







## **7. ELECTRONIC MAIL**

- 7.1.** The Service may not be used to send unsolicited bulk or commercial messages, and may not be used to collect responses from unsolicited e-mail sent from accounts on other Internet hosts or e-mail services that violate this AFUP. Moreover, unsolicited e-mail may not direct the recipient to any website or other resource that uses the Service.
- 7.2.** Activities that have the effect of facilitating unsolicited commercial e-mail or unsolicited bulk e-mail, whether or not the e-mail is commercial in nature, are prohibited. Forging, altering or removing electronic mail headers is prohibited. You may not reference Broadlink or the Broadlink network (e.g. by including "Organisation: Broadlink" in the header or by listing an IP address that belongs to Broadlink or the Broadlink network) in any unsolicited e-mail, even if that e-mail is not sent through the Broadlink network or Service. Maintaining of mailing lists by users of Broadlink is only accepted with the permission and approval of the list members, and at the members' sole discretion. Should mailing lists contain invalid or undeliverable addresses, or addresses of unwilling recipients, those addresses must be promptly removed. Users may not forward or propagate chain letters nor malicious e-mail. Public relay occurs when a mail server is accessed by a third party and utilised to deliver mails without the authority or consent of the owner of the mail-server. Users' mail servers must be secure against public relay as protection for both themselves and the Internet at large. Mail servers that are not secured against public relay often become abused by unscrupulous operators for spam delivery, and upon detection such delivery must be disallowed. Broadlink reserves the right to examine users' mail servers to confirm that their server is not a public relay, and the results of such checks can be made available to the user. Broadlink also reserves the right to examine the mail servers of any users using Broadlink mail servers for "smart hosting", content filtering or similar services, at any time, to ensure that the servers are properly secured against public relay. All relay checks will be done in strict accordance with Broadlink's policy of preserving customer privacy. Broadlink is not responsible for forwarding e-mail sent to any account that has been suspended or terminated. This e-mail will be returned to the sender, ignored, deleted or stored temporarily at Broadlink's sole discretion. In the event that Broadlink believes in its sole discretion that any subscriber name, account name or e-mail address (collectively, an "identifier") on the Service may be used for, or is being used for, any misleading, fraudulent, or other improper or illegal purpose, Broadlink reserves the right to block access to and prevent the use of any such identifier and may at any time require any customer to change his or her identifier.
- 7.3.** In addition, Broadlink may at any time reserve any identifiers on the Service for Broadlink's own purposes.

## **8. NEWSGROUPS**

- 8.1.** Messages posted to newsgroups must comply with the written charters or Frequently Asked Questions ("FAQs") for those newsgroups, as well as any other terms and conditions applicable to any particular newsgroups or provider of newsgroups. Advertisements, solicitations or other commercial messages should be posted only in those newsgroups whose charters or FAQs explicitly permit them. You are responsible for determining the policies of a given newsgroup before posting to it. Broadlink reserves the right to discontinue access to any newsgroup at any time for any reason.
- 8.2.** The Subscriber acknowledges that excessive cross-posting (i.e. posting the same article to a large number of newsgroups), posting of irrelevant (off-topic) material to newsgroups (also known as USENET spam) and related unwanted communication in this platform are all forbidden.

## 9. INSTANT MESSAGES

Users alone are responsible for the contents of their instant messages and the consequences of any instant messages. Broadlink assumes no responsibility for the timeliness, non-delivery, deletion or failure to store instant messages.

## 10. NETWORK, BANDWIDTH, DATA STORAGE AND OTHER LIMITATIONS

You must comply with all current bandwidth, data storage and other limitations on the Service established by Broadlink and its suppliers. In addition, you may only access and use the Service with a dynamic Internet Protocol ("IP") address that adheres to the dynamic host configuration protocol ("DHCP"). You may not access or use the Service with a static IP address or using any protocol other than DHCP, unless you are subject to a Service plan that expressly permits otherwise. You must ensure that your activity (including, but not limited to, use made by you or others of any Personal Web Features) does not improperly restrict, inhibit or degrade any other user's use of the Service, nor represent (in the sole judgment of Broadlink) an unusually large burden on the network. In addition, you must ensure that your activities do not improperly restrict, inhibit, disrupt, degrade or impede Broadlink's ability to deliver the Service and monitor the Service, backbone, network nodes, and/or other network Services. Notwithstanding that you can potentially use multiple devices, you acknowledge that Broadlink's services have a limit on capacity, determined by the maximum possible download capacity of a single device.

## 11. UNCAPPED RULES

The Subscriber acknowledges that Broadlink 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, newsgroups or other material created or accessible over its infrastructure. Therefore, Broadlink is not responsible for data transmitted over its infrastructure, but may terminate the services:

- 11.1. Where Broadlink infrastructure may be used to link into other networks worldwide/locally and the user agrees to conform to the terms and conditions of their acceptable user policies (AUP) of these networks.
- 11.2. Where the users of the Broadlink network include not only the subscribers of Broadlink, but in the case of Resellers and Service Providers (SPs) of Broadlink services, the customers/clients of the Resellers, Resellers or SPs of Broadlink services are responsible for the activities of their customer's/client base.
- 11.3. Where the Subscriber may obtain and download any materials marked as available for download off the Internet, but is not permitted/restricted to use their Internet access to distribute/copy any copyrighted materials unless permission for such distribution/copy is granted to the user by the legal owner of the materials, Broadlink may terminate the service immediately and without any penalty or liability.
- 11.4. Where the user is prohibited from obtaining, disseminating or facilitating, over the Broadlink network, any unlawful materials, including, but not limited to:
  - 11.4.1. copying or dealing in intellectual property without authorisation;
  - 11.4.2. child pornography; and/or
  - 11.4.3. any unlawful hate-speech materials
  - 11.4.4. Broadlink may terminate the service immediately and without any penalty or liability.

**11.5.** Where Broadlink needs to ensure that all Subscribers have fair and equal use of the services offered by Broadlink and to protect the integrity of its network, Broadlink reserves the right, and will take necessary steps, to prevent improper or excessive usage thereof. The action that Broadlink may take includes, but is not limited to:

**11.5.1.** limiting throughput;

**11.5.2.** preventing or limiting service through specific ports or communication protocols; and/or

**11.5.3.** complete termination of service to Subscribers who grossly abuse the network through improper or excessive usage.

**11.6.** This policy applies to and will be enforced for intended and unintended (e.g. viruses, worms, malicious code or otherwise unknown causes) prohibited usage. Where online activity will be subject to the available bandwidth, data storage and other limitations of the services provided, Broadlink may/can, from time to time, revise its policy at its own discretion and provide a proper notice to the Subscribers. The Subscriber acknowledges that the limitations applicable to usage of the Service are as follows:

- Only P2P/torrent traffic is shaped (throttled) daily between 08:00 and 24:00.
- This traffic is shaped to a maximum speed of 256Kbps between these times.
- This FUP applies to all of Broadlink's uncapped services and should the limit be reached services will be throttled to a reduced speed as in the table below.

<b>Broadband Service</b>	<b>Fair Usage Policy (FUP)</b>	<b>FUP Throttle</b>
2Mbps	750Gb	1Mbps
5Mbps	1250Gb	2Mbps
10Mbps	2500Gb	4Mbps
20Mbps	5000Gb	8Mbps
30Mbps	7500Gb	14Mbps
40Mbps	7500Gb	16Mbps
50Mbps	7500Gb	20Mbps
80Mbps	7500Gb	30Mbps
100Mbps	7500Gb	40Mbps
200Mbps	7500Gb	80Mbps
300Mbps	7500Gb	120Mbps

## **12. COPYRIGHT INFRINGEMENT**

- 12.1.** Broadlink is committed to complying with South Africa's copyright and related laws, and requires all customers and users of the Service to comply with these laws. Accordingly, you may not store any material or content on, or disseminate any material or content over, the Service (or any part of the Service) in any manner that constitutes an infringement of third party intellectual property rights, including rights granted in terms of South African copyright law.
- 12.2.** Copyright owners may report alleged infringements of their works that are stored on the Service by sending Broadlink's authorised agent a notification of claimed infringement. Upon Broadlink's receipt of a satisfactory notice of claimed infringement for these works, Broadlink will respond expeditiously by either directly or indirectly (i) removing the allegedly infringing work(s) stored on the Service or the Personal Web Features or (ii) disabling access to the work(s).
- 12.3.** Broadlink will also notify the affected customer or user of the Service of the removal or disabling of access to the work(s). If the affected customer or user believes in good faith that the allegedly infringing works have been removed or blocked by mistake or misidentification, then that person may send a counter-notification to Broadlink. Upon Broadlink's receipt of a counter-notification, Broadlink will provide a copy of the counter-notification to the person who sent the original notification of claimed infringement. In all events, you expressly agree that Broadlink will not be a party to any disputes or lawsuits regarding alleged copyright infringement.

## **13. PROTECTION OF MINORS**

You must ensure that when children access the Internet Services they do not access websites that have illegal content, including, but not limited to, pornographic content and gambling. You also guarantee that you will lock the Internet Services with a password to prevent unmonitored access.

#### **14. VIOLATION OF ACCEPTABLE AND FAIR USAGE POLICY**

- 14.1.** Broadlink does not routinely monitor the activity of Service accounts for violation of this AFUP. However, in our efforts to promote good citizenship within the Internet community, we will respond appropriately if we become aware of inappropriate use of our Service. Although Broadlink has no obligation to monitor the Service and/or the network, Broadlink and its suppliers reserve the right at any time to monitor bandwidth, usage, transmissions and content to operate the Service; to identify violations of this AFUP; and/or to protect the network, the Service and Broadlink users. Broadlink prefers to advise customers of inappropriate behaviour and any necessary corrective action. However, if the Service is used in a way that Broadlink or its suppliers, in their sole discretion, believe violates this AFUP, Broadlink or its suppliers may take any responsive actions they deem appropriate.
- 14.2.** These actions include, but are not limited to, temporary or permanent removal of content, cancellation of newsgroup posts, filtering of Internet transmissions, recouping the user terminal device and the immediate suspension or termination of all or any portion of the Service. Neither Broadlink nor its affiliates, suppliers or agents will have any liability for any of the responsive actions. These actions are not Broadlink's exclusive remedies and Broadlink may take any other legal, technical or financial action it deems appropriate.
- 14.3.** Broadlink reserves the right to investigate suspected violations of this AFUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on Broadlink's servers and network. During an investigation, if Broadlink decides to investigate, it may suspend the account or accounts involved and/or remove or block material that potentially violates this AFUP. You expressly authorise Broadlink and its suppliers to cooperate with law enforcement authorities in the investigation of any suspected legal violations in order to enforce this AFUP. This cooperation may include Broadlink providing available personally identifiable information about you to law enforcement or system administrators, including, but not limited to, username, subscriber name, physical address and other account information. Upon termination of your account, Broadlink is authorised to delete any files, programs, data and e-mail messages associated with your account. The failure of Broadlink or its suppliers to enforce this AFUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that if any portion of this AFUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect. You agree to indemnify, defend and hold Broadlink and its affiliates, suppliers and agents harmless against all claims and expenses (including legal costs) resulting from you engaging in any of the prohibited activities listed in this AFUP, or resulting from your violation of the AFUP or of any other posted Broadlink policy related to the Service. Your indemnification will survive any termination of the Subscriber Agreement.

#### **15. ABUSE**

- 15.1.** If you suspect that you have been the victim of activities that are in violation of the Broadlink AFUP or the Subscriber Agreement, the Broadlink Network Abuse Department will take appropriate action to investigate and attempt to resolve the alleged violation. If you feel that you have been a victim of Internet abuse that took place in part or completely on the Broadlink network, please report the incident to [info@Broadlinkgroup.co.za](mailto:info@Broadlinkgroup.co.za). If available, please provide the following information:
- 15.1.1.** the date and time of the alleged violation, including the time zone or offset from GMT
- 15.1.2.** any evidence of the alleged violation.
- 15.2.** E-mails with full header information provide all of the above, as do syslog files. Other situations will require different methods of providing the above information.

## **16. MANAGING ABUSE**

- 16.1.** Upon receipt of a complaint, or having been made aware of an incident, Broadlink reserves the right to: Inform the user's network administrator of the incident and require the network administrator or network owner to deal with the incident according to this AFUP.
- 16.2.** In the case of individual users, Broadlink can/will suspend the user's account and withdraw all the user's network access privileges completely. Institute legal charges against the offending parties for administrative costs as well as for machine and human time lost due to the incident.
- 16.3.** Where it is deemed that the cases are severe, Broadlink will suspend the access of the user's entire network until abuse can be prevented by appropriate means. Take the action deemed appropriate that may be necessary to protect the integrity of the system, including, but not being limited to, system monitoring, as well as protocol management and shutting down of ports affected by viruses, worms or other malicious code. Implement appropriate technical mechanisms and other processes in order to prevent usage patterns that may violate this AFUP.
- 16.4.** Share information concerning the incident with other Internet access providers, or publish the information, and/or make available the users' details to law enforcement agencies. Any one or more of the steps listed above, in so far as they are deemed necessary by Broadlink in its absolute and sole discretion, may be taken by Broadlink against the offending party.