

FATBEAM RESIDENTIAL FIBER INTERNET TERMS & CONDITIONS

These Residential Fiber Internet Terms & Conditions ("Terms and Conditions") govern the provision and use of residential Fiber Internet Services provided by Fatbeam LLC ("Fatbeam," "we," "our," or "us"). By ordering, installing, activating, using, or paying for the Services, you agree to be bound by these Terms and Conditions.

1. Definitions

Agreement means these Terms and Conditions, together with any Service Orders for the residential fiber internet service, and with all Attachments, Exhibits and Additional Terms, as well as Fatbeam's Acceptable Use Policy (available and viewable at <https://www.fatbeamfiber.com/hubfs/site-files/AUP-and-Privacy-Draft-002.pdf>) and Privacy Policy (available and viewable at <https://www.fatbeamfiber.com/privacypolicy>), constitutes the entire agreement between Fatbeam and Customer regarding residential fiber internet service.

Attachments, Exhibits and Additional Terms are those documents and terms and conditions that may be referred to in one or more sections of these Terms and Conditions, including by reference to a weblink, concerning any specific product offering or particular term or condition.

Customer means the individual who establishes service with Fatbeam.

Equipment means any Optical Network Terminal (ONT), router, Wi-Fi equipment, cables, wiring, power supplies, or other devices provided by Fatbeam.

Premises means the dwelling structure or residence where Services are installed and provided, as identified on the Service Order.

Property means the real property on which the Premises are located, as identified in the Service Order.

Services means residential fiber internet services and any related equipment, software, applications, or services, including but not limited to VoIP Services, provided by Fatbeam.

Service Order means the service order under which Customer purchases Services.

Term means the month-to-month duration of the Agreement.

VoIP Services means the "voice over internet protocol services" offered by Fatbeam.

2. Service Availability

Services are available only in designated Fatbeam service areas and are subject to network availability, facility availability, and successful installation.

Fatbeam reserves the right to refuse service where facilities are unavailable, construction costs are excessive, technical limitations exist, or service cannot be reasonably provided.

Unless otherwise specified in writing, residential service is provided on a month-to-month basis.

3. Installation and Property Access

Customer authorizes Fatbeam, its employees, contractors, and agents to enter onto the Property (including vehicle parking) and into the Premises and take such actions as reasonably necessary to:

- Survey the property;
- Install, maintain, repair, replace, upgrade, and remove Equipment;
- Install interior or exterior fiber facilities;
- Place temporary or permanent fiber cabling;
- Utilize existing wiring where practical; and
- Make reasonable modifications to walls, siding, foundations, flooring, ceilings, crawl spaces, or other structures as necessary to provide Services.

If Customer is not the property owner, Customer represents that they have obtained all necessary permissions from the owner, landlord, or property manager, and Customer shall provide such evidence of such permissions as are reasonably requested by Fatbeam.

Fatbeam shall not be responsible for restoring cosmetic conditions following installation, maintenance, repair, replacement, upgrade or removal activities that are reasonably necessary to provide Services.

4. Equipment

Fatbeam-Owned Equipment

Unless purchased by Customer, all Equipment remains Fatbeam's property at all times and are subject to all of Fatbeam's rights and protections under the Agreement, including but not limited to Section 3.

Customer shall:

- Protect Equipment from alteration, loss, theft, damage, misuse, tampering or unauthorized access, modification or servicing by Customer or any third party; and
- Notify Fatbeam promptly of Equipment loss, theft, damage, misuse, or unauthorized modification or of Equipment failures; and

See also Section 13 of these Terms and Conditions for additional obligations regarding returns.

Customer-Owned Equipment

Customers may use compatible customer-owned routers and networking equipment.

Customer is solely responsible for:

- Compatibility of customer-owned equipment;
- Home network configuration;
- Wi-Fi coverage and performance; and
- Any support or maintenance required for customer-owned equipment.

Fatbeam shall not be responsible for service issues caused by customer-owned equipment.

5. Billing and Payment

Invoices

Services are billed monthly in advance and are due on the due date specified on the Customer's invoice.

Charges

Customer agrees to pay, throughout the Term of the Agreement, all of the charges and fees set forth in the Service Order for the Services and the Agreement, as agreed by Customer, which charges and fees may include:

- Monthly recurring service charges;
- Installation and other non-recurring charges;
- Taxes and regulatory fees;
- Equipment charges;
- Activation or reactivation fees; and
- Service visit charges where applicable.

Late Payments

Accounts not paid by the due date may be subject to:

- Late charges up to 1.5% per month or the maximum rate allowed by law;
- Service suspension;
- Collection activities; and
- Reconnection fees.

Returned Payments or Non Payments

Returned payments may be subject to additional fees up to the maximum permitted by law.

If collection efforts become necessary, Customer agrees to reimburse Fatbeam for reasonable collection costs up to the maximum permitted by law.

6. Billing Disputes; Dispute Resolution

Billing Disputes Specifically

In order to provide Fatbeam with a reasonable opportunity to resolve the billing dispute, Customer must notify Fatbeam of billing disputes within sixty (60) days of the invoice date.

Failure to dispute charges within this period constitutes acceptance of the charges and waiver of any related claim to the fullest extent permitted by law.

Undisputed portions of bills must be paid during any dispute review process.

Disputes Generally

Customer agrees to resolve all disputes regarding the Agreement, privacy notices, privacy/data security practices, Services, Equipment, billing, and all other claims between Customer and Fatbeam through either (a) mandatory individual binding arbitration, or (b) small claims court. Accordingly, Customer waives its rights to: (1) Jury trials; (2) Class actions; and (3) representative, mass, or consolidated actions; even if the American Arbitration Association rules would permit such actions. If Customer elects to proceed via small claims court, Customer must give notice to Fatbeam of such election before an arbitrator is selected. Arbitration is conducted by the American Arbitration Association under their consumer arbitration rules, under and pursuant to the Federal Arbitration Act.

Before filing for arbitration, Customer shall Send a Notice of Dispute to Fatbeam customer relations, which notice includes (A) Account holder name and email; (B) Billing account number; (C) address where Services are delivered; (D) detailed description of the issues and to the extent reasonably necessary, documents supporting the claim; and (E) statement of relief sought by Customer. Fatbeam has sixty (60) days from receipt of the Notice of Dispute to review and respond. Neither party shall commence arbitration or small claims court proceedings until 60 days after the Notice of Dispute has been delivered to Fatbeam. The parties shall use good faith efforts to resolve the dispute during this sixty (60) day period.

None of this Section limits any rights of Customer under applicable state law.

7. Acceptable Use

Customer shall not use the Services, nor permit others to use the Services, for:

- Illegal activities;
- Fraudulent activities;

- Distribution of malware, viruses, spyware, ransomware, or malicious code;
- Network attacks or denial-of-service attacks;
- Unauthorized access to systems or networks;
- Phishing or identity theft;
- Distribution of unlawful content;
- Activities that impair network performance;
- Excessive or abusive use as determined by Fatbeam;
- Resale of Services; and
- Sharing service outside the Premises.

In addition to the above, Customer shall at all times comply with Fatbeam's Acceptable Use Policy, however the provisions of these Terms and Conditions prevail in the event of any conflict.

Fatbeam reserves the right to suspend or terminate Services immediately upon violation of this Section.

8. Network Management

Fatbeam operates a shared network environment.

To protect network integrity and performance, and customer experience, Fatbeam may take reasonable measures including:

- Traffic management;
- Security monitoring;
- Blocking malicious traffic;
- Bandwidth management; and
- Service restrictions related to excessive or abusive use.

Fatbeam applies these measures in a content-neutral manner, without regard for source or destination, except as necessary to address harmful or unlawful activity or otherwise to comply with applicable law.

These measures and practices may change at any time and without notice should Fatbeam determine such changes are necessary to address customer, network or technological needs or changes.

A full statement of Fatbeam's Open Internet Policy is available and viewable at

[Transparency-Notice-5-2019-002.pdf](#)

9. Service Performance

Advertised speeds are "up to" speeds and are not guaranteed.

Actual performance may vary due to:

- Customer equipment;
- Wi-Fi conditions;
- Internet congestion;
- Third-party websites and applications;
- Network maintenance;
- External infrastructure issues;
- Device capabilities; and
- Environmental and physical conditions.

Fatbeam does not guarantee uninterrupted, error-free, secure, or latency-free service.

10. Power Outages

Fiber internet service requires electrical power at the Premises.

During a power outage:

- Internet service may be unavailable;
- Voice over IP (VoIP) services may be unavailable; and
- Emergency calling capabilities may be impacted.

Customers are responsible for obtaining and maintaining any backup power solution desired for continued service operation during power outages.

11. Service Changes

Fatbeam reserves the right to:

- Modify services;
- Change pricing;
- Upgrade technology;
- Replace equipment;
- Modify features; and
- Update these Terms & Conditions.

Fatbeam will provide at least thirty (30) days' notice of material changes when required by law.

Continued use of Services after the effective date of a change constitutes acceptance by Customer of the change.

12. Suspension and Termination; Cancellation

Suspension and Termination

Fatbeam may suspend or terminate Services for:

- Nonpayment;
- Breach of the Agreement, including but not limited to the requirements of Section 7 concerning Acceptable Use of the Services;
- Breach of any Fatbeam policy, including but not limited to Fatbeam's policy imposed by Fatbeam in accordance with the Agreement;
- Fraudulent activity;
- Illegal activity;
- Threats to network integrity; and
- Abuse of Services.

Cancellation

Customer may cancel Services at any time for any reason or no reason.

Billing continues until Fatbeam receives and processes cancellation.

Amounts owing and Unpaid Balances

If the Services are suspended, or terminated and then reinstated, Customer may be charged a fee for reconnection or restoration of Service.

Customer may still incur charges if Fatbeam suspends Services, and Customer is responsible for any such charges.

Any unpaid balances remain due following termination or cancellation.

13. Equipment Return

Upon service termination:

- Fatbeam-owned Equipment must be returned within thirty (30) days.
- Equipment must be returned in reasonable condition, normal wear and tear excepted.

Failure to return Equipment within the time periods, and in the condition, specified above may result in charges up to the full replacement value of the Equipment, as well as charges for the costs of recovery incurred by Fatbeam in the recovery process. If Fatbeam has provided Customer with prior written notice that any one or more pieces of Equipment are not required to be returned, then the prior sentence does not apply to that specific Equipment.

14. Disclaimer of Warranties

TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICES AND EQUIPMENT ARE PROVIDED "AS IS" AND "AS AVAILABLE."

FATBEAM DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO:

- MERCHANTABILITY;
- FITNESS FOR A PARTICULAR PURPOSE;
- NON-INFRINGEMENT;

- DATA SECURITY;
- UNINTERRUPTED SERVICE;
- ERROR-FREE OPERATION; AND
- PERFORMANCE OF THIRD-PARTY SERVICES.

WITH REFERENCE TO THE PROVISIONS OF SECTION 9 ABOVE, FATBEAM SPECIFICALLY DOES NOT GUARANTEE:

- SPECIFIC SPEEDS;
- CONTINUOUS SERVICE AVAILABILITY;
- SECURITY AGAINST UNAUTHORIZED ACCESS; NOR
- DATA PRESERVATION.

15. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW:

As between Fatbeam and Customer, but subject to any state specific limitation, qualification or restriction on consumer and provider liability, Fatbeam shall not be liable for:

- Indirect damages;
- Consequential damages;
- Incidental damages;
- Special damages;
- Punitive damages;
- Lost profits;
- Lost business opportunities; and
- Loss of data.

This includes any of the above arising from any act or event (a) outside of Fatbeam's reasonable control, (b) by any party unrelated to Fatbeam, or (c) misuse or abuse of Customer's Services or account by any third party.

Fatbeam's total aggregate liability arising from or relating to the Services shall not exceed the amount paid by Customer for the affected Services during the three (3) months immediately preceding the event giving rise to the claim.

Customer's sole remedy for dissatisfaction with Services is termination of Services.

16. Privacy

Fatbeam collects and processes customer information pursuant to its Privacy Policy, which can be found at the following web address: <https://www.fatbeamfiber.com/privacypolicy>.

Customer agrees that Fatbeam may collect, use, maintain, and disclose information as necessary to:

- Provide Services;
- Maintain network security;
- Comply with legal obligations; and
- Prevent fraud and abuse.

17. No Resale

Residential Services are intended solely for the Customer's personal residential use.

Customer may not:

- Resell Services;
- Provide service to third parties using the Services;
- Operate as an internet service provider; nor
- Offer public Wi-Fi services to non-residents.

18. Force Majeure

Fatbeam shall not be liable for delays or failures caused by circumstances beyond its reasonable control, including:

- Natural disasters;

- Fire;
 - Flood;
 - Earthquake;
 - Severe weather;
 - Pandemic;
 - Labor disputes;
 - Utility failures;
 - Government orders;
 - Acts of terrorism; and
 - Network outages of third parties.
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19. Governing Law

The Agreement shall be governed by and construed according to the laws of the State of Idaho, without regard to conflict of law principles, except to the extent the laws of a particular state require the applicability and enforcement of those laws to the Agreement, or to the extent the Agreement is in conflict with those specific state laws.

20. Assignment

Customer may not assign the Agreement without Fatbeam's prior written consent.

Fatbeam may assign the Agreement without Customer consent.

21. Severability

If any provision of the Agreement is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

22. Waiver

Failure by Fatbeam to enforce any provision shall not constitute a waiver of any future enforcement rights.

23. Entire Agreement

These Terms and Conditions, together with any Services Orders for the residential fiber internet service, and with all Attachments, Exhibits and Additional Terms applicable to specific product offerings, as well as Fatbeam's Acceptable Use Policy (available and viewable at <https://www.fatbeamfiber.com/hubfs/site-files/AUP-and-Privacy-Draft-002.pdf>) and Privacy Policy (available and viewable at <https://www.fatbeamfiber.com/privacypolicy>), constitutes the entire agreement between Fatbeam and Customer regarding residential fiber internet service.
