

# Terms And Conditions

No one really likes digging through the small print, but it's essential to have these Terms and Conditions in place so that everyone is protected. However, we'll try and keep them as simple and easy to read as possible.

The purpose of these rules is to protect both you as the customer and us as the service provider. This is the best way to prevent any problems that may disrupt the business relationship between us. If you have any questions regarding any of the points below then please e-mail us at [hello@ftta.co.za](mailto:hello@ftta.co.za) and we will clear up any confusion.

We have tried to include everything that could cause a problem. Sometimes the terms of service are changed, so please revisit this page every now and then to keep yourself up to date on any changes that may affect you.

Fibre To The Apartment will send your computer generated invoices for all services rendered to you. All such invoices and credit notes will be sent to you via e-mail.

## Connectivity Terms of Use

### General

These terms and conditions govern the use of all of the Fibre To The Apartment connectivity services or any products that are accompanied by connectivity services. Fibre To The Apartment offers both capped and uncapped fibre services – please visit our website and go to our connectivity page for more information so that you can decide which product best fits your needs.

Your contract with Fibre To The Apartment is a legally binding document by which you agree to make use of our services in terms of the conditions of this Agreement.

You (the customer) or someone specifically appointed by you (the customer's agent) must certify that you or the agent is above the age of 18 years, has full contractual capacity and is duly authorised by you as the Applicant to contract on your behalf.

### Applicable Documents

The following legal provisions apply to the provision of the Fibre To The Apartment services and are binding on any subscriber to such service:

Service availability and confirmation of service availability

There must be fibre feasibility in your area of work or stay in order to subscribe to our fibre service. It's best to confirm the availability on e-mail to [hello@fta.co.za](mailto:hello@fta.co.za). Service availability to any applicant is further subject to:

- Any credit checks which Fibre To The Apartment may, in its sole discretion, choose to carry out. For this purpose the applicant hereby authorizes Fibre To The Apartment to conduct credit checks and provide relevant information to any credit bureau as may be required for this purpose; and
- The applicant must comply with RICA customer registration requirements.

### **Payment and payment terms**

Service fees are payable to Fibre To The Apartment monthly in advance through a debit order. Payment is due on the last working day of each and every calendar month. Billing will begin on the date on which service provision starts.

### **Term and termination**

Fibre to the Apartment either operates on month-to-month contracts or 12-month contracts for FTTH, (Fibre to the Home), otherwise stated 1 or 2 year contracts for FTTB, (Fibre to the Business). FTTH which may be cancelled on receipt of a written notice 30 days before the termination date which will be the end of the month.

Fibre To The Apartment reserves the right to terminate this Agreement and any service provision to a customer where there is a breach of these Terms of Use. The company nevertheless undertakes to act in a reasonable manner in undertaking any such course of action.

### **Bandwidth top-ups**

When subscribers have used up the bandwidth they have purchased for the month or when they reach the limit of their fixed cap, they will be hard-capped. This means that users will have no further access to the internet, additional bandwidth can be purchased at [my.fta.co.za](http://my.fta.co.za) even when capped and billed in arrears for the additional bandwidth.

### **Public IP's**

All accounts are enabled with our Public /30 IP's and if any additional IP Addresses are required, they can be purchased.

## **Uncapped Fibre – Fair Use Policy**

Fibre to the Apartment reserves the right to manage users with abuse behaviour patterns whilst retaining its uncapped nature.

### **Usage Monitoring**

Fibre To The Apartment monitors subscribers' bandwidth usage in order to ensure that bandwidth limitations are not exceeded. This monitoring is subject to the nature of the Fibre services CPE connection to our network. Fibre To The Apartment further reserves the right to take any necessary measures to monitor and calculate usage effectively, including terminating subscriber sessions by remote means.

If a subscriber exceeds the pre-purchased bandwidth or fixed cap then:

Fibre To The Apartment, at its sole discretion, may allow a degree of over usage. Any such over usage allowance is a discretionary indulgence on the part of the company and shall not in any manner constitute a waiver or relaxation of the company's rights to enforce the hard cap.

Fibre To The Apartment may, at its sole discretion, recover the cost of the over usage from the subscriber's fixed cap for the next month or from the next top-up purchased.

Fibre to the Apartment also monitors its systems for performance and accounting purposes. The information which the company garners through these mechanisms may be used to ensure that users are complying with the Acceptable Usage Policy.

### **Speedtests**

Fibre To The Apartment (PTY) Ltd cannot guarantee speeds over a wireless connection. The performance of wireless connections are influenced by the environment and the quality is susceptible to external interference. Fibre To The Apartment (PTY) Ltd's responsibility ends at your router and your IT service provider will need to investigate issues beyond the router. Fibre To The Apartment (PTY) Ltd will only accept speed tests from <http://www.speedtest.net> that have been done with a network cable plugged into the router and NOT over a wireless connection.

### **Subscriber usage management**

Subscribers can manage their usage proactively to avoid being prematurely hard capped, as well as check their bandwidth usage by logging in to the Fibre To The Apartment Usage Portal website [my.ftta.co.za](http://my.ftta.co.za)

## **Disclaimer and Limitation of Liability**

Fibre To The Apartment accepts no liability for any loss or damage to the customer's property or equipment arising out of the provision, installation or maintenance of their Fibre service.

APPLICATION FOR, USE OF AND SUBSCRIPTION TO THIS SERVICE ARE AT THE SOLE RISK OF THE SUBSCRIBER OR APPLICANT.

Subscribers are solely responsible for all actions or internet activities that are authenticated by credentials (passwords or other information) associated with their account(s). Fibre To The Apartment advises clients to change their passwords regularly to avoid any security problems. The company accepts no liability for any loss or damage suffered by subscribers through the use or misuse of their passwords or other authentication credentials.

- The provision of upstream and network services by third-party providers;
- Fibre Feasibility/Network availability;
- Distance of the customer's premises to the closes fibre man hole.
- Fibre To The Apartment reserves the right to refuse fibre service based on network, domain and/or equipment identifiers.

Fibre To The Apartment will not be liable to the subscriber or to any third party in respect of all and any damages, loss, claims or costs, of whatever nature and including but not limited to direct, indirect, consequential or special damages, suffered by the subscriber or third party, however these arise.

## **Indemnity**

The customer indemnifies and holds FTTA harmless in respect of any damages, loss or costs or claims instituted against FTTA arising from any application or subscription to or use of the service or breach of the terms and conditions applicable to it.

## **Repairs**

Fibre To The Apartment assumes that DSL service provision to a subscriber is in good working order until such time as the subscriber advises Fibre To The Apartment Support of any problems or service interruptions.

Any faults or service interruption should be reported by e-mailing [hello@fta.co.za](mailto:hello@fta.co.za) or by calling the Fibre To The Apartment Client Services during office hours on 087 238 2085.

Depending on the circumstances of the service interruption and nature of the repairs required, either Fibre To The Apartment or Open Access ISP will be responsible for fixing the service. Repairs will optimally occur during office hours and the relevant service provider will strive to restore the FTTH/FTTB service in the shortest possible time.

If either Fibre To The Apartment or the telephony provider ascertains that the fault reported by the subscriber was caused by subscriber equipment which is not covered by a maintenance agreement, the subscriber will be liable for payment of the relevant call-out charge.

### **Service credit**

The subscriber is entitled to a credit on the rental amount of the service for the duration of the interruption on a pro-rata basis. However this only applies if the fibre service has been completely unavailable for a continuous period of at least twenty four (24) hours. The credit excludes the line rental for the twenty four (24) hour period.

The calculation of time periods for the purpose of determining any credit for service interruption will only begin at the time when the fault is reported to Fibre To The Apartment Support. The credit will only be passed on request.

### **Cancellations**

To cancel a service, a subscriber must give Fibre To The Apartment written notice no later than one calendar month before termination is required. Such notice will take effect on the first day of the month immediately following the end of the notice period.

### **Amendments**

It is important to note that these terms and conditions are subject to change, due to a variety of factors. Subscribers must agree to revisit these terms and conditions regularly to check for updates. Fibre To The Apartment will highlight any changes that have been made.

Where changes to tariffs or the terms and conditions of service are made, the subscriber will be deemed to have agreed to the amended tariff or terms and conditions if they continue to use the service. In the event that a subscriber does not agree with any amendment they should cease using the service and contact Fibre To The Apartment.

### **Use at the client's own risk**

Fibre To The Apartment will exercise no control whatsoever over the content of the material hosted on, or the information passing through the Fibre To The Apartment network and in no way moderates such content.

The client expressly agrees that use of Fibre To The Apartment's server(s) and services are at their own sole risk. Fibre To The Apartment is not responsible for files and/or data residing on the client's account. The client agrees to take full responsibility for any transfers of files and data and to maintain all appropriate backup of files and data stored on the Fibre To The Apartment web servers, including e-mail, databases and site content.

### **Refusal of services based on network, domain and/or equipment identifiers**

Fibre To The Apartment reserves the right to refuse domain and hosting services based on network, domain and/or equipment identifiers.

### **Termination**

Should the client breach of any of the terms and conditions contained herein, including but not specifically limited to the terms of payment, Fibre To The Apartment has the right (at its sole discretion) to demand immediate payment of the full amount owed and demand compliance forthwith with all the terms and conditions Alternatively the company may elect to terminate the agreement and services forthwith, in either instance without in any way derogating from any common law, contractual and or delictual rights which Fibre To The Apartment may have.

Fibre To The Apartment reserves the right to suspend or terminate the service of any customer that does not comply with the terms and conditions, Acceptable Use Policy or any other contractual obligations.

### **General provisions**

The client confirms that all statements made in this application are true and correct. Fibre To The Apartment reserves the right to request proof thereof.

Any disputes arising in relation to this application or the supporting documents shall be governed by the applicable laws of the Republic of South Africa.

Any form of abuse of Fibre To The Apartment' staff will result in suspension or termination of services, irrespective of the form and medium of this abuse.

In the event that any of the terms of this document are found to be invalid, unlawful or unenforceable, such terms will be severable from the remaining terms, which will continue to be valid and enforceable.

Fibre To The Apartment reserves the right to remove any content hosted by that member which it considers illegal or for which it has received a take-down notice.

## **Acceptable Usage Policy**

By accessing our website, contacting us, using any of our month to month services, you agree, without limitation or qualification, to be bound to our policy and the terms and conditions it contains.

Fibre To The Apartment respects the rights of our customers and users of our services to freedom of speech and expression; access to information; privacy; human dignity; religion, belief and opinion in accordance with our constitution. We undertake not to interfere with any of those rights unless required to do so by law; unless those rights are exercised for unlawful purposes; or unless the exercise of those rights threatens to cause harm to another person or affect the integrity of our network.

As we are required to comply with the relevant laws of the Republic; to specify to customers and users of our service what activities and online behaviour are considered an unacceptable use of the service; to protect the integrity of our network and to specify the consequences that may flow from undertaking such prohibited activities. Direct any queries to our customer services on email: [hello@fta.co.za](mailto:hello@fta.co.za)

### **Unlawful Use**

Fibre To The Apartment service may only be used for lawful purposes and activities. We prohibit any use of our network, including the transmission, storage and distribution of any material or content that violates any law or regulation of the Republic.

#### ***This includes:***

1. Any violation of local and international laws prohibiting child pornography; obscenity; discrimination and hate speech; or speech designed to incite violence or hatred, or threats to cause bodily harm.
2. Any activity designed to defame, abuse, stalk, harass or physically threaten any individual in the Republic or beyond its borders; including any attempt to link to, post, transmit or otherwise distribute any inappropriate or defamatory material.
3. Any violation of Intellectual Property laws including materials protected by local and international copyright, trademarks and trade secrets. Moreover Fibre To The Apartment cannot be

held liable if you make any unlawful use of any multimedia content accessed through the search facility provided by Fibre To The Apartment network, or otherwise available through access to our network, whether for commercial or non-commercial purposes.

4. Any violation of the individual's right to privacy, including any effort to collect personal data of third parties without their consent.
5. Any fraudulent activity whatsoever, including dubious financial practices, such as pyramid schemes; the impersonation of another subscriber without their consent; or any attempt to enter into a transaction with Fibre To The Apartment on behalf of another subscriber without their consent.
6. Any activity that results in the sale, transmission or distribution of pirated or illegal software.
7. Failing to respond to a request by a recipient of unsolicited mail to be removed from any mailing or direct marketing list and continuing to send unsolicited mail following such a request for removal.

### **Prohibited Activities**

The following sections outline activities that are considered an unacceptable use of services and our network and also detail the guidelines for acceptable use of certain services, as the case may be.

### **Threats to Network Security**

Any activity which threatens the functioning, security and/or integrity of Fibre To The Apartment network is unacceptable. This includes:

- Any efforts to attempt to gain unlawful and unauthorised access to the network or circumvent any of the security measures;
- Any effort to use Fibre To The Apartment equipment to circumvent the user authentication or security of any host, network or account;
- Spoofing of any TCP-IP packet header or any part of the header information in an e-mail;
- Any effort to breach or attempt to breach the security of another user or attempt to gain access to any other person's computer, software, or data without the knowledge and consent of such person;
- Any activity which threatens to disrupt the service offered by Fibre To The Apartment through "denial of service attacks"; flooding of a network, or overloading a service or any unauthorised probes ("scanning" or "nuking") of others' networks;
- Any activity which in any way threatens the security of the network by knowingly posting, transmitting, linking to or otherwise distributing any information or software which contains a virus;



Trojan horse; worm, lock, mail bomb, cancelbot or other harmful, destructive or disruptive component;

- Any unauthorised monitoring of data or traffic on the network without Fibre To The Apartment explicit, written consent; and
- Any unsolicited mass mailing activity including direct marketing; spam and chain letters for commercial or other purposes, without the consent of the recipients of those mails.

### **Public Space and Third Party Content and Sites**

By accepting and reading this usage policy, and utilising in signing any form of service with Fibre To The Apartment, you acknowledge that Fibre To The Apartment has no power to control the content of the information passing over the Internet in what so ever form, and that Fibre To The Apartment cannot be held responsible or liable, directly or indirectly, for any of the above mentioned content, in any way for any loss or damage of any kind incurred as a result of, or in connection with your use of, or reliance on, any such content.

Fibre To The Apartment employees do not moderate any of public spaces, or your communications, transmissions or use of public services. We do not undertake any responsibility for any content contained therein, or for any breaches of your right to privacy that you may experience as a result of accessing such spaces.

### **Unsolicited, Spam and Junk Mail**

Fibre To The Apartment will be required to take action if any of the below events occur:

1. Sending unsolicited bulk mail for marketing or any other purposes (political, religious or commercial) to people who have not consented to receiving such mail;
2. Operating or maintaining mailing lists without the express permission of all recipients listed;
3. Failing to promptly remove from lists invalid or undeliverable addresses or addresses of unwilling recipients or a recipient who has indicated s/he wishes to be removed from such list;
4. Using Fibre To The Apartment service to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services that violate this AUP or the AUP of any other Internet service provider.
5. Including Fibre To The Apartment name in the header or by listing an IP address that belongs to Fibre To The Apartment in any unsolicited e-mail whether sent through Fibre To The Apartment network or not.

6. Failure to secure a customer's mail server against public relay as a protection to themselves and the broader Internet community. Public relay occurs when a mail server is accessed by a third party from another domain and utilised to deliver mails, without the authority or consent of the owner of the mail-server. Fibre To The Apartment reserves the right to examine users' mail servers to confirm that no mails are being sent from the mail server through public relay and the results of such checks can be made available to the user. All relay checks will be done in strict accordance with Fibre To The Apartment privacy policy.

### **Spam/virus Filtering**

Fibre To The Apartment provides multiple spam and virus filtering system to protect customers from unsolicited mail and viruses. The customer acknowledges that this system might incorrectly identify a valid message as spam or as a virus and consequently this message might not be delivered to the customer. The customer agrees to utilize the mail message sent to release and "white list" such mails. The customer also acknowledges and agrees that Fibre To The Apartment shall without limitation have no responsibility for, or liability in respect of any data lost as a result of this system.

Fibre To The Apartment reserves the right to examine incoming or outgoing mail to the extent necessary to determine if it is classified as spam.

### **Protection of Minors**

Fibre To The Apartment prohibits customers from using Fibre To The Apartment service to harm or attempt to harm a minor, including, but not limited to, by hosting, possessing, disseminating, distributing or transmitting material that is unlawful, including child pornography.

### **Privacy and Confidentiality**

Fibre To The Apartment respects the privacy and confidentiality of our customers and it users of all our services. Please review our privacy policy.

### **User Responsibilities**

It is the Customers responsibility to ensure no unauthorized use of any services of the Customer and the misuse of any services of Fibre To The Apartment.

Fibre To The Apartment urges customers not to reply to unsolicited mail or "spam", not to click on any suggested links provided in the unsolicited mail. Doing so remains the sole responsibility of the customer and Fibre To The Apartment cannot be held liable for the Customer being placed on any bulk mailing lists as a result of opening any RANSOMWARE e-mails.

Where the customer has authorised a minor to use any of the Fibre To The Apartment services or access its websites, you accept that as the parent/legal guardian of that minor, you are fully responsible for: the online conduct of such minor; controlling the minor's access to and use of any services or websites; and the consequences of any misuse by the minor, including but not limited to transactions entered into by the minor using such access.

Fibre To The Apartment cannot be held liable for any business dealings you have with any third parties on the Internet, including any vendors, or advertisers found on, or through, the Fibre To The Apartment network. Further, Fibre To The Apartment assumes no responsibility whatsoever for any charges you or any user of your account incurs when making purchases or other transactions in this manner.

### **Complaints and Procedures**

It is the customer's responsibility to familiarise himself or herself with the procedure set out below and report any cases of violation of this agreement to Fibre To The Apartment designated complaints handling agent.

Please note that Fibre To The Apartment cannot handle complaints concerning networks or users that do not have services with us.

In order for Fibre To The Apartment to thoroughly investigate the complaint and take appropriate action, all complaints must be in writing, via e-mail and contain as much information as possible, including, but not limited to abuse@o-it.co.za · the origin of abuse or offence, including the website, full mail headers, relevant logfile extracts etc.;

- Any contact details for the source of the complaint; and
- A brief explanation why the incident is considered to be an offence.

Fibre To The Apartment discourages anonymous complaints being made via this process. We urge complainants to supply their name and contact details to us. Such information will not be released, except where required by law enforcement. Anonymous complaints will however be acted upon as long as sufficient detail as outlined above is supplied.

### **Action following breach of the Acceptable Usage Policy**

- Upon receipt of a complaint or incident, Fibre To The Apartment may take any of the following steps:
- In the case of a network, inform the user's network administrator of the incident and request the network administrator or network owner to deal address the incident in terms of this Policy and the ISPA Code of Conduct;

- In severe cases suspend access of the user's entire network until abuse can be prevented by appropriate means;
- In the case of individual users, warn the user; suspend the user's account and/or revoke or cancel the user's network access privileges completely;
- In all cases, charge the offending parties for administrative costs as well as for machine and human time lost due to the incident;
- Assist other networks or website administrators in investigating credible suspicions of any activity listed in this Policy;
- Share information concerning the incident with other Internet Service Providers, or publish the information, and/or make available the users' details to law enforcement agencies if required.

### **Reservation and Non-Waiver of Rights**

Fibre To The Apartment reserves the right to amend or alter this policy at any time, and without notice to you.

Fibre To The Apartment reserves the right to take action against any individuals, companies or organizations that violate any of the prohibited activities set out herein, or engage in any illegal or unlawful activity while accessing our services, to the fullest extent of the law.

Fibre To The Apartment reserves the right, at its sole discretion, to act against other types of abuse not listed in this document and to investigate or prevent illegal activities being committed over our network.

Fibre To The Apartment reserves the right to monitor user and network traffic for site security purposes and prevent any unauthorized attempts to tamper with our site or cause damage to our property. Fibre To The Apartment reserves the right to suspend, revoke or cancel Fibre To The Apartment services to the customer/user if the safety and integrity of Fibre To The Apartment resources are placed at risk in continuing to provide service to the subscriber/user.

Fibre To The Apartment reserves the right to remove any information or materials in whole or in part, that, in Fibre To The Apartment sole discretion, is deemed to be offensive, indecent, or otherwise objectionable.

Fibre To The Apartment does not undertake to guarantee the security of any data passing through its networks. Although Fibre To The Apartment will provide a "best effort" service, including regular updates on computer viruses and other threats to security of data, it is the responsibility of the communicating parties to safeguard their data, and Fibre To The Apartment cannot be held liable for any loss or damage arising as result of the failure to do so. Fibre To The Apartment does not waive its right to enforcement of this Acceptable Usage Policy at any time, or prejudice its right to take subsequent action, should Fibre To The Apartment fail, neglect or elect not to enforce a breach of the Acceptable Usage Policy at any time.