

These terms apply to customers of all consumer services and apply in addition to any product-specific terms. Where there is a conflict, the product-specific terms will apply.

1. I Accept

By selecting the "I Accept" button, you are signing this Agreement electronically. You agree that your electronic signature (hereafter known as the E-Signature) is the legal equivalent of your manual signature on this Agreement as well as all terms and policies referred to in this Agreement, including our Acceptable Use Policy, our Privacy Policy, the Website Terms of Use and the Service Terms and Service Agreement relevant to your Plan (if any). You agree to accept these terms electronically when completing our online signup form and/or you use our Services.

You undertake that all of the information you have given us in establishing your Services is correct and complete and that you will notify us immediately of any change of address or relevant contact details.

2. Definitions

Just to make it really clear, when the following definitions are used in this document, they are taken to mean:

"we", "our", "us" or "Morepork" refers to Morepork Online Limited, and "you" or "your" refers to the Customer.

"Charges" means the amounts payable to Morepork by you for the Services you have signed up for.

"Commencement Date", unless otherwise specified, means the date on which we notify you that the Service is available.

"Due Date" means the date that payment is due, as specified in the tax Invoice.

"Equipment" means any hardware, software, or device used in connection with a Service

"Internet Services" refers to Services that provide connection and access to the Internet. Such Services include fibre, VDSL and ADSL.

"Invoice" means an account, sent to you by Morepork, detailing applicable Charges and amounts to be paid by a Due Date.

"Network" refers to the telecommunication systems and infrastructure owned by Morepork and/or any related company, which is used to provide Services to you.

"Plan" refers to a specific product or service we might offer, that is offered as a sub-set of a particular Service. So, for example we might offer a "special deal on fibre broadband for a 6-month fixed term". Fibre broadband is the Service, the offer (pricing/terms) is the plan.

"Service", "Services", "Product", or "Products" shall refer to all goods and services of any kind that we provide to you as specified in a Service Agreement.

"Service Agreement" means Your chosen Plan {Note a Service Agreement is not effective or binding until we accept and confirm your order and verify that the requested Service and that the relevant installation method is available}.

"Service Terms" means any specific terms between you and us pursuant to which we agree to supply you with specific products or services.

"Terms" means these Terms (which also called the "Consumer Terms") together with any terms contained in a Service Agreement and Service Terms.

Other capitalised words, other than proper nouns, will be defined in these Consumer Terms or in a Service Agreement, or otherwise refer to other terms or policies available on our website such as the Acceptable Use Policy, the Privacy Policy and the Website Terms of Use

3. These Consumer Terms

These Terms set out the terms and conditions under which you agree to use, and we agree to provide our Services. They apply from when you first sign up as a customer and remain in place for as long as we continue to provide Services to you.

Due to the nature of our Services, some services and products will have Service Terms and conditions associated with them.

These Terms therefore consist not only of the terms outlined below, but also any other relevant policy and terms as referred to in this agreement, which include but are not limited to:

- the specific Service Terms
- our Acceptable Use Policy
- our Privacy Policy
- our Website Terms of Use.

All terms and conditions can be found on our website and apply in conjunction with these Consumer Terms.

If there is any inconsistency between these Consumer Terms, and any applicable Service Terms that apply to your product or plan selection, then the relevant Service Terms will prevail.

The current version of these terms shall be available on our website. Morepork reserves the right to make revisions to these terms and conditions, explained in the "Changes to these Terms" section below.

4. Privacy and Credit Checks

Our Privacy Policy forms part of our agreement with you and sets out how we collect, use and disclose information about you during the provision of Services to you and/or from your use of your Services. For more information on where, how and why we might collect information and your rights with respect to that information please refer to our [Privacy Policy](#).

In addition, we may record the calls you make to us, which we use for training purposes and from time to time, to verify information. You agree and accept that Morepork may, when legally requested to do so, share information we have obtained from you with others for the purpose of monitoring and investigating fraud and other offences. You are entitled to see any personal information we hold about you, and to request that any incorrect personal information be corrected. (Please note a charge may apply based on the time and resource required to meet your request).

As part of our standard business practices, we may seek to obtain credit references and other credit information about you. This may involve sending your details to a credit agency to confirm your identity and to check your credit history. Your rights in relation to these processes and the credit information we obtain are set out in the credit reporting privacy code that can be found on the Office of the Privacy Commission website, (www.privacy.org.nz/credit-reporting-privacy-code)

5. Use of our Services

When using our Services, you must:

- use our Services in a reasonable and responsible manner
- act in accordance with and meet all the obligations outlined by us in our Acceptable Use Policy.
- only use our Services for your own personal, non-commercial use (or if you are operating a business from home, you are only using these Services for internal business processes)
- accept full responsibility for all use of our Services, including anyone else using our Services.
- Comply with any applicable Fair Use Policies

You agree to work with us and to follow all reasonable instructions and directions we provide about using our Services, including providing reasonable access to your property and/or equipment if required to fix a reported fault.

The following responsibilities specifically apply to the management and maintenance of any Network or equipment we provide you to enable you to receive our Services. By agreeing to these Terms, you are agreeing that you will:

- Only let people we authorise work on the Network or equipment we have provided
- Allow access to your property, to carry out work to install, maintain, monitor or remove equipment or Network. (We will always try to contact you to expect someone and to confirm that the people we send will be carrying proof of identity). Please note, that if you do not grant access to your property, this may affect the Service you receive from us, including our ability to provide you with the relevant Service.
- Provide suitable conditions for any equipment and Services to operate, including ensuring there is a reliable electrical supply, that premises wiring is to a relevant specification and that equipment in your home, such as alarm systems do not interfere with any part of the network and are located in a clean dry and safe location. If you have questions about the relevant specifications, you can contact our Helpdesk.
- Pay to repair or replace any part of the Network that is lost, stolen, or damaged (e.g. cut cables).by you or anyone you are responsible for such as family, friends or invitees to your property.

6. Our Charges

The cost ("Charges") for each Product or Service shall be outlined in a Service Agreement and shall begin from the Commencement Date, regardless of when they begin to be used. We will invoice you monthly, and you agree to pay the full amount by the due date shown on your Invoice. However, we may send you Invoices at such intervals and on such dates as we deem appropriate. If we change the frequency of your invoice or recurring date of invoice, we will give you at least 30 days' notice.

Once you have placed an order with us and we have accepted your order by the issuing of an order number, you are committed to buying the Services from us. If you choose to cancel your Services after purchase, there may be applicable Charges, including a cancellation fee if you cancel your order, through no fault of ours, after you are provided with an installation date.

You are liable for all Charges and must pay these regardless of who uses the Product or Service. For example, you are responsible for anyone else having access to and using your Services. If, however, you have concerns that there has been unauthorised third-party access to our Services that was beyond your reasonable control, then this must be raised with us immediately. If there is sufficient evidence, (e.g. fraud), then we will review the Charges. You will however need to supply reasonable evidence that you have met all your obligations under this agreement, having undertaken all reasonable actions to prevent any such unauthorised access to your equipment or network devices, including the protection of passwords and maintenance of appropriate security software.

Our charges will continue to apply during any period of suspension.

7. Billing and Resale

We will send you an Invoice for the Charges at the end of each billing period, which you will pay without deduction (other than validly disputed amounts) on the date specified in the Service Agreement or as otherwise as specified on the Invoice, the "Due Date". Unless agreed otherwise, fixed charges are billed in advance, and other charges are billed in arrears.

You consent to receiving your monthly invoice from us electronically. The accuracy of the email address to which we send your email is entirely your responsibility and you remain fully liable for all invoices.

Part-payment of any Invoice will not amount to full and final settlement and the remainder of your invoice will remain due on the Due Date. Unless we explicitly agree in writing, you are not permitted to resell any Product or Service and by accepting these Terms you confirm that you are the end user.

We may vary our Charges from time to time. If we make changes to Charges for any of the Services we provide to you, we will notify you of the change in writing and provide no less than 30 days' notice of this. If you do not agree to the changes, you may terminate the Service which is the subject of the changes.

The latest applicable Charges and pricing plans are all available on our website.

If you want to change your Plan, it is your responsibility to check the relevant Specific Terms and Conditions, as not all Services are available in all areas, and conditions might apply. You should check with us as to the availability of a Service before electing to change Plan because, as noted above, a Service Agreement is not binding or effective until we have confirmed it with you. Plan changes will take effect on the commencement of your next billing cycle.

8. Disputed Accounts

You agree that unless you dispute a Charge prior to the Due Date, then you accept that Charge as valid and agree to pay it in full and without any deduction or claim for set-off for any alleged claim not directly related to the Charge. If you dispute a Charge, you must notify us in writing by email immediately and without delay that the charge is in dispute, and in any event within 90 days of the date of our invoice to you (you agree that we will be entitled, in our discretion, to reject (in which case we will not be liable for) any dispute raised later than 90 days from the relevant invoice if there is no reasonable excuse provided for your delay in raising the dispute). We will investigate the dispute, and while we are doing this you do not need to pay the disputed amount but are required to pay any amount due that is not disputed by the Due Date.

If we agree with your assessment, we will issue a billing adjustment. If we do not agree with your assessment and you still dispute the account, then we agree that before we exercise our right to suspend or terminate any services or commence any enforcement proceedings for recovery of any unpaid Charges, to meet within 5 working days to resolve the dispute in good faith. If not resolved, both parties may within a further 5 working days submit the dispute to a mediator agreed by the parties or, if not agreed, appointed by the President of the Auckland Branch of the New Zealand Law Society.

9. Overdue Accounts

If you do not pay an invoice by the Due Date, we may charge you a late payment fee of \$8.65 (inc GST). We may also charge interest at 10% per annum on the unpaid amount from the Due Date until the date you pay it. Interest shall be calculated and compounded monthly. You must also pay any reasonable costs that are incurred by us (including all reasonable costs incurred by us to a debt collecting agency or to our solicitor) in recovering the money that you owe us.

We reserve the right to suspend or restrict any Service that we provide for you until payment is made in full, and you will continue to remain liable for all Charges.

This section does not apply to the portion of any invoice that is validly disputed, as outlined above.

In the event of payment default (i.e. non-payment), Morepork may also:

- withdraw all Services and terminate your account with us
- recover from you those costs associated with any debt recovery including collections costs, legal and administration fees, revenue costs and any costs associated with late or non-payment cost
- register your payment default (plus debt recovery costs) with a credit reporting agency.

10. Faults and Security

Maintaining the security of our Networks is one of our highest priorities, and we take all reasonable security precautions. However, due to the nature of telecommunications services we cannot guarantee that our Networks will operate free from viruses or other harmful or destructive files or features. Our advice to all customers is to ensure they install appropriate anti-virus software on their devices and to take all reasonable precautions to ensure their personal security when using the internet.

We are committed to providing you with all reasonable care and skill in the delivery of our Services. However, due to the nature of telecommunications and the Internet Services, not all Services are available in all areas. Nor can we promise that our Services will be continuous and fault free.

Accordingly, we do not guarantee our Services, but promise to work with you on restoring them as soon as possible on a "reasonable endeavours" basis if they ever become unavailable or are not fully functioning.

11. Subcontract & Assignment

You agree that we may, at our sole discretion, subcontract any or all of our obligations under this or any other Agreement you have with us, provided that we, will remain ultimately responsible to you for carrying out those obligations.

You cannot assign your rights under this Agreement. Morepork however may transfer our rights and obligations to another entity, provided that any assignment is to a reputable telecommunication service provider that we have reasonable confidence

will continue to provide services to you to the same or similar standard as provided to you by us, and we will provide you with notification should this occur.

12. Changes to these Terms

We may change these Terms from time to time and will provide you no less than 30 days written notice when we do so. If we believe the change to be minor and/or neutral or positive for you, we may make the changes to be effective immediately and without prior notice. We may further change any Service Agreement if we are providing the same or equivalent Products or Services for the same or lower cost. If any change to our Terms or Service Agreement substantially reduces the benefit of the Services to you (assessed on an objective basis), then with our agreement that the change will have or has had such an impact on you, you may elect to terminate the affected Service without penalty or fee.

13. Notices

We will send invoices and other notices to the last email address you have given us. Please inform us in writing (via our online forms or email) if you change address. Our address and contact details are available on our website, at www.morepork.net.nz. In accepting these terms and conditions, you agree that all agreements, notices, disclosures, and other communication sent to you electronically satisfies any legal requirements Morepork may have to that such communication be "in writing".

Any invoice or notice will be deemed to have been delivered on the other party:

- in the case of personal delivery, when received
- in the case of posting by "track and trace" or similar delivery, then when delivered
- in the case of email, when the sender's information system states that the invoice or notice has been sent

14. Confidential Information

All Product & Service information and pricing that is not on our website is to be treated as confidential and shall not be disclosed to any other party unless we agree to this in writing. You must also not disclose any commercially sensitive information that you receive from us unless we agree to this in writing.

15. Termination

We require 30 days written notice for the termination of any Service. If you wish to terminate your Services, you can do so by calling the Helpdesk.

Upon termination, all payments due by you to us will be immediately due and payable and you agree to pay these amounts immediately on demand. Either party may terminate any or all Services immediately and without penalty if the other party:

- materially breaches these Terms; or
- commits an act of fraud, theft, or dishonesty that impacts the other party.

If we require consent from owners of any site for access in order to supply you with a particular Service and the owners of that site withdraw such consent or request us to remove our equipment, then we may terminate the Service provided to you by written notice with effect of the date on which access to the site will be unavailable to us. You acknowledge and accept that we will not be liable to you in any way for failure to supply any Service where we terminate such Service under this provision.

We may also cease provision of any service to you at any time for the following reasons: the relevant service is no longer feasible; we are unable to provide it; we are withdrawing it from general availability; or we are replacing it with a new service. In any such instance, we shall provide 30 days written notice.

Termination due to breach of these Terms will not affect other rights and remedies. If Services are terminated due to breach, then you agree to pay us any monies owing and immediately return any equipment owned by us at your cost. You agree to pay for any equipment not returned to us within 30 days of the end of your Services or if the equipment is returned in damaged condition (accounting for normal wear and tear).

We reserve the right to withdraw our offer of services and require to transfer your services to another provider within 30 days or have them terminated. In this case, you will be liable for charges up until the last day this service is connected with us. You will still be required to return any equipment you have rented from us.

16. Invalidity and Severance

If any provision of these Terms is unlawful and/or unenforceable, then it will be severed from the rest of these Terms which shall remain in force. Each provision of these Terms is separately binding.

17. These Terms

These Terms supersede all prior Terms. The termination of Services with us does not affect any rights and responsibilities that are intended to continue or come into force after such termination.

The termination of Services with us does not affect any rights and responsibilities that are intended to continue or come into force after such termination.

Where there is a conflict between the meaning of these Consumer Terms and the terms and conditions in any Service Agreement or other specific written agreement between you and us the Service Agreement, or specific written agreement, shall prevail.

Where there is an alleged conflict between these terms and any alleged oral/unwritten agreement between you and us, then these Consumer Terms will prevail.

18. No Partnership & No Third-Party Rights

Nothing in these Terms is deemed to constitute either party as partners, agents, or legal representatives of the other. Neither you nor we intend to create rights in or grant remedies to any third party as a beneficiary of these Terms or any Agreement with you, and these Terms or any Agreement with you shall be for the sole and exclusive benefit of you and us.

19. Pricing includes GST

Unless explicitly stated otherwise, all pricing quoted to you by us includes New Zealand Goods and Services Tax.

20. New Zealand Law

All Products and Services are provided to you under New Zealand law. You may take action against us only in a New Zealand court or tribunal with the appropriate jurisdiction.

21. Service Interruptions

We do not guarantee that the Services provided will be free from interruptions. We reserve the right to temporarily suspend the Services or restrict access to our network for planned and unplanned maintenance or repair. We will use reasonable endeavours to minimise their duration. There is no charge for this except where you (or anyone for whom you are responsible) cause the interruption.

22. Consumer Protection and Liability

Provided you are not using our consumer internet Services for business purposes then you will likely be "consumer" as defined in the Consumer Guarantee Act 1993 and the Fair Trading Act 1986 and as such you will have rights under those Acts in addition to the rights set out in this agreement.

We are committed to providing you with all reasonable care and skill in the delivery of our Services. However, we will not be liable to you for delays or failing in performance of your Services resulting from circumstances beyond our reasonable control. This includes "acts of god", requirements of government or regulatory authority, civil commotion, national emergency, strike, sanctions, boycott, embargo, adverse weather conditions or any other circumstance (including a network failure) beyond our

reasonable control. If such an event does occur, Morepork will endeavour to inform you of the event and the effect of such event on the provision of the Services.

Morepork shall not be liable to you for any indirect or consequential loss, damage or expense of any kind whatsoever arising under or in respect of this Agreement. This includes, without limitation, any economic loss, loss of use, loss of profits, loss of income, or increased or alternative costs, however caused (which should not be claimable by you anyway as a non-business customer, unless you are using one of our Consumer Plans in breach of these terms).

Except as specifically outlined herein, we make no warranties in relation to our service or the service of any other service provider (including that the services will be continuous or fault-free at all times) and we will have no liability if your use of the service or any other provider's service infringes any third party's intellectual property rights.

You will require a suitable router to use our Services, which we are able to supply as part of your Services Plan. Ownership of any routers we supply will remain with Morepork, unless you arrange with us to purchase the router. You agree to pay for any damage or loss to our equipment whilst in your care, caused by any reason other than normal wear and tear. If you end this agreement with Morepork, you are required to return any of our equipment, including any equipment leased from us.