collection by the Customer, of the Network Provider Equipment and the Router, risk in respect of the Network Provider Equipment and Router, but not ownership thereof, shall pass to the Customer who shall ensure that:
- 6.3.1. the Network Provider Equipment and the Router are kept in the Customer's possession and control on the Customer Premises, and protected against any material loss or damage and free from any attachment, lien, hypothec or other encumbrance;
- 6.3.2. in the event of theft of or loss or damage for whatsoever reason to the Network Provider Equipment or to the Router, the Customer shall immediately inform MetroFibre thereof in writing by sending an email to [go.orders@metrofibre.co.za]. The Customer shall be solely responsible for the cost of repairing or replacing such equipment.
- 6.3.3. the Network Provider Equipment and Router 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 IN ANY WAY.**

7 CHANGE OF ADDRESS

- 7.1. Should the Customer move from the Customer Premises and wishes to acquire MetroFibre Go Services at the new Customer Premises, the Customer shall inform MetroFibre in writing by sending an email to [go.orders@metrofibre.co.za] and MetroFibre will determine network feasibility. If a MetroFibre Go Service can be provided, the Customer agrees that a new Order for the new Customer Premises is subject to the provisions of these Terms and Conditions.
- 7.2. The Customer acknowledges that should the Network Provider at the new Customer Premises not be the same as the Network Provider at the previous Customer Premises, the Monthly Subscription Fee may be different and the Customer subsequently agrees that the Charges payable by Customer will be adjusted accordingly.
- 7.3. Should the Customer move from the Customer Premises during the Contract Obligation Period, and MetroFibre has determined that a MetroFibre Go Service is deliverable at the new Customer Premises, then the Customer accepts and agrees that the Contract Obligation Period shall start running anew for another 12 (twelve) months as a new Order, in respect of such new Customer Premises and that Connection Fees and/or Installation Fees may be applicable in respect of such new Customer Premises, which fees shall be confirmed upon request for relocation.
- 7.4. **SHOULD METROFIBRE ADVISE THAT A METROFIBRE GO SERVICE CANNOT BE PROVIDED AT THE NEW CUSTOMER PREMISES OR SHOULD THE CUSTOMER NOT WISH TO ACQUIRE A METROFIBRE GO SERVICE AT THE NEW CUSTOMER PREMISES, THEN**



THE CUSTOMER MUST TERMINATE THE SERVICES ON 30 (THIRTY) DAYS WRITTEN NOTICE TO METROFIBRE AND THE PROVISIONS OF CLAUSES 9.2 AND 12 BELOW WILL APPLY.

- 7.5. **SHOULD THE NEW CUSTOMER PREMISES BE IN AN AREA WHERE METROFIBRE IS THE UNDERLYING NETWORK PROVIDER, THE CUSTOMER CAN OPT TO UTILISE A DIRECT METROFIBRE SERVICE IN WHICH STANDARD METROFIBRE FTTH TERMS AND CONDITIONS WILL APPLY.**
- 7.6. The Customer remains responsible for the safekeeping of the Router and undertakes to inform the new owner or tenant of the old Customer Premises that MetroFibre owns the Router and shall ensure that suitable access is granted, to enable MetroFibre to remove the Router from the Customer Premises or to be couriered back to MetroFibre, as applicable.
- 7.7. MetroFibre may, at any time during these Terms and Conditions, reconfigure, upgrade, exchange any part of the Network Provider Equipment or Router or may request exchange from the Network Provider, should MetroFibre, in its sole discretion, deem it necessary to do so in order to meet its obligation to provide the MetroFibre Go Services. MetroFibre shall not be obliged to undertake any upgrades of the Network Provider Equipment or Router unless it deems it necessary in its sole and unfettered discretion, to do so.

8. USE OF SERVICE

- 8.1. **THE CUSTOMER WARRANTS AND UNDERTAKES IN FAVOUR OF METROFIBRE, THAT THE CUSTOMER:**
- 8.1.1. **SHALL NOT USE OR PERMIT THE SERVICES TO BE USED FOR IMPROPER OR UNLAWFUL PURPOSES;**
- 8.1.2. **SHALL NOT USE THE SERVICES TO CAUSE ANY HARM OR PHYSICAL DAMAGE TO METROFIBRE'S ROUTER OR THE NETWORK PROVIDER'S CPE OR NETWORK OR ANY THIRD PARTY;**
- 8.1.3. **SHALL NOT RESELL CAPACITY ARISING FROM THE SERVICES;**
- 8.1.4. **SHALL COMPLY WITH RELEVANT LEGISLATION, INCLUDING ANY REGULATIONS BY THE AUTHORITY OR OTHER LEGISLATIVE BODIES, AND ANY DIRECTIVES OR INSTRUCTIONS FROM METROFIBRE, INCLUDING METROFIBRE GO'S FAIR USAGE POLICY, AVAILABLE AT WWW.METROFIBRE.CO.ZA, RELATING TO THE USE OF THE CPE AND ROUTER OR THE SERVICE; AND**
- 8.1.5. **ACKNOWLEDGES THAT THE SERVICES ARE NOT DESIGNED NOR INTENDED FOR BUSINESS USE.**
- 8.2. **THE CUSTOMER WARRANTS AND REPRESENTS TO METROFIBRE THAT THE CUSTOMER SHALL USE THE SERVICES IN ACCORDANCE WITH CLAUSE 8.1 AND SHALL**

FULLY INDEMNIFY METROFIBRE AGAINST ANY THIRD PARTY CLAIM RESULTING FROM ANY DAMAGE CAUSED TO A THIRD PARTY NETWORK (WHETHER PHYSICAL DAMAGE AND/OR DAMAGE TO THE LOGICAL BASIS OF THE NETWORK) AND AGAINST ANY BREACH BY THE CUSTOMER OF THE PROVISIONS OF CLAUSE 8.1.

9. FEES AND PAYMENT

- 9.1. MetroFibre shall arrange for Installation (where applicable) of the Network Provider Equipment and delivery of the Router to the Customer Premises at the current prevailing commercial rate to the Customer, subject to the following:
- 9.1.1. the amount is limited to the standard Installation fees of the relevant Network Provider and does not provide for any additional Access Build costs that may be required.
- 9.2. **IF EITHER THE CUSTOMER OR METROFIBRE TERMINATES THE SERVICE FOR WHATSOEVER REASON BEFORE THE EXPIRY OF THE CONTRACT OBLIGATION PERIOD, THE CUSTOMER SHALL BE LIABLE FOR THE FULL AMOUNT OF INSTALLATION COSTS AS WELL AS ANY UNPAID INSTALMENT AND ACCESS BUILD COSTS, IF APPLICABLE. FOR THE AVOIDANCE OF DOUBT, ANY SUCH UNPAID AMOUNT SHALL IMMEDIATELY BECOME DUE, OWING AND PAYABLE UPON TERMINATION OF THE SERVICE.**
- 9.3. The Customer will be billed by MetroFibre monthly in advance, unless otherwise specifically agreed in the Order Form, but MetroFibre may provision the Services before the first payment is processed and reflects in MetroFibre's bank account.
- 9.4. MetroFibre will issue a pro-rated invoice for the remainder of the first Month and a Connection Fees invoice upon activation of the Customer Connectivity Account. Thereafter at the beginning of each Month on a month-to-month basis.
- 9.5. Customers must settle invoices received within 3 (three) days of invoice date, without deduction or set-off and free of bank charges, to avoid suspension. Customers can select between the option of a debit order or an EFT payment. If a debit order is selected, MetroFibre will submit the debit order to the Customer's account on the 1st, 5th or 15th of the month as selected telephonically by the Customer or on the Order Form by way of a debit order and on successful receipt of the debit order, MetroFibre will process the payment to the Customer's Connectivity Account. If an EFT method is selected, Customers must ensure that the EFT is made on time, with sufficient time to clear in MetroFibre's account as detailed in clause 9.6 below.
- 9.6. Different payment methods have different time implications depending on the process involved to record and account for the payments. Payments may take up to 48 (forty-eight) hours to reflect in MetroFibre's bank account, depending on which bank holds the Customer's account. After the Customer's payment reflects in MetroFibre's bank account, it can take 48 (forty-eight) hours to process the payment against the Customer's Connectivity Account. The responsibility rests with

the Customer as the user to ensure that an EFT payment is made in time for effective processing, and to avoid suspension of the Customer's Connectivity Account. Proof of payment must be sent to Go Billing [go.billing@metrofibre.co.za].

- 9.7. The reference number to be used by the Customer will be the Customer's Connectivity Account number, which will be sent to the Customer upon the first Services Confirmation notice or available on the client portal.
- 9.8. Payment for Services can be made via EFT into MetroFibre Go's bank account as follows:
- Account Name : METRO FIBRE NETWORKX (PTY) LTD
Account Number : 40-9442-3393
Registration number : 2007/024366/07
Swift Code : ABSAZAJJ
Branch : Commercial Premium
Branch Code : 632005
- 9.9. **INVOICES AND STATEMENTS ARE AVAILABLE TO VIEW AND DOWNLOAD ON THE CLIENT PORTAL. NON-RECEIPT OF AN INVOICE BY THE CUSTOMER SHALL THEREFORE NOT BE DEEMED AS A VALID REASON FOR LATE OR NON-PAYMENT.** The Customer must contact MetroFibre immediately on 087 151 4000 or [go.billing@metrofibre.co.za] if the Customer is unable to view the invoices 2 (two) days after provision of the Service or within 2 (two) days of the beginning of any subsequent Month, as this may mean that MetroFibre has incorrect personal and contact details and the Customer's Service may be suspended.
- 9.10. **THE CUSTOMER SHALL BE LIABLE AND RESPONSIBLE FOR PAYMENT UNTIL PAYMENT HAS BEEN RECEIVED IN THE METROFIBRE BANK ACCOUNT.**
- 9.11. **THE CUSTOMER SHALL BE LIABLE FOR THE APPLICABLE REACTIVATION CHARGES TO RESTORE ANY SERVICES SUSPENDED DUE TO NON-PAYMENT OR LATE PAYMENT OF CHARGES THAT ARE DUE AND PAYABLE IN RESPECT OF THESE TERMS AND CONDITIONS.**
- 9.12. MetroFibre shall be entitled to change the Charges payable by the Customer upon 30 (thirty) days' notice. Should the Customer not be amenable to paying the amended Charges the Customer may terminate these Terms and Conditions with MetroFibre in accordance with clause 3.2 of these Terms and Conditions.
- 9.13. **A CERTIFICATE SIGNED BY ANY FINANCIAL MANAGER OF METROFIBRE 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.**

10. SUSPENSION OF SERVICES

- 10.1. MetroFibre may, upon notice to the Customer, suspend part of or the full use of the Services provided to the Customer, if the Customer fails to perform any obligation under these Terms and Conditions or breaches any of the provision in these Terms and Conditions.
- 10.2. **THE CUSTOMER AGREES AND ACCEPTS THAT IT SHALL NOT WITHHOLD ANY PAYMENT DUE TO ANY ONGOING AND/OR PENDING CREDIT AND SERVICE INVESTIGATIONS. FAILURE OF THE CUSTOMER'S OBLIGATION UNDER THIS CLAUSE WILL RESULT IN SUSPENSION OF THE SERVICES.**
- 10.3. **BILLING OF ALL FEES AND CHARGES MAY CONTINUE TO ACCRUE DURING SUSPENSION.**
- 10.4. **SHOULD THE CUSTOMER'S FAILURE TO MEET OBLIGATIONS IN TERMS OF THESE TERMS AND CONDITIONS CONTINUE FOR LONGER THAN 30 (THIRTY) DAYS, METROFIBRE RESERVES THE RIGHT TO TERMINATE THESE TERMS AND CONDITIONS WITHOUT ANY FURTHER NOTICE TO THE CUSTOMER.**

11. CANCELLATION AS A RESULT OF FORCE MAJEURE

- 11.1. If either Party is rendered unable, in whole or in part, by an Event of Force Majeure to perform or comply with any obligation or condition of these Terms and Conditions, such obligation or condition shall be suspended to the extent and for the duration of the continuance of the inability so caused and such Party shall be relieved of any liability during such period, provided that the Event of Force Majeure will not operate to suspend the obligation of a Party to make payment if such payment becomes due and payable for services rendered in terms of these Terms and Conditions.
- 11.2. The Party declaring an Event of Force Majeure shall give prompt written notice to the other Party specifying the exact nature of the intervening circumstances and its estimated duration.
- 11.3. The Party declaring an Event of Force Majeure shall use all reasonable endeavours to overcome or abate the Event of Force Majeure as quickly as possible.
- 11.4. If an Event of Force Majeure continues for a period of more than 30 (thirty) days, the Parties will consult with each other with a view to the future implementation of these Terms and Conditions. If no agreement is reached by the Parties in this regard within a period of 7 (seven) days thereafter, either Party may terminate these Terms and Conditions forthwith upon 14 (fourteen) days' prior written notice to the other Party.

12. OBLIGATIONS ON TERMINATION

- 12.1. **THE CUSTOMER REMAINS RESPONSIBLE FOR ALL AMOUNTS DUE IN TERMS OF THESE TERMS AND CONDITIONS UP UNTIL THE DATE OF TERMINATION, TOGETHER WITH ANY COSTS OR EXPENSES RELATING TO THE TERMINATION OF THESE TERMS AND**

CONDITIONS AND THE CANCELLATION OF THE SERVICES, INCLUDING, BUT NOT LIMITED TO THE REPLACEMENT COST OF ANY PRODUCT AND/OR CPE OR ROUTER WHICH METROFIBRE IS UNABLE TO RECOVER FOR ANY REASON.

- 12.2. IF THE CUSTOMER TERMINATES THESE TERMS AND CONDITIONS BEFORE AUTHENTICATION, THE CUSTOMER SHALL BE LIABLE FOR THE FULL INSTALLATION, ACTIVATION OF NETWORK SERVICES, ACCESS BUILD COSTS AND ANY OTHER APPLICABLE CHARGES.
- 12.3. THE CUSTOMER REMAINS RESPONSIBLE FOR ALL AMOUNTS DUE IN TERMS OF THESE TERMS AND CONDITIONS UP UNTIL THE TERMINATION DATE INCLUDING TERMINATION FEES, WHERE APPLICABLE, TOGETHER WITH ANY COSTS OR EXPENSES RELATING TO THE TERMINATION OF THESE TERMS AND CONDITIONS AND THE CANCELLATION OF SERVICES.
- 12.4. THE CUSTOMER RECOGNISES AND ACKNOWLEDGES THAT TERMINATION FEES CHARGED BY METROFIBRE ARE A REASONABLE CANCELLATION FEE IN LIGHT OF THE INVESTMENT OF METROFIBRE TO FACILITATE THE PROVISION OF THE SERVICE.
- 12.5. MetroFibre is entitled to immediately deactivate the Services on the date of termination or cancellation and shall have no further obligation to the Customer after such termination or cancellation of the Services.
- 12.6. MetroFibre will make one attempt to arrange for the Router to be couriered back from the physical address stipulated in the Order Form to MetroFibre at MetroFibre's expense, failing which this responsibility to courier the Router to MetroFibre will fall on the Customer and will be for the Customer's account and cost. A Customer who wishes to enquire about any other locations where a Router may be returned, if applicable, can contact or email MetroFibre on 087 151 4000 or [go.orders@metrofibre.co.za] to determine the alternate locations to which the Router may be returned, as the case may be. **SHOULD THE ROUTER NOT BE RETURNED TO METROFIBRE BY THE CUSTOMER OR COLLECTED BY METROFIBRE, AS THE CASE MAY BE, WITHIN 14 (FOURTEEN) DAYS AFTER TERMINATION OF THESE TERMS AND CONDITIONS, THE CUSTOMER'S ACCOUNT MAY BE DEBITED FOR AN AMOUNT EQUIVALENT TO THE VALUE OF THE UNRETURNED ROUTER. SHOULD THE DEBIT ORDER FAIL, IT REMAINS THE RESPONSIBILITY OF THE CUSTOMER TO MAKE PAYMENT VIA AN EFT. IN THE EVENT THAT THE CUSTOMER FAILS TO MAKE PAYMENT, METROFIBRE RESERVES THE RIGHT TO PROCEED WITH LEGAL INTERVENTION, WHERE REQUIRED. WHERE THE CUSTOMER CHOOSES TO RETURN THE ROUTER, THE CUSTOMER SHOULD CONTACT METROFIBRE FOR GUIDANCE ON HOW TO SAFELY REMOVE THE ROUTER WITHOUT DAMAGING THE ROUTER. SAVE FOR FAIR WEAR AND TEAR, THE CUSTOMER WILL BE LIABLE TO METROFIBRE FOR ANY DAMAGE CAUSED TO THE RETURNED ROUTER THAT AFFECTS THE USABILTY OF SUCH ROUTER.**

12.7. The Customer shall grant reasonable access to MetroFibre, or shall ensure that suitable access is granted, to enable MetroFibre's couriers to collect the Router from the Premises.

13. LIMITATION OF LIABILITY

13.1. **IT IS SPECIFICALLY AGREED THAT METROFIBRE SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSSES INCURRED BY THE CUSTOMER BECAUSE OF:**

13.1.1. **THE SERVICES BEING INTERRUPTED, SUSPENDED OR TERMINATED FOR ANY REASON WHATSOEVER;**

13.1.2. **COMMUNICATIONS TO OR FROM THE CUSTOMER NOT BEING SENT AND/OR RECEIVED AT ALL OR ON TIME FOR ANY REASON WHATSOEVER (AND INCLUDING WITHOUT LIMITATION ANY LOSS OR CORRUPTION OF DATA OR CONTENT HOWSOEVER CAUSED); OR**

13.1.3. **THE CUSTOMER USING THE SERVICES FOR ILLEGAL OR IMPROPER PURPOSES OR CAUSING DAMAGE TO ANY NETWORK SERVICES OR NETWORK PROVIDERS.**

13.2. **THE EXTENT OF METROFIBRE'S LIABILITY FOR ANY DAMAGES SHALL BE LIMITED TO THE ANNUAL SERVICE FEE PAID BY THE CUSTOMER TO METROFIBRE FOR THE METROFIBRE GO SERVICES.**

14. CESSION AND ASSIGNMENT

14.1. **THE CUSTOMER MAY NOT CEDE OR ASSIGN ANY OF ITS RIGHTS OR OBLIGATIONS UNDER THESE TERMS AND CONDITIONS, 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 METROFIBRE'S PRIOR WRITTEN CONSENT.**

14.2. **METROFIBRE SHALL BE ENTITLED TO CEDE AND/OR ASSIGN ANY OF ITS RIGHTS OR OBLIGATIONS UNDER THESE TERMS AND CONDITIONS OR TO APPOINT CONTRACTORS TO CARRY OUT ANY OF ITS OBLIGATIONS UNDER THESE TERMS AND CONDITIONS, WITHOUT CONSENT FROM THE CUSTOMER.**

15. DOMICILIA AND NOTICES

15.1. 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 these Terms and Conditions, the addresses (including email addresses) as set out below:

MetroFibre:

- Physical Address: Eco Square, 298 Witch-Hazel Avenue, Highveld Ext. 71, Centurion, 0157
- Postal Address: P O Box 50112, Randjiesfontein, 1683
- For legal notices - Email: legal@metrofibre.co.za
- For Finance: Go.Billing@metrofibre.co.za

- For cancellations - Email: Go.Orders@metrofibre.co.za
- For support – Email: Go.Support@metrofibre.co.za
- For Personal Information queries: infoofficer@metrofibre.co.za

The Customer: As per the completed Order Form.

- 15.2. The physical or residential address and the e-mail address specified in the Order Form will be utilised to contact the Customer. The Customer must notify MetroFibre in writing of any change in any one or more of its details set out in the Order Form within 7 (seven) days of any such change taking effect.
- 15.3. MetroFibre may change its domicilium address by updating its *domicilium* details on www.metrofibre.co.za.
- 15.4. Any notice required or permitted to be given in terms of these Terms and Conditions 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.
- 15.5. 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.

16. DISCLOSURE

- 16.1. **THE CUSTOMER WARRANTS AND REPRESENTS THAT ALL INFORMATION PROVIDED IN THE ORDER FORM OR ELSEWHERE RELATING TO THESE TERMS AND CONDITIONS, ARE TRUE, CORRECT AND COMPLETE AND THE CUSTOMER INDEMNIFIES METROFIBRE AGAINST ANY CLAIM THAT MAY ARISE AS A RESULT OF A BREACH OF THIS WARRANTY.**
- 16.2. **THE CUSTOMER AUTHORISES METROFIBRE 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.**
- 16.3. **METROFIBRE 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.**
- 16.4. MetroFibre undertakes not to disclose any of the Customer's Personal Information for any purpose, except as provided for in this clause or as agreed to elsewhere in these Terms and Conditions or in writing by the Customer.



17. PERSONAL INFORMATION

- 17.1. IN ORDER TO RENDER THE SERVICES OR TO COMPLY WITH THE OBLIGATIONS IMPOSED ON METROFIBRE IN TERMS OF THESE TERMS AND CONDITIONS, METROFIBRE WILL NEED TO PROVIDE, COLLECT, USE, STORE OR PROCESS THE PERSONAL INFORMATION OF THE CUSTOMER. THE CUSTOMER HEREBY AUTHORISES SUCH COLLECTION, USE, STORAGE AND PROCESSING WHERE THE NEED ARISES, SUBJECT TO COMPLIANCE WITH THE FURTHER PROVISIONS OF THIS CLAUSE 17.**
- 17.2. METROFIBRE SHALL COMPLY WITH ITS OBLIGATIONS UNDER POPIA IN RESPECT OF ALL PERSONAL INFORMATION PROCESSED BY IT IN CONNECTION WITH THESE TERMS AND CONDITIONS AND THE SERVICES.**
- 17.3. METROFIBRE SHALL ONLY PROVIDE, COLLECT, USE, STORE OR PROCESS PERSONAL INFORMATION:**
- 17.3.1. AS IS NECESSARY FOR THE PURPOSES OF THESE TERMS AND CONDITIONS AND THE SERVICES;**
- 17.3.2. FOR MAINTAINING ITS INTERNAL ADMINISTRATIVE PROCESSES, INCLUDING QUALITY, RISK, CLIENT OR VENDOR MANAGEMENT PROCESSES;**
- 17.3.3. FOR INTERNAL AND EXTERNAL BUSINESS-RELATED PURPOSES AND STATISTICAL OR RESEARCH PURPOSES; AND**
- 17.3.4. IN ACCORDANCE WITH THE LAWFUL AND REASONABLE INSTRUCTIONS OF THE CUSTOMER PROVIDING THE PERSONAL INFORMATION.**
- 17.4. METROFIBRE SHALL:**
- 17.4.1. COMPLY WITH THE SPECIFIC SECURITY AND PERSONAL INFORMATION PROTECTION OBLIGATIONS IMPOSED ON IT IN TERMS OF POPIA;**
- 17.4.2. WHERE APPLICABLE, COMPLY WITH THE SPECIFIC OBLIGATIONS IMPOSED ON IT IN TERMS OF POPIA IN RESPECT OF THE SPECIFIC ROLE IT FULFILS IN TERMS OF PROVIDING THE SERVICES AS AGREED BETWEEN THE PARTIES; AND/OR**
- 17.4.3. TAKE, IMPLEMENT AND MAINTAIN ALL SUCH TECHNICAL AND ORGANISATIONAL SECURITY PROCEDURES AND MEASURES NECESSARY OR APPROPRIATE TO PRESERVE THE SECURITY AND CONFIDENTIALITY OF THE PERSONAL INFORMATION IN ITS POSSESSION AND TO PROTECT SUCH PERSONAL INFORMATION AGAINST UNAUTHORISED OR UNLAWFUL DISCLOSURE, ACCESS OR PROCESSING, ACCIDENTAL LOSS, DESTRUCTION OR DAMAGE.**
- 17.5. METROFIBRE MAY SHARE THE CUSTOMER'S PERSONAL INFORMATION WITH ITS CONTRACTORS, EMPLOYEES, PROFESSIONAL ADVISORS OR OTHER THIRD PARTIES WHERE NECESSARY IN ORDER TO PROTECT THE LEGITIMATE INTERESTS OF ANY OF**

THE PARTIES OR IN CONNECTION WITH THESE TERMS AND CONDITIONS AND THE SERVICES.

- 17.6. METROFIBRE MAY NOTIFY THE CUSTOMER ABOUT IMPORTANT DEVELOPMENTS, PROPOSALS AND SERVICES WHICH IT THINKS MAY BE RELEVANT TO THE CUSTOMER, INCLUDING ADVISING THE CUSTOMER ON CURRENT OFFERINGS, SENDING THE CUSTOMER NEWSLETTERS AND SIMILAR MARKETING MATERIAL. THE CUSTOMER SHALL NOTIFY METROFIBRE IF HE/SHE DOES NOT WISH TO RECEIVE ANY ELECTRONIC OR OTHER COMMUNICATIONS FROM METROFIBRE.**
- 17.7. COMMUNICATIONS BETWEEN METROFIBRE AND THE CUSTOMER WHETHER ELECTRONIC, TELEPHONIC OR OTHERWISE, MAY BE MONITORED BY METROFIBRE TO ENSURE COMPLIANCE WITH ITS OWN PROFESSIONAL STANDARDS AND INTERNAL COMPLIANCE POLICIES AND IN TERMS OF RICA SHOULD METROFIBRE HAVE REASONABLE SUSPICION TO BELIEVE THAT THE CUSTOMER IS USING THE SERVICES FOR PURPOSES CONTRARY TO METROFIBRE'S FAIR USAGE POLICY.**
- 17.8. THE CUSTOMER CONSENTS TO METROFIBRE USING CLOUD-BASED COMPUTER STORAGE FACILITIES TO STORE THE PERSONAL INFORMATION OF THE CUSTOMER AND THE CUSTOMER FURTHER CONSENTS TO THE STORAGE OF THE CUSTOMER'S PERSONAL INFORMATION OUTSIDE OF THE BORDERS OF THE REPUBLIC OF SOUTH AFRICA, TO THE EXTENT REQUIRED AND AS MAY BE APPLICABLE.**
- 17.9. METROFIBRE MAY FOR PURPOSES OF THE COLLECTION, USE, STORAGE OR PROCESSING THEREOF, NEED TO TRANSFER THE CUSTOMER'S PERSONAL INFORMATION TO:**
- 17.9.1. OUTSOURCED INFORMATION TECHNOLOGY SERVICE PROVIDERS; OR**
- 17.9.2. ANOTHER COUNTRY FOR LEGITIMATE PURPOSES, INCLUDING THE USE OF CLOUD-BASED SOLUTIONS.**
- 17.10. METROFIBRE WILL IN RELATION TO CLAUSE 17.9, REQUIRE THAT ANY THIRD PARTY, OUTSOURCED SERVICE PROVIDER OR FOREIGN LEGAL ENTITY INVOLVED IN THE COLLECTION, USE, STORAGE OR PROCESSING, UNDERTAKES TO ENSURE THAT SUCH PERSONAL INFORMATION IS PROTECTED WITH A SIMILAR LEVEL OF PROTECTION AS IS REQUIRED IN TERMS OF CLAUSE 17.4.**
- 17.11. THE CUSTOMER UNDERTAKES TO NOTIFY METROFIBRE OF ANY CHANGES OR ERRORS TO THE PERSONAL INFORMATION WHICH THE CUSTOMER PROVIDED TO METROFIBRE. METROFIBRE WILL UPDATE THE CUSTOMER'S PERSONAL INFORMATION WITHIN A REASONABLE PERIOD OF BEING NOTIFIED OF ANY CHANGES OR ERRORS.**
- 17.12. SHOULD THE CUSTOMER BELIEVE THAT METROFIBRE HAS UTILISED ITS PERSONAL**



INFORMATION CONTRARY TO THE DIRECTIVES OF POPIA, THE CUSTOMER UNDERTAKES TO FIRST ATTEMPT TO RESOLVE ANY CONCERNS WITH METROFIBRE BY ADDRESSING A COMPLAINT IN WRITING TO THE METROFIBRE INFORMATION OFFICER'S EMAIL ADDRESS AT INFOOFFICER@METROFIBRE.CO.ZA OR BY CALLING 087 151 4000. IF THE CUSTOMER IS NOT SATISFIED WITH THE OUTCOME OF SUCH PROCESS, THE CUSTOMER HAS THE RIGHT TO LODGE A COMPLAINT WITH THE INFORMATION REGULATOR AS ESTABLISHED IN TERMS OF THE POPIA.

18. GENERAL

- 18.1. These Terms and Conditions 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 notified to the Customer. 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.
- 18.2. **THE CUSTOMER ACKNOWLEDGES THAT METROFIBRE 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 METROFIBRE OPERATES, MAY REQUIRE METROFIBRE TO AMEND THE PROVISIONS OF THESE TERMS AND CONDITIONS FROM TIME TO TIME. ANY REVISED OR UPDATED VERSION OF THESE TERMS AND CONDITIONS WILL BE AVAILABLE ON METROFIBRE'S WEBSITE AND NOTICE OF ANY SUCH REVISED OR UPDATED VERSION WILL BE PROVIDED TO THE CUSTOMER. SHOULD THE CUSTOMER NOT BE COMFORTABLE WITH ANY REVISIONS TO THESE TERMS AND CONDITIONS, THE CUSTOMER MAY TERMINATE THESE TERMS AND CONDITIONS IN ACCORDANCE WITH THE PROVISIONS OF CLAUSE 3.2 ABOVE.**
- 18.3. If any part of these Terms and Conditions 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, that the agreement shall be interpreted against the party responsible for the preparation thereof, shall not apply to these Terms and Conditions.
- 18.4. These Terms and Conditions shall be subject to and shall be governed by the laws of the Republic of South Africa.
- 18.5. **THE CUSTOMER AGREES, IN ACCORDANCE WITH THE PROVISIONS OF THE MAGISTRATES COURT ACT OF 1944 AND ITS APPLICABLE REGULATIONS, AS AMENDED, TO THE JURISDICTION OF THE MAGISTRATES COURT HAVING JURISDICTION OVER ITS PERSON IN CONNECTION WITH ANY ACTION OR PROCEEDING INSTITUTED AGAINSTTHE CUSTOMER IN TERMS OF OR ARISING OUT OF THESE TERMS AND CONDITIONS.**



18.6. Dispute resolution and escalation:

18.6.1. Subject to clause 18.6.2 below, the Customer shall be entitled to refer any dispute between itself and MetroFibre 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.

18.6.2. However, the Customer shall first exhaust MetroFibre's internal escalation route for dispute resolution and fault reporting in accordance with MetroFibre Go' s Service Level Annexure before escalating any such matter to the Authority or other regulatory body having jurisdiction.

18.6.3. **THE CUSTOMER SHALL REFRAIN FROM ATTACKING METROFIBRE OR ITS CONTRACTORS ON ANY SOCIAL MEDIA PLATFORMS FOR DELAYS IN INSTALLATION AND/OR INTERRUPTIONS OF THE SERVICES AND/OR REPAIRS, WITHOUT FIRST FOLLOWING THE ESCALATION ROUTES AND REMEDIES STATED ABOVE. FAILURE TO COMPLY WITH THIS CLAUSE SHALL ENTITLE METROFIBRE TO CANCEL THESE TERMS AND CONDITIONS WITHOUT ANY FURTHER NOTICE TO THE CUSTOMER. METROFIBRE 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 TERMS AND CONDITIONS AS AFOREMENTIONED.**



ANNEXURE 1 – SERVICE LEVEL ANNEXURE

1. OVERVIEW

- 1.1 This is a Service Level Annexure between MetroFibre and the Customer for the support and maintenance of MetroFibre Go services provided by MetroFibre to the Customer. Network Services provided on a third-party network are subject to the Service Level Agreement provided in the terms and conditions, if any, of the relevant Network Service provider.
- 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 the Standard Terms and Conditions and shall be incorporated therein. Words and phrases defined in the Standard Terms and Conditions shall 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 MetroFibre.
- 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; and
 - 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 Authentication and, subject to 3.2, shall remain in force for the duration of Customer's relationship with MetroFibre.
- 3.2 The Parties agree that the SLA may be updated if circumstances dictate. Any reference to the SLA in the Terms and Conditions 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 MetroFibre is committed to providing reliable, high quality Services to the Customer.
- 4.2 Complaints in respect of the MetroFibre Go Service shall be logged with MetroFibre via telephone at 012 006 0708 or email Go.Support@metrofibre.co.za MetroFibre undertakes to deal with all complaints expeditiously and in terms of Applicable Laws.

4.3 If the Customer is dissatisfied with first line service, complaints may be made in terms of MetroFibre’s Complaints Policy available on the MetroFibre website at www.metrofibre.co.za.

4.4 Network Services related issues can only be dealt with by the Network Provider and should be escalated to that Network Provider.

5. METROFIBRE GO FTTH SERVICE LEVELS

5.1 Planned Network Availability

MetroFibre refers Customer to the service level commitment of the applicable Network Service provider.

5.2 MetroFibre Go Service Hours

MetroFibre Go operates a Customer Call Centre operating times:

FTTH Customer Care Hours of Operation		
	Monday – Friday	06:00 – 22:00
	Saturday & Sunday	06:00 – 22:00
	Public Holidays	06:00 – 22:00
FTTH Fault Reporting		
Telephonically	Monday – Friday	06:00 – 22:00
	Saturday & Sunday	06:00 – 22:00
	Public holidays	06:00 – 22:00
Customer Portal	Ticket for Faults can be logged 24/7 on the Customer Portal but attendance will only commence during the above stipulated times.	

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 Services are intended solely for home use:

6. SERIOUS FAULTS

Serious faults are faults that cause the Customer to still be completely offline after all remote, first line diagnostics have been completed. Events of Force Majeure, Customer caused damage, as well as negligent or malicious damage by third parties, may be excluded from this service level.

7. MINOR FAULTS

Minor faults are 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 the Customers’ Wi-Fi use and physical environments.

7.1 Customer Call Centre contact details Email: go.support@MetroFibre.co.za Telephone: 087 151 4010. Emails to this address will be responded to within 3 (three) business days.

7.2 The MetroFibre Go Service is a best efforts 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.

7.3 MetroFibre does not give any guarantees with regards to the quality, speed and consistency of the Wi-Fi performance of the Router.

8. REPAIRS AND MAINTENANCE

8.1 Scheduled maintenance of the MetroFibre network, or any portion thereof, will not normally result in service interruption or outage. Should scheduled maintenance require a service interruption or outage, MetroFibre will exercise commercially reasonable efforts to provide the Customer prior notice of the scheduled maintenance.

8.2 MetroFibre will arrange for any necessary repairs arising in terms of these Terms and Conditions. Unless specifically otherwise provided in the Terms and Conditions, MetroFibre will be responsible for the costs of any repairs arising from faults in MetroFibre Routers, except where such fault was due to Customer activity or negligence, which costs shall be for the Customer's account.

8.3 Should a fault be on the Customer's own equipment, or as a result of the Customer's equipment connected to the ONT, a call-out fee may be charged.

8.4 MetroFibre shall use its best endeavours to inform all its Customers of any maintenance work on the Network or network service.

9. THIRD PARTY NETWORK PROVIDERS SERVICE LEVEL AGREEMENT

9.1 The Customer acknowledges that MetroFibre does not operate and function in isolation and is dependent on a number of services provided by various Network Providers that include but are not limited to Installation and maintenance of the physical fibre infrastructure and network.

9.2 Listed below are the Service delivery times and fault resolution timelines as provided by a number of the Network Providers. It should be noted that before any Order Form is provided to the Customers, a number of verification steps are performed by both MetroFibre and relevant Network Provider. This process may take up to 72 business hours.



Fibre Network Provider	Service	Projected Delivery or Resolution time frame
Openserve	Installation after order verification	Best Effort Service and dependent on availability.
	Activation of Fibre Line and ONT	Line Re-activation: Best Effort Service and dependent on availability. Active Line Migration: 24 – 48 hours after line successfully released
	Fault repair	Response within 136 hours. Resolution is dependent on fault severity level. Openserve is a Best Effort Network.
Vumatel	Installation after order verification	Best Effort Service and dependent on availability.
	Activation of Fibre Line and ONT	48 – 72 business hours
	Fault Repair	75% within 2 - 5 business days 100% within 14 business days
Connectivity Services	Installation after order verification	Best Effort Service and dependant on availability.
	Activation of Fibre Line and ONT	Within 7 days.
	Fault Repair	Best Effort Service and dependant on availability.



ANNEXURE 2 – FAIR USAGE POLICY

1. DEFINITIONS

- “Customer”** means the natural person entering into Terms and Conditions with MetroFibre for the provision of the Services;
- “MetroFibre Go”** means MetroFibre Go a product of Metro Fibre Networx Proprietary Limited, registration number: 2007/024366/07, a company incorporated in terms of the laws of the Republic of South Africa, which is an Internet Services Provider;
- “Network”** means the communications network used for the distribution of Services which are provided by a third-party Network Provider as envisaged in the respective Terms and Conditions entered into between MetroFibre and the Customer;
- “Service/(s)”** means any services provided by MetroFibre Go and which are made accessible to the Customer in terms of the respective Terms and Conditions entered into between MetroFibre and the Customer.

2. PURPOSE

- 2.1 This Fair Usage Policy (the **“Policy”**) serves to define the accepted behaviour of users on the Network and of the Services.
- 2.2 The Policy is intended to allow MetroFibre to:
- 2.2.1 maintain the integrity and quality of its Service;
 - 2.2.2 protect its Customers and infrastructure from abuse;
 - 2.2.3 adhere to current laws and regulations governing organisations and service providers in the Republic of South Africa; and
 - 2.2.4 co-exist with the global internet community as a responsible service provider.


3. GOVERNING LEGISLATION

- 3.1. The Customer undertakes to use the Network and the Services in accordance with any restrictions imposed under the following legislation:
- 3.1.1. Electronic Communications and Transactions Act 25 of 2002 and its applicable regulations, as amended;
 - 3.1.2. Electronic Communications Act 36 of 2005 and its applicable regulations, as amended;

- 3.1.3. Regulation of Interception of Communications and Provision of Communication- Related Information Act 70 of 2003 and its applicable regulations, as amended (“**RICA**”).

4. THE NETWORK

- 4.1. The Customer acknowledges that MetroFibre 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, MetroFibre is not responsible for data transmitted over its infrastructure.
- 4.2. The MetroFibre infrastructure may be used to link into other networks worldwide and the Customer agrees to abide by the Fair Use Policies of these networks.
- 4.3. The Customer is prohibited from obtaining, disseminating or facilitating any unlawful materials over the Network and via the Services including, but not limited to:
 - 4.3.1. copying or dealing in intellectual property without authorisation;
 - 4.3.2. child pornography or unlawful interactions with minors;
 - 4.3.3. any threatening or offensive material which is harmful, obscene, discriminatory, defamatory, constitutes hate speech or the unlawful incitement to commit criminal acts; and
 - 4.3.4. promotion, facilitation or funding of terrorist activities.
- 4.4. The Customer is prohibited from using the Network and Services in any way that:
 - 4.4.1. constitutes criminal activity or the aiding of criminal activity;
 - 4.4.2. constitutes Spam/E-mail abuse, a security risk or a violation of privacy; and
 - 4.4.3. interferes with the use or enjoyment of the Network by others.
- 4.5. In order to ensure that all Customers have fair and equal use of the Service and to protect the integrity of the Network, MetroFibre and the Network Provider reserves the right, and will take whatever steps it deems necessary, to prevent improper or excessive usage of the Service. These steps may include but are not limited to:
 - 4.5.1. any action required to prevent prohibited usage (whether intended or unintended) i.e., actions to prevent the spread of viruses, worms, malicious code, etc;
 - 4.5.2. limiting throughput;
 - 4.5.3. preventing or limiting Services through specific network ports or communication protocols;
 - 4.5.4. complete termination of Service to Customers who grossly abuse the Network and/or Services through improper or excessive usage;

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- 4.5.5. suspending the Customer's account;
 - 4.5.6. charging the offending Customer for administrative costs incurred as well as for machine and human time lost due to the incident;
 - 4.5.7. implementing appropriate mechanisms in order to prevent usage patterns that violate this Policy, the Acceptable Use Policy/ Fair Usage Policy of the Network Provider, if applicable, and/or any applicable laws; and/or
 - 4.5.8. sharing 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.

5. SYSTEM AND NETWORK SECURITY

- 5.1. Any reference to systems and networks under this section refer to all systems and networks to which the Customer is granted access through MetroFibre, including, but not limited to, the infrastructure of MetroFibre itself and the Internet.
- 5.2. The Customer may not circumvent the 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 but not limited to phishing.
- 5.3. Violations of system or network security by the Customer are prohibited and may result in civil and/or criminal liability. MetroFibre 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:
 - 5.3.1. 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 MetroFibre;
 - 5.3.2. unauthorised monitoring of data or traffic on the network or systems without the express authorisation of MetroFibre;
 - 5.3.3. interference with Service to any user, device, host or network including, without limitation, email bombing, flooding, deliberate attempts to overload a system and broadcast attacks;
 - 5.3.4. forging of any TCP-IP packet header (spoofing) or any part of the header information;
 - 5.3.5. knowingly uploading or distributing files that contain malware, including but not limited to viruses, spyware, Trojan horses, worms, time bombs, cancel bots, corrupted files, root kits or any other similar software or programs that may damage the operation of another's computer, network system or other property, or be used to engage in session or system hijacking;

- 5.3.6. engaging in the promotion or transmission of pirated software;
- 5.3.7. using manual or automated means to avoid any use limitations placed on the Services;
- 5.3.8. providing guidance, information or assistance with respect to causing damage or security breach to MetroFibre network or systems, or to the network of any other service provider;
- 5.3.9. impersonating others or secretly or deceptively obtaining personal information of third parties (phishing, social engineering, etc.); and
- 5.3.10. failure to take reasonable security precautions to help prevent violations of this Policy.

6. INTERCEPTION

The Customer acknowledges that MetroFibre is lawfully required to intercept communications in accordance with the provisions of RICA. Any interception of communications shall be strictly in accordance with the provisions of RICA.

7. GENERAL

- 7.1. This Policy forms part of MetroFibre Go's Standard Terms and Conditions in respect of any of its Services and the usage of any of its Services shall be subject to this Policy.
- 7.2. The Customer must take note that the Network Provider may have its own Network Provider Acceptable Use Policy/ Fair Use Policy and it is the Customer's responsibly to ensure compliance thereto in addition to this Policy.
- 7.3. Any cases pertaining to violation of this Policy, must be reported to abuse@metrofibre.co.za.

ANNEXURE 3 – METRO UP

1. INTRODUCTION

This Annexure 3 to Metro Fibre Networx Pty Ltd's MetroFibre Go Standard Terms and Conditions governs the Customer's use by Customer of MetroFibre's UPS service offering (the "**MetroUp Service**"). You agree to be bound to these MetroUp Terms and Conditions by signing up as a customer for the MetroUp Service and for the duration of the provision of the MetroUp Service.

2. DEFINITIONS AND INTERPRETATION

2.1. In these MetroUp Terms and Conditions unless a contrary intention is clear from the context, the following words and phrases shall have the following meanings:

- 2.1.1 **"Device"** UPS device, mesh extender and gateway router and any CPE as may be provided by MetroFibre to Customer from time to time;
- 2.1.2 **"MetroFibre Go Terms and Conditions"** MetroFibre Go standard terms and conditions for its fibre to the home internet connectivity products and services, to which this Annexure is attached;
- 2.1.3 **"MetroFibre Customer Portal"** the web-based portal available to customers of MetroFibre in products and services;
- 2.1.4 **"MetroUp Charges"** Subscription and all other charges relating to the provision of the MetroUp Service to the Customer as amended by MetroFibre from time to time;
- 2.1.5 **"MetroUp Order Form"** the Customer order form duly completed by Customer or agent in a format determined by MetroFibre and submitted to MetroFibre in respect of the MetroUp Service via telesales, website, SSP or other;
- 2.1.6 **"MetroUp Service" or "Service"** an inline UPS solution for Customers; and
- 2.1.7 **"UPS"** uninterruptable power supply (UPS) being a continual power system that provides automated backup electric

power to a load when the input power source or mains power fails.

2.2. In these MetroUp Terms and Conditions, unless a contrary intention is clear from the context:

2.2.1. the singular includes the plural and vice versa;

2.2.2. a reference to any gender includes the other genders and a reference to a person includes any individual, body corporate, unincorporated entity or any other entity recognised in law as having a separate legal existence;

2.2.3. 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; and

2.2.4. headings of clauses have been inserted for convenience only and shall not be considered in the interpretation of these MetroUp Terms and Conditions.

2.3. If there is any conflict between the provisions of these MetroUp Terms and Conditions and a MetroUp Order Form, the provisions of these MetroUp Terms and Conditions shall prevail to the extent of such conflict. If there is any conflict in terms of these MetroUp Terms and Conditions and the MetroFibre Go Terms and Conditions, then the MetroUp Terms and Conditions shall prevail to the extent of the conflict.

2.4. No provision in these MetroUp Terms and Conditions is intended to contravene the applicable provisions of the Consumer Protection Act 68 of 2008 as amended from time to time, and its related regulations (“CPA”) and therefore all provisions of these MetroUp Terms and Conditions to the extent that the MetroUp Terms and Conditions or any goods and services provided under these MetroUp Terms and Conditions are governed by the CPA, must be treated as qualified, to the extent necessary, to ensure that the applicable provisions of the CPA are complied with.

2.5. To the extent required, the provisions of the MetroFibre Go Terms and Conditions are incorporated by reference into these MetroUp Terms and Conditions. Any capitalised word that this not defined above shall be defined with reference to the MetroFibre Go Terms and Conditions.

3. PROVISION OF THE MetroUp SERVICE

3.1. The MetroUp Service is an additional/value added service offered by MetroFibre to Customers for the provision of an uninterrupted power supply/ source for their Customer Premises Equipment at the Customer Premises.

- 3.2. MetroFibre shall make the MetroUp Service available to the Customer for the duration specified herein and subject to the MetroFibre Go Terms and Conditions and the MetroUp terms and conditions set out herein ("**MetroUp Terms and Conditions**").
- 3.3. Where an electronic MetroUp Order Form is placed through the MetroFibre Customer Portal, the order as selected and executed by MetroFibre will be billed to the person whose name is set out at the top of the MetroUp Order Form.
 - 3.3.1. MetroFibre shall procure that the Device shall be delivered and/or installed at the Customer Premises during the processing of any order.
 - 3.3.2. On termination of any MetroFibre Go service or the MetroUPS Service for whatever reason, the Customer shall procure the return of the Device to MetroFibre at Customer's sole cost and expense.

4. DURATION

- 4.1. Notwithstanding the date of signature of the MetroUp Order Form, the commencement date of the MetroUp Service shall be deemed to be the date of installation of the Device at the Customer Premises and shall endure on a month by month basis until terminated by the Customer in writing.

5. THE MetroUp SERVICE

- 5.1. Notwithstanding the provisions of these MetroUp Terms and Conditions, ownership in and to any UPS Device obtained by Customer from MetroFibre shall remain with MetroFibre at all times without reservation.
- 5.2. MetroFibre does not warrant that the Device will be operational on a 24 (twenty-four) hour 365 (three hundred and sixty-five) days per year basis. Furthermore, MetroFibre expressly advises, and the Customer acknowledges and accepts that the UPS devices are not manufactured by MetroFibre, but by third parties. MetroFibre will not be able to open UPS devices or to test or operate the selected UPS Device's to ensure that they are fit for purpose and/or are intact before they are handed to the Customer.
- 5.3. Considering the disclosures housed under clause 5.2 above, MetroFibre expressly stipulates and the Customer acknowledges that MetroFibre cannot warrant or guarantee that the UPS Device will be (i) be free of errors or interruptions; (ii) be available, (iii) be fit for any purpose, (iii) not infringe on any third-party rights, and (iv) be secure and reliable.
- 5.4. Customer's sole remedy against MetroFibre for a defective Device where the Device is subject to the original equipment manufacturers (OEM) warranties given to MetroFibre, shall be replacement by MetroFibre at its own cost of such defective Device. Notwithstanding the foregoing, Customer shall be solely responsible for the replacement cost of the Device together

with associated costs thereto where the Device is disabled due to local lightning strike / activity.

5.5. Customer indemnifies MetroFibre and holds it harmless against any claim or action which may be brought by any third party arising out of Customer's use of the UPS Device.

5.6. **THE MetroUp SERVICE IS A BEST-EFFORTS SERVICE THAT RELIES ON THE PROVISION OF ELECTRICAL UTILITY SUPPLIES WHICH ARE OUTSIDE OF THE CONTROL OF METROFIBRE. METROFIBRE DOES NOT GUARANTEE THE AVAILABILITY OF THE MetroUp SERVICE AND DEVICE.**

6. PROCESSING OF PERSONAL INFORMATION

In order to render the services or to comply with the obligations imposed on MetroFibre in terms of these MetroUp Terms and Conditions, MetroFibre will need to provide, collect, use, store or process the Personal Information of the Customer. The Customer hereby authorises such collection, use, storage and processing where the need arises, subject to compliance with the provisions of clause 6 of the FTTH Terms and Conditions and further subject to the terms and conditions of MetroFibre Privacy Policy, a copy of which may be obtained at <https://metrofibre.co.za/privacy-policy>.

7. BILLING AND PAYMENT

7.1. The Customer will be billed by MetroFibre Monthly in advance, unless otherwise specifically agreed in the MetroUp Order Form, but MetroFibre may provision the MetroUp Services before the first payment is processed and reflecting in MetroFibre's bank account.

7.2. The Customer shall pay the MetroUp Charges within 3 (three) days from the date of invoice and statement, into the bank account nominated by MetroFibre for this purpose, in full, without deduction or set-off and free of bank charges for the supply and delivery of the MetroUp Services, irrespective of whether or not the MetroUp Service is used.

7.3. MetroFibre shall be entitled to change the fees payable by the Customer upon 30 (thirty) days-notice.

7.4. The provisions of clause 8 of MetroFibre Go's Terms and Conditions shall *mutatis mutandis* apply to the provision of the MetroUp Service.

8. CANCELLATION AS A RESULT OF IMPOSSIBILITY OF PERFORMANCE

8.1. If MetroFibre is restricted or prevented from carrying out any or all of its obligations as a result of an Event of Force Majeure, unavailability of any applicable network service or any other event or circumstance giving rise to impossibility or performance delay, then MetroFibre 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.

8.2. If the event in clause 8.1 continues for a period more than 30 (thirty) days, either Party may cancel with immediate effect by written notice to the other Party.

9. DISCLAIMER, LIMITATION OF LIABILITY AND INDEMNITY

9.1. **CUSTOMER USES THE MetroUp SERVICE AT HIS/HER OWN RISK AND THE MetroUp SERVICE IS PROVIDED ON AN “AS IS” BASIS WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. . METROFIBRE DOES NOT WARRANT THAT ANY INFORMATION PROVIDED BY US IS ACCURATE, COMPLETE, OR USEFUL, THAT OUR MetroUp SERVICES WILL BE OPERATIONAL, ERROR FREE, SECURE, OR SAFE, OR THAT OUR MetroUp SERVICES WILL FUNCTION WITHOUT DISRUPTIONS, DELAYS, OR IMPERFECTIONS. WE DO NOT CONTROL, AND ARE NOT RESPONSIBLE FOR, CONTROLLING HOW OR WHEN OUR CUSTOMERS USE OUR MetroUp SERVICES AND INTERFACES OUR MetroUp SERVICES PROVIDED. METROFIBRE IS NOT RESPONSIBLE FOR AND IS NOT OBLIGATED TO CONTROL THE ACTIONS OF OUR CUSTOMERS OR OTHER THIRD PARTIES. CUSTOMER RELEASES US, OUR SERVICES PROVIDERS, AND OUR AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, PARTNERS, AND AGENTS FROM ANY CLAIM, COMPLAINT, CAUSE OF ACTION, CONTROVERSY, OR DISPUTE (TOGETHER, “CLAIM”) AND DAMAGES, KNOWN AND UNKNOWN, RELATING TO, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH ANY SUCH CLAIM CUSTOMER HAS AGAINST ANY THIRD PARTIES.**

9.2. **METROFIBRE WILL NOT BE LIABLE TO CUSTOMER FOR ANY LOST PROFITS OR CONSEQUENTIAL, SPECIAL, INDIRECT, OR INCIDENTAL DAMAGES RELATING TO, ARISING OUT OF, OR IN ANY WAY IN CONNECTION WITH OUR FTTH TERMS AND CONDITIONS, THESE MetroUp TERMS AND CONDITIONS OR THE USE OF OUR MetroUp SERVICE. THE FOREGOING DISCLAIMER OF CERTAIN DAMAGES AND LIMITATION OF LIABILITY WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.**

9.3. **IT IS SPECIFICALLY AGREED THAT METROFIBRE SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSSES INCURRED BY THE CUSTOMER RELATING TO THE UNAVAILABILITY (TEMPORARY OR OTHERWISE) OF DEVICE AND/OR NETWORK MALFUNCTION AND /OR FAILURE OF ANY POWER UTILITY PROVISION ON WHICH THE MetroUp SERVICE IS DEPENDENT, OR FOR ANY OTHER REASON WHATSOEVER.**

9.4. **CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS METROFIBRE FROM AND AGAINST ALL LIABILITIES, DAMAGES, LOSSES, AND EXPENSES OF ANY KIND (INCLUDING REASONABLE LEGAL FEES AND COSTS) RELATING TO, ARISING OUT OF, OR IN ANY WAY IN CONNECTION WITH ANY OF THE FOLLOWING: (A)**



CUSTOMER'S ACCESS TO OR USE OF THE MetroUp SERVICE (B) CUSTOMER'S BREACH OR ALLEGED BREACH OF THESE MetroUp TERMS AND CONDITIONS; OR (C) ANY MISREPRESENTATION MADE BY YOU OR INCORRECT INFORMATION PROVIDED BY YOU. CUSTOMER AGREES TO COOPERATE AS FULLY AS REQUIRED BY METROFIBRE IN THE DEFENSE OR SETTLEMENT OF ANY CLAIM.

10. DOMICILIA AND NOTICES

As per the MetroUp Order Form for Customer.

For MetroFibre:

Physical address: Metro Fibre Network Pty Ltd, Eco Square, 298 Witch-Hazel Avenue, Highveld, Ext.71, Centurion, 0157.

Emails to legal@metrofibre.co.za marked for the attention of the Head of Legal.

11. DISCLOSURE

11.1. THE CUSTOMER WARRANTS AND REPRESENTS THAT ALL INFORMATION PROVIDED DURING REGISTRATION OR ELSEWHERE RELATING TO THESE MetroUp TERMS AND CONDITIONS, IS TRUE, CORRECT AND COMPLETE AND THE CUSTOMER INDEMNIFIES METROFIBRE AGAINST ANY CLAIM THAT MAY ARISE AS A RESULT OF A BREACH OF THIS WARRANTY.

11.2. THE CUSTOMER AUTHORISES METROFIBRE 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.

11.3. METROFIBRE 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.

11.4. MetroFibre 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 these MetroUp Terms and Conditions or in writing by the Customer.

12. GENERAL

12.1. Customer shall not be entitled to transfer any of his/her/its rights or delegate any of his/her/its obligations under these MetroUp Terms and Conditions to anyone without Metro Fibre's prior written consent.

12.2. The Customer acknowledges that MetroFibre 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 MetroFibre operates, may require MetroFibre to amend the terms and conditions of these MetroUp Terms and Conditions from time to time. **ANY REVISED OR UPDATED VERSION OF THESE MetroUp TERMS AND CONDITIONS WILL BE AVAILABLE ON METROFIBRE'S WEBSITE AT WWW.METROFIBRE.CO.ZA AND NOTICE OF ANY SUCH REVISED OR UPDATED VERSION WILL BE PROVIDED TO THE CUSTOMER. SHOULD THE CUSTOMER NOT BE COMFORTABLE WITH ANY REVISIONS TO THESE MetroUp TERMS AND CONDITIONS, THE CUSTOMER MAY TERMINATE THESE MetroUp TERMS AND CONDITIONS AT ANY TIME BY GIVING THE REQUIRED NOTICE IN CLAUSE 4 ABOVE.**

- 12.3. If any part of these MetroUp Terms and Conditions are 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 these MetroUp Terms and Conditions.
- 12.4. This MetroUp Terms and Conditions shall be subject to and shall be governed by the laws of the Republic of South Africa.
- 12.5. **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 THESE MetroUp TERMS AND CONDITIONS.**
- 12.6. Dispute resolution and escalation:
 - 12.6.1. Subject to clause 12.6.2 below, the Customer shall be entitled to refer any dispute between itself and MetroFibre regarding the installation and/or accessibility of MetroUp Services to the Authority or to refer any matter to any other regulatory body having jurisdiction in respect thereof.
 - 12.6.2. However, the Customer shall first exhaust MetroFibre's internal escalation route for dispute resolution and fault reporting before escalating any such matter to the Authority or other regulatory body having jurisdiction.
- 12.7. These MetroUp Terms and Conditions constitute the entire agreement between the parties with regard to the subject matter hereof and supersedes and/or replaces any contemporaneous understandings or agreement, written or oral, regarding such subject matter.