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Fatpipe Fibre 100 Vital

Terms and Conditions of Fatpipe Fibre 100 Vital

1. Definitions

Wherever these words and expressions appear in these terms and conditions of Service (each a “Condition” and collectively, the “Conditions”) the following definitions shall apply:

“**Account**” means the account in which we record all your charges;

“**Charges**” means charges to be paid by you relating to the Services or these Conditions according to the prices and rates set out in our Price Lists posted on our web site at www.magnet.ie from time to time or as otherwise notified to you from time to time and including without limitation the applicable monthly and installation charges;

“**Equipment**” means any line, equipment or apparatus provided by us from time to time as part of providing Services under these Conditions;

“**Internet**” means the global data network comprising interconnected networks using TCP/IP (“Transmission Control Protocol/Internet Protocol”);

“**Internet Services**” means the Services provided to you by us using broadband technology to enable you to gain access to the Internet and certain other Services whether by a personal computer, television or other device;

“**Installation Fee**” means the fee you may be charged for installation of the service or failure to allow an engineer to install the service by you e.g. not being home when he calls, refusing him access etc.

“**Minimum Period of Service**” has the meaning set forth in Section 2.4;

“**Monthly Charge**” means any applicable monthly recurring charges associated with the Services which shall be billed by us monthly in advance;

“**Monitored Alarms**” means a home alarm system that is connect to a phone line for the purpose of reporting an alert to a centralised monitoring centre.

“**Network**” means the electronic communications network run by us or any of our associated companies over which the Services are delivered;

“**Operator**” means any person authorised to provide an electronic communications network or electronic communications service pursuant to the European Communities (Electronic Communications Network and Services) (Authorisation) Regulations 2011 as amended;

“**Order Form**” means the relevant form of order or other such appropriate form for the Services issued by Magnet which the customer completes and communicates to Magnet to include recorded calls (TPV), electronic forms, on line sign up.

“**Payment Terms**” means the terms by which we will manage your Account and the methods by which you can pay the Charges.

All monthly recurring Charges including any Upfront Charges are billed monthly in advance and all nonrecurring and usage based Charges are billed monthly in arrears, payable within four (4) days of the invoice date;

“**Price Lists**” means the material published by us from time to time on our web site and/or distributed by us which includes the prices and rates for the Services and Equipment we offer including the usage rates for the Services;

“**Services**” means the, Broadband Services, provided to you under these Conditions via the Network;

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“us” or “we” means Magnet Networks Limited, with its principal place of business located at International Exchange Center, Clonshaugh Industrial Estate, Dublin 17, Ireland, and whose website is located at www.magnet.ie;

“Upfront Charges” means charges payable on the first invoice which includes router delivery and other related charges.

“VAT” means value added tax;

“VoIP” refers to Voice over IP (Internet Protocol) the protocol on which voice calls are carried on an IP network, including the Internet.

“you” means the customer that orders our Services and includes any person you authorise in writing or on a voice recording to act on your behalf;

2. Our Conditions

2.1 When They Apply

(a) These Conditions apply from the time of Order

(b) These Conditions will apply jointly and severally to all those requesting Services and the word “you” shall be understood accordingly.

2.2 Deposit

You must also pay a deposit if we ask for one (see Condition 4.6 below).

2.3 Your Account and On Line Sign Up

We will open an Account in your name and will apply Charges to your Account.

If you sign up on line we will open an Account in the name you provided and you agree to be bound by the terms and conditions outlined herein.

2.4 Minimum Period of Service

The Minimum Period of Service is eighteen months (18) starting from the date we activate the service unless otherwise specified in the order (“Minimum Period of Service”).

2.5 Cancellation

Once the Minimum Period of Service is over, you can end the Service by giving us one (1) month’s notice in writing at any time. Please email cancellations@magnet.ie or fax 01 681 0005 marked for the attention of Cancellation Department or post to Cancellation Department, Magnet Networks, International Exchange Centre, Clonshaugh, Dublin 17. Termination requests over the telephone are not sufficient.

In the event that a customer requests cancellation of service whilst still in contract the following termination fees will be applied in addition to a one month notice period.

Greater than 6 months until contract expires - €200

Less than 6 months until contract expires - €100

If we receive a request from another provider to port your telephone number this will be deemed to be a terminating event and you will be liable for the cancellation fees as outlined above and all outstanding charges

2.6 Changes to these Conditions

We can change these Conditions if new legislation or regulations make it necessary.

We can also change these Conditions for any other good reason. For instance, if at some future time we wish to have all our customers on the same Conditions for Services.

We can also change the Charges. We will notify you one month in advance of making any change to these Conditions or to the Charges and will post the new Conditions and Charges on our web site www.magnet.ie.

3. Providing the Services

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3.1 We will provide the Services to you from the date they are activated on and subject to these Conditions and we will continue to do so unless and until the Services are terminated in accordance with these Conditions.

3.2 We will provide the Services and the Equipment to you only if you are a residential customer and you must use them for domestic purposes only. You will ensure that all persons having access to the Services or the Equipment comply with these Conditions. You are not permitted to resell the Services to any third party.

3.3 We will supply the Equipment required to provide the Services on and subject to these Conditions in accordance with Condition 8 below. If you move apartment and new tenant commences using Equipment you are still liable for that Equipment until returned to us, or new tenant signs a contract with us.

3.4 We will endeavour to provide customer connections within twenty (20) working days of customer applications for a line and for services.

3.5 We will endeavour to ensure that the Services are always available to you, however we do not guarantee that the Services will be fault free, available 100% of the time, free of degradation or free of other problems that are beyond our control. Sometimes the Services may be affected by circumstances over which we have no control. If at any time the Service is affected or unavailable by circumstances beyond our control it shall not be a breach by us of these Conditions.

3.6 If a fault in the Services or the Equipment occurs you should notify us by contacting our customer management centre where a problem may be resolved over the telephone or a technician may be sent out to investigate the problem. We are not responsible for correcting problems which are connected with the use of any equipment that is not provided by us (and in such circumstances, we may make a reasonable call out charge to cover our costs).

3.8 Broadband speed is subject to availability, line quality and is based on an 'up to' speed. If your line cannot support the download speed requested, please contact us and once verified we will provide you the best available speed that your line supports and downgrade the contract to reflect the speed you are able to achieve from the date you contacted us.

3.9 Use of the Services and Equipment.

You agree to the following:

- (a) you will not use the Services for anything illegal or let anyone else do so;
- (b) you will not use the Services for anything immoral, improper or defamatory or let anyone else do so;
- (c) you will not use the Services to make offensive or nuisance calls or let anyone else do so;
- (d) you must only use Equipment that has been approved for use with the Network and you must follow relevant laws and rules that apply to the Equipment and its use by you;
- (e) you will not connect any of your own equipment to the Network which may harm it, the Equipment or equipment owned by other customers. If you do, you agree to disconnect such equipment immediately on our request;
- (f) you must give us any information we reasonably ask for;
- (g) you must follow all reasonable instructions we give you about the Services and our other facilities from time to time;
- (h) you will comply with the Magnet Acceptable Usage policy as detailed on www.magnet.ie

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- (i) you must immediately report to us your unauthorised reception of any channels or programmes; and
- (j) you must comply with any applicable export or re-export laws and regulations.

3.10 Software

Any software that we provide you with so that you can use the Equipment or the Services belongs to us and remains at all times our property. You are granted a non-exclusive, non-transferable, licence to use such software solely in connection with the Services and the Equipment. This licence will automatically end on termination of all Services or if you cease to receive the relevant Service or your right to use the relevant Equipment ceases. You agree not to copy the software or make it available to anyone else. You also agree not to reverse engineer, decompile or disassemble the software except as permitted by law.

3.11 Access to Your Premises

You must allow anyone accredited by us, on production of official evidence of identity and authority, reasonable access to your premises at reasonable times to facilitate the set-up, delivery and/or discontinuation of the Services or for any purpose relating to the Equipment. Where necessary you must obtain the permission of any other person if that permission is required. You will ensure that you have all requisite permissions for such access.

3.12 Security

You are responsible for keeping any passwords safe and for their proper use including on line billing portal log in details. If you suspect that any of them has become known to an unauthorised person you must inform us immediately. We have no liability if there is a breach of your security.

3.13 Monitored Alarms

We do not support monitored alarms and you should contact your alarm installer.

4. What and How you Pay

4.1 Our published list of Charges is set out on our website. You must pay the Charges for which we bill you together with any VAT and any other taxes (at the applicable rates from time to time) which apply in relation to any Charges. Where VAT has to be paid we have included it in the Charges at the current rate. Except in the case of manifest error the Charges will be based on our information about your use of the Services.

We reserve the right to assign all payments received or credits against the oldest invoice on your account.

4.2 Billing

You will be able to view your bills on line for monthly recurring charges such as voice and broadband packaged, equipment rental etc, the bill will be for the month to come (i.e. in advance) and for usage based Charges, it will be for use made in the month that has just passed and for any usage made at any earlier time if they have not previously been charged for.

We reserve the right to change the billing period at any time.

If you do not wish view your bills online, you may opt to receive a paper bill and a monthly recurring charge will be added to your invoice.

If we fail to bill you for a month or periods of months we reserve the right to include these charges in subsequent bills.

If you have a dispute about your bill, please raise this within 12 days of the date of the bill.

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4.3 Interest

It is essential that you pay your bill by the date specified in your bill by the payment method you have chosen. If you do not pay on time we can stop you using some or all of the Services and charge you interest on what you owe at the prevailing EURIBOR rate plus 8%. We will use the rate that was in force on the date of the bill and charge you interest until you pay. You agree that if you do not pay a bill on time we can say that you have breached these Conditions and we can terminate the Services immediately. All these rights are in addition to any other legal rights we may have against you which we may also rely upon.

4.4 Payment Terms

We can change the Payment Terms for any good reason, for instance, if you do not pay your bills on time or if you pay your bills using credit cards that you are not authorised to use or streamline payment dates.

4.5 Payment Methods

If you have chosen to pay by credit/debit card and your card facilitator is unable to make payment in any month we reserve the right to cancel this facility and demand a different method of payment. In these circumstances we may charge an administrative fee to cover our reasonable costs per bounced transaction

If you choose to pay via our on line payment facility it takes up to 2 working days for payment to be received by us.

4.6 Deposits

We can at any time ask you for a deposit (or an extra deposit) as security for the Charges if, for example, the Charges you are incurring have significantly increased, in our reasonable opinion, we believe that your financial circumstances have substantially changed, or you are consistently late in making your payments to us. At our absolute discretion, we can keep the deposit until the end of the Services. If you do not pay this deposit, we may suspend the Services until you do so or we may terminate the Services all together.

(a) We may use all or part of your deposit to cover anything else you owe us which is overdue including, without limitation, any amount due for the replacement value and/or costs of repair of Equipment;

(b) We will repay any deposit held (or the balance of any deposit where any part of it has been applied by us in accordance with these Conditions) to you as soon as you have paid all Charges due under these Conditions and the Equipment has been returned to us (subject to your responsibilities in respect of loss or damage to the Equipment under Condition 8.7).

(c) We will not pay you interest on any deposit you give us.

5. Limitation of Liability

5.1 In performing any obligation under these Conditions our only duty is to exercise the reasonable skill and care of a competent provider of telecommunications, Internet and television services. We have no further liability to you in tort, contract or otherwise and including any liability for negligence or breach of duty whether occasioned by the negligence of us, our employees or agents or otherwise and we exclude all conditions and warranties, other than those expressly set out in these Conditions, including any terms, warranties and conditions implied by statute that can be lawfully excluded.

5.2 Nothing in these Conditions removes or limits our liability for death or personal injury resulting from an act or omission by us or that of our employees or agents or restricts any of our liabilities which cannot by law be excluded or restricted.

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5.3 Except as set out in Conditions 5.1 and 5.2 (but subject to Condition 5.4), our entire liability to you for any loss or damage for something we or anyone who works for us does or does not do under or in connection with these Conditions, will be limited to €2,000 for one incident or €10,000 for a number of incidents within any twelve month period.

5.4 Except as set out in Conditions 5.1 and 5.2, we are not liable to you in any way for any loss of income, business, profits, or any indirect, consequential, special, incidental or punitive loss

5.5 Please write and tell us about any claim as soon as you can and always within ten (10) days of any damage to or loss of property. Claims should be addressed to the Customer Complaints Manager.

5.6 We will not be liable to you if we cannot carry out our duties or cannot provide the Services to you because of something beyond our reasonable control.

5.7 The provisions of the Condition 5 shall apply even after the Services have ended.

6. When We may Suspend or Disconnect the Services

6.1 We may suspend the Services without giving you notice in the following circumstances:

(a) the Network or system we use to provide the Services breaks down or requires repair work. We will endeavour to ensure this does not happen often;

(b) we are required to do so by any court or other competent authority;

(c) you do not comply with these Conditions, or any other agreement with us,;

(d) we have reason to believe that you have provided us with false, inaccurate or misleading information either for the purpose of obtaining the Services and/or the Equipment from us or at any time during the provision of the Services and/or the Equipment;

(e) you do anything that damages or puts the Network at risk, or you abuse or threaten us or a member of our staff;

(f) you or another person at your premises uses the Services or the Equipment in connection with involvement in fraud or attempted fraud, or we reasonably suspect any such use;

(g) you fail to report any unauthorised reception of Services to us immediately;

(h) the number of calls or Charges for calls made by you has increased to such an extent that it appears, in our reasonable opinion, that the Services are not being used in a manner consistent with your previous use. We will make reasonable efforts to contact you before suspending the Services in such circumstances but we are not liable for any loss you may suffer through any suspension covered by this Condition;

or

(i) you refuse to give us the deposit we ask for (see Condition 4.6 above).

(j) if your invoice is overdue by (five) 5 days or greater.

6.2 You are still liable for all Charges during suspension or disconnection except in the circumstances described in Condition 6.1 (b) above, if the Network or system we use to provide the Services breaks down for a reasonably long period of time or unless we decide otherwise.

6.3 If the Customer is suspended no activity may take place on their account such as porting number to other networks, upgrading of services. The suspension will be revoked within 24 hours once all invoices are paid.

6.4 We can charge you for reconnecting you to the Services except in the circumstances described in Condition 6.1 (a) or Condition 6.1 (b) above. We reserve the right to apply different Payment Terms to you as a condition of reconnecting you.

7. When the Service Ends

7.1 You can terminate the Services during the Minimum Period of Service if:

- (a) we increase our Charges so long as you give us one month's notice in writing to cancel those Services in respect of which the Charges have increased (you must give us notice within thirty (30) days of the relevant price increase). During that notice period, the increased Charges will not apply to your Account;
- (b) we significantly reduce the content of the Services so long as you terminate the affected Service by giving us one (1) month's notice in writing within thirty (30) days of such change.

7.2 We can end all or part of the Services immediately by writing to you if any of the following happen:

- (a) you breach any Condition, including but not limited to Conditions 3.9, and 4.4;
- (b) you make, or offer to make, an arrangement with your creditors; you commit an act of bankruptcy or a petition, receiving order, administration order is brought against you . We can also end the Services if we think there is a possibility of any of the foregoing happening to you;
- (c) any authorisation required or necessary to run the Network or to provide the Services is terminated or revoked;
- (d) we are specifically entitled to do so under another Condition;
- (e) We amend the terms and conditions;
- (f) if your account has been suspended for 45 days or more.

7.3 We may at our sole and absolute discretion excuse a breach providing the breach is rectified in not more than 7 days.

7.4 If the service is terminated by either party you must pay everything you owe on your Account.

8. Equipment

8.1 We will supply you certain initial Equipment to facilitate the provision and use of the Services. Optional or additional Equipment requested by you will be subject to additional charges.

8.2 The Equipment belongs to us and you must not give anyone else any rights over it. We may add to or substitute it as necessary to provide the Services or for other valid reasons. From time to time we may ask you to confirm the location of the Equipment and you agree to respond to us promptly and in good faith.

8.3 You will need to prepare your premises in accordance with our reasonable instructions before the Equipment can be installed and Services provided to you. You will provide at your own cost, reasonable assistance and a suitable place and conditions for the installation, provision, operation and maintenance of Services and Equipment including without limitation a secure and safe electricity power supply within your property (which shall be supplied by you at your own expense). We shall not be responsible for faults arising in the Equipment or interruption in the provision of Services caused by failures in the power supply.

8.4 During installation we may need you to facilitate cabling which may involve transit though your premises. Any alterations will be agreed upon with you prior to work commencing.

8.5 From the time we deliver the Equipment to you until you return it to us, you must take reasonable care of it. You must not allow anyone (except personnel acting on our behalf) to add to, interfere with or modify the Equipment in any way. As well as any

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other rights we may have, such actions may result in our suspending the Services, terminating the Services and/or our retaining the whole or part of any deposit.

8.6 If you breach any of the provisions of this Condition 8, it is our right to take action for any breach of these Conditions will apply.

This will include, without limitation, our right to suspend Services, terminate Services, reclaim the Equipment, retain any deposit or require you to pay a deposit or an increased deposit.

8.7 For the avoidance of doubt, you will not be responsible for any loss or damage to the Equipment to the extent that it is caused by us, our employees, a manufacturing or design fault or fair wear and tear.

8.8 When the Services end, you shall return all the Equipment to us within fourteen (14) days of the date of termination unless otherwise agreed. If you fail to return all the Equipment, you will be invoiced for the cost of replacing the Equipment at its replacement value. If you return the Equipment and you have not taken reasonable care of it, you will be invoiced for the costs of repair, loss or damage for which you are responsible. Therefore, we suggest that you insure the Equipment at its replacement value.

9. General

9.1 You may not transfer or try to transfer your Service or any of your rights and responsibilities under these Conditions. We may transfer any of ours without your permission, except where this would result in a worse Service to you.

9.2 Under SI 484/2013EC (Consumer Information, Cancellation and Other Rights) Regulations 2013 you have 14 days cooling off period from the date that you signed up to our service in which to cancel this agreement.

9.3 We can record any conversations between you and our staff for training or validation purposes.

9.4 We will send all bills and notices for Services to your billing address and you should send any notice to us to our address indicated on our invoice. You must tell us straightaway about any change in the billing address. We allow 48 hours for you to receive bills and notices through the post. You agree that after 48 hours we can assume you have received the bill or notice. If you sign up to our on line billing portal, your invoices will be available on line to be viewed.

9.5 Any concession or extra time that we allow you only applies to the specific circumstances in which we give it. It does not affect our rights under these Conditions in any other way.

9.6 Each of our rights, remedies and powers under these Conditions are cumulative and will not exclude us from any other right, remedy or power at any time.

9.7 If a clause or condition of these Conditions is not legally effective, the remainder of these Conditions shall be effective. We can replace any Condition that is not legally effective with a Condition of similar meaning that is.

9.8 We may use credit reference agencies to help us make credit decisions or for fraud protection. You agree that we may register information about you and the conduct of your Account with any credit reference agency and that any such credit reference agency may make decisions solely by automated means. For the purpose of fraud prevention, debt collection and credit management, information about you and the conduct of your Account may be disclosed to debt collection agencies, security agencies, financial institutions or other phone companies. You also agree that we can do those things that are permitted from time to time under our registration under current data protection legislation. You must note that late payments or default

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payments may affect your credit rating. We reserve the right to refuse to provide service at your address if we have proof of payment defaults at that address.

9.9 Unless expressly provided in these Conditions, no Condition is enforceable by any person who is not the purchaser of the Services.

9.10 These Conditions and all associated order forms represent the entire agreement between us in relation to the Services.

Neither of us has entered into this agreement in reliance upon (and, to the extent permissible under applicable law, we do not have any liability in relation) any representations, term or condition not expressly set out in these Conditions.

9.11 Any dispute arising between the parties shall be referred by you initially to the Customer Relations Manager for the purposes of the Conditions in order that any such dispute may be resolved in good faith and any such dispute shall be conducted in accordance with our Dispute Resolution Procedure. For the avoidance of doubt and in the event of such a dispute, we shall continue to provide the Services in accordance with the Conditions unless otherwise requested by you.

9.12 Laws of Ireland will apply to these Conditions and any disputes will be settled exclusively in the courts of Ireland.