

## END USER TERMS NORTHPOWER FIBRE - VERSION 2

Northpower Fibre owns and provides the fibre broadband network over which telecommunications and data services are provided to end users, including you. Northpower Fibre will install (if required), maintain, operate and own that part of its network which is located on your premises. As such, you (as well as your service provider) have a direct relationship with Northpower Fibre, and its network. All network users (including you) benefit if Northpower Fibre is able to operate its entire network effectively and efficiently. Northpower Fibre's network on your premises will be used by service providers to provide you, and possibly others, with their services.

Accordingly, before Northpower Fibre will install and/or make its network available for use at your premises, Northpower Fibre requires you to agree to be bound by, and comply with, these terms. Your service provider will be the first person to tell you about these terms and will also be the person who obtains your agreement to be bound by these terms. Your service provider will do that on behalf of Northpower Fibre and, when you agree to be bound, these terms will be an agreement between you and Northpower Fibre. You agree that, if asked to, you will provide Northpower Fibre with written confirmation of your agreement to these terms (for example, you may be asked to sign a copy of these terms before installation begins at your premises).

These terms relate to the provision (including installation) and use of the line (and any associated equipment and infrastructure) connecting your premises to Northpower Fibre's wider network. These terms grant Northpower Fibre the right to install, locate, maintain, access and operate its network on your premises and confirm that Northpower Fibre owns all of its network. They also set out certain other rights Northpower Fibre has, and the responsibilities you have, in relation to the Northpower Fibre network.

In these terms: "**Northpower Fibre**", "**we**", "**our**" and "**us**" means Northpower Fibre Limited; "**you**" (and "**your**") means you, the customer or end user of services which incorporate our services; "**our network**" has the meaning given to that term in clause 2; "**network terminating point**" means the portal at your premises where you will connect to our network and it includes an Optical Network Terminal (**ONT**), any other Network Interface Device (**NID**) or the secure jack or other access point where our network ends on your premises; "**premises**" means any property you own, occupy or have control over where our network is (or is to be) located and will include your home and section (for residential connections) and your business premises and the land or building it is located on or within (for business connections); "**install**" means all of the works and activities which are necessary to connect your premises to our wider network, including pre-installation design work; "**maintain**" means all of the works and activities which are necessary to keep your premises connected to our wider network, including inspection, replacement and relocation; "**consents**" means the consents and approvals needed for us to lawfully install, locate, access, maintain and operate our network in the manner allowed by these terms and acknowledgements that we will own our network at all times; "**services**" means all goods and services of any kind we provide to you or your service provider and includes the operation, repair and maintenance of our network; and "**service provider**" means any other person approved by us who provides you with any telecommunications or data services that use our network.

Nothing in these terms applies to:

- (a) any equipment owned by a service provider which may be located at your premises or varies any agreement you may have with a service provider in respect of such equipment; and
- (b) a particular premises if we have agreed with your service provider that some other agreement between you and your service provider will govern your rights and obligations in relation to our network at those premises.

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### 1. **Agreement**

These terms bind you and us, and apply to any premises you may at any time own, occupy or have control over where assets installed and owned by us are located. You agree that we may install, locate, access, maintain and operate our network on your premises under these terms. We may enforce these terms directly against you without any involvement from your service provider. The things you agree to do under these terms only apply to the extent you are lawfully able to do them and we do not require you to do things you have no actual power to do. Your agreement to be bound by, and comply with, these terms is in exchange for us agreeing to install and/or make our network available for use at your premises.

### 2. **Our network**

Our network includes the connecting line to your premises and all associated equipment and infrastructure (including the network terminating point), all of which is provided and owned by us and may be located in, on, over or outside of your premises. Our network does not include any line or equipment provided by someone else, even if we may use that line or equipment.

Our network normally ends at our network terminating point installed inside your premises (for residential connections, this means inside your home), if you receive services from a service provider over fibre optic lines. These terms do not give you any rights in any part of our network; nor will you acquire such rights from your service provider.

You must:

- let us or any of our agents or subcontractors come on or into your premises to install or work on our network or anything connected to it; we will always try to give reasonable advance notice to the occupier (including a description of the work we'll be doing) before we do it and the people we send will carry and present proof of their identity (and if the access we require to your premises is not granted this may impact on the services you or others receive from your service provider); and

- not interfere with any part of our network, even if it is on or within your premises (and if you do interfere (or instruct or allow any person who is not authorised by us to interfere) with our network, we will not be liable to you for any failure or disruption in the services you obtain from a service provider); and
- not convey or receive, or permit any person other than a service provider to convey or receive, any signal, communication or other service over or using any part of our network unless we first agree (and we may agree subject to conditions).

If you do not own your premises (or are not the only owner, unless you are a joint owner), you must ensure that the owner(s) give us written consent to install, locate, access, maintain, operate and own our network on that premises. You will be responsible to us for any loss we suffer if you do not ensure this. You also agree that, if asked, you will provide us with written evidence of that consent.

To connect your premises to our wider network we may need to install our equipment on or in adjacent land or buildings that you are not the sole (or a joint) owner of (for example, an access right of way or the risers that provide access for utilities in a commercial building). You agree that, if we ask you to, you will help us to obtain all the consents that we need to install our equipment. Unless we have all the consents we need, we have no responsibility to you for any failure to provide (or disruption of) the services you have requested (or obtained) from a service provider.

You acknowledge that:

- our network terminating point will almost always require a continuous electricity supply to operate and you are responsible for ensuring that electricity is supplied safely to where our network terminating point will be located; and
- if you connect anything to our network terminating point (including any equipment or device) that is not compliant with any relevant international connection standards, it may adversely affect services you, and possibly others, receive from your service provider and/or damage our network. More information about relevant connection standards can be found at [www.northpowerfibre.co.nz](http://www.northpowerfibre.co.nz)

You agree to pay for repairing or replacing any part of our network which is lost, stolen, or damaged by you or anyone you are responsible for or have control over. You also agree to use your reasonable endeavours to ensure that our rights to our network are not disrupted by anyone else.

### **3. Property damage**

Where we or any of our contractors or agents do work on or at your premises (including installation of our network) and damage it through not taking reasonable care, we will pay the reasonable cost of repairing the damage up to a maximum of \$500,000 for any event or for any series of related events (up to a total of \$1,000,000 in any 12 month period). For us to consider your claim you must tell us within one month after you become aware that your premises are damaged. You agree not to pursue any of our contractors or agents for any such repair costs or damage. This clause 3 also applies to any liability we have to you for damage to your premises where reasonable care has been taken in carrying out work on or at your premises except that the liability limits that apply are the ones described in clause 5 below.

### **4. Exclusion of all other liability**

We have set out your rights to claim compensation from us. We now exclude all other liability we may have to you. This exclusion applies for the benefit of these people:

- us;
- other network operators whose networks are connected to each other or to our network;
- all companies directly or indirectly owned, partly owned or controlled by any of the people listed above;
- all officers, employees, contractors and agents of all the people listed above; and
- anyone else any of the people listed above is responsible for.

Except for any liability we may have under clause 3 above, none of these people are liable to you or have to pay you for anything else caused by or resulting from anything any of them does or does not do, or delays in doing, whether or not it is contemplated or authorised by any agreement you have with us or a service provider. This exclusion applies whatever you are claiming for and however liability arises or might arise if it were not for this clause 4.

### **5. Limitation of our liability**

We have set out your rights to claim compensation from us under clause 3 above and excluded all other liability we or any of the other people listed in clause 4 above may have to you. If we or any of the other people listed in clause 4 above are ever liable to you and, for any reason, cannot rely on the exclusion of liability set out in clause 4 above, then this clause 5 applies. Where this clause 5 applies, the maximum combined amount we and all the other people listed in clause 4 above (together) will have to pay you and anyone else who uses the services provided to you (together) is:

- \$50,000 for any event or for any series of related events; and
- a total of \$100,000 in any 12 month period.

For clarity, these liability limits also apply under clause 3 above where reasonable care has been taken in carrying out work on or at your premises. This limitation does not limit any rights you may have under the Consumer Guarantees Act 1993. If you are a business customer who has a written agreement with your service provider, the provisions of the Consumer Guarantees Act 1993 may not apply to any services we provide.

### **6. Information about you**

You agree that service providers may share information they have gathered or hold about you with us and that we may use it and any other information we gather and hold about you (including your name and address) for the purposes of connecting your premises to our network and providing services to you and your service provider. We may also use any of that information for the purpose of obtaining, maintaining or confirming the existence of any consents we need. We will only share information we hold about you with your service provider and the agents and contractors we engage to do work on our network on your premises. We may also share information we hold about you with other persons from whom we need consents. You may ask to see information we hold about you and ask for any details that are wrong to be corrected.

**7. Terms apply while our network is on your premises**

These terms apply between you and us for as long as, and whenever, any part of our network is located on or at your premises. These terms (and our rights under them) are entirely independent of your relationship with any service provider. For clarity, none of the rights and benefits conferred on us under clause 2 above will come to an end or be altered as a result of your agreement with a service provider ending.

**8. Changing these terms**

We may change these terms by changing or removing existing terms or by adding new ones. Changes may take the form of completely new terms. We will always tell you about any changes to these terms at least one month before they come into effect. We will never change this requirement. We will tell you (and your service provider) about any changes by putting a notice on our website ([www.northpowerfibre.co.nz](http://www.northpowerfibre.co.nz)). Please ask us at any time for a free copy of our current terms. These terms cannot be changed by you.

**9. Transferring these terms or our rights**

We may transfer to someone else our rights and benefits under these terms, and our network. You agree that such a transfer can occur without the need for any consent from, or notice to, you. After a transfer, these terms (and all your obligations under these terms) will continue for the benefit the person we transfer to. We may also hold our rights and benefits under these terms in whole or in part for the benefit of other persons who may have an interest in our network.

**10. Each term separately binding**

If for any reason any of these terms, or any terms you agree with a service provider, cannot be enforced or relied on by you, us or the service provider, all other terms of this agreement, and all other terms of the agreement you have with a service provider, will remain binding.