

Lightwire Terms and Conditions

Note: These are our standard Customer Terms and Conditions (Customer Terms). Other relevant documents include our Acceptable Use Policy (which is included in this document) and Direct Debit Authority form. You, the Customer (Customer) will find these documents (which will be updated from time to time) on our website – www.lightwire.co.nz (the “Website”).

Date Effective: 18 July 2019

Parties

LIGHTWIRE LIMITED a company having its place of business at Level 2, 19 Knox Street, Hamilton (“Lightwire”).

The CUSTOMER refers to anyone using Lightwire’s network or network services. (“Customer”).

1. Definitions

1.1. In these Customer Terms we use the terms:

- a) “Affiliates” to refer to the following affiliates of Lightwire:
 - i. directors, employees, agents, representatives and contractors; or
 - ii. owners and providers of Networks who allow Lightwire to operate its networks;
 - iii. other network operators who use the Network and allow Lightwire to use their networks, including their directors, employees, agents, representatives and contractors; and
 - iv. any other person who provides any service which is part of the Internet Services, including their directors, employees, agents, representatives and contractors;
- b) “Business Customer” is defined in clause 10.2;
- c) “Internet” to refer to the use of the World Wide Web and associated services;
- d) “Internet Services” to refer to Lightwire’s Internet services;
- e) “Network” to refer to any of the networks operated by Lightwire or other carriers used to provide the Customer with various services from Lightwire;
- f) “Residential Customer” is defined in clause 10.1;
- g) “Users” the Customer and/or any person permitted by the Customer to use or access the Internet Services; and
- h) “Working Day” means any day other than a Saturday, Sunday, or national public holiday in New Zealand unless otherwise specified.

2. Matters Agreed

2.1. These Customer Terms form a legally binding agreement between Lightwire and the Customer and shall be deemed to have been accepted and agreed to by the Customer upon completion and submission of an application in writing or from the date of first using Lightwire network or network services.

2.2. Where the Customer has verbally completed an application by telephone, Lightwire will advise the Customer of the key Customer terms and refer the Customer to the availability of the full version of the Customer Terms on the Website. Lightwire will record this conversation, and the Customers’ acceptance will have the same effect as if the Customer had signed an application form in writing.

3. Changing these Customer Terms, Price Lists and Internet Services

3.1. Change in Customer Terms: Lightwire reserves the right to amend these Customer Terms at any time. If Lightwire amends these Customer Terms, it will endeavour to provide a minimum of 10 Working Days’ notice and, wherever possible, at least one month notice of these changes. Lightwire reserves the right to change these Customer Terms without notice if Lightwire is required by law to do so or where that change is necessary for security reasons, to prevent fraud or for technical reasons. Lightwire will notify the Customer of these changes by writing or emailing the Customer and will upload a copy of the amended Customer Terms on the Website. It will be the Customers responsibility to visit the Website to obtain a copy of the amended Customer Terms. Continued use of the Internet Services after these changes have been notified to the Customer will constitute acceptance of the amended terms by the Customer. These terms will then form part of the Customer Terms agreed between Lightwire and the Customer.

3.2. **Change in Price List:** These Customer Terms incorporate Lightwire’s current applicable price list. The price list may change from time to time. Where the price of the Internet Services increase, Lightwire will notify the Customer at least 10 Working Days prior to the increase and where possible with one month’s notice. A copy of Lightwire’s current applicable price list and plans is available from Lightwire at the Customer’s request or on the Website.

3.3. **Change in Internet Services:** Lightwire may alter its Internet Services from time to time. If Lightwire alters its Internet Services in a way that materially reduces the Internet Service offering currently received by the Customer, Lightwire will provide the Customer a minimum of 10 Working Days’ notice, and wherever possible, one month’s notice, of such alterations. Lightwire will tell the Customer about any such alterations by emailing or writing to the Customer and by publishing the change on the Website.

4. Lightwire’s Obligations

4.1. Whenever Lightwire provides Internet Services for the Customer, Lightwire will:

- a) use its best efforts to provide the Customer with a consistently reliable and good quality Internet Service once the Customer is connected to the Network;
- b) use its best efforts to reinstate the Internet Services when the Customers connection is disrupted within a reasonable timeframe;
- c) supply the Internet Services through the Network to the Customer in a way that Lightwire believes is the most appropriate form for the Customers connection;
- d) choose the carriers and suppliers used to provide the Internet Services (which Lightwire may change at its sole discretion); and
- e) advise the Customer how to access the Network (this may change from time to time at Lightwire’s sole discretion).

4.2. Lightwire does not represent, warrant or guarantee that the Internet Services will be:

- a) interruption or fault free, or that any faults or errors will be able to be corrected;
- b) available at any particular time or location;
- c) available, or available without change, for any minimum period of time;
- d) secure or private; and/or
- e) free of viruses or other harmful features.

5. Payment and Billing

5.1. The Customer must pay for all goods and services (including the Internet Services) that Lightwire provides to the Customer’s address or for the Customer’s use (no matter who uses the Internet Services).

5.2. Lightwire will send the Customer bills for the charges. The Customer must pay each account by the due date for payment as set out in the bill.

5.3. If the Customer fails to pay any monies on the due date, Lightwire may:

- a) charge a late payment fee of \$15 + GST on all overdue accounts.
- b) require the Customer to pay any costs that are incurred by Lightwire (including agents) in recovering the money owed, or

- in exercising any other rights, including commissions, credit collection and legal costs on a solicitor and client basis; and/or
- c) discontinue the provision of the Internet Services and/or refuse to provide any further Internet Services to the Customer (Lightwire will notify the Customer at least 5 Working Days before it will disconnect the Internet Service for non-payment).

- 5.4. The Customer must notify Lightwire immediately if the Customer disputes any charges. The Customer must provide Lightwire with details of the reasons for the dispute, details of the charges and evidence of the grounds for the dispute. The dispute must be raised before the due date of the bill. Any claim outside of this time frame may not be recognised (at Lightwire's sole discretion). Payment for the undisputed charges must be made by the due date for payment. The Customer must not set-off or deduct any amount to be paid in respect of the bill in any other circumstances.
- 5.5. If Lightwire agree there is a mistake, Lightwire will adjust the Customer's next bill or, if appropriate provide a refund. If Lightwire find there is no mistake, and if the due date for payment has already passed, the Customer must pay the amount outstanding within five Working Days.
- 5.6. The Customer agrees and acknowledges that all amounts are payable in New Zealand dollars and include GST, unless otherwise specified.
- 5.7. Lightwire will only accept Credit Cards and Direct Debit Authorities as methods of payment. From time to time at Lightwire's sole discretion Lightwire may accept other methods of payment.
- 5.8. Lightwire will begin charging for a service once we deem service to have been given (based on the requested RFS date) regardless of whether the end client has actively started utilising the service.
- 5.9. If multiple services are being provisioned as part of WAN, billing will commence for each individual service component as they go live.
- 5.10. Early termination charges (ETCs) will apply if a service is cancelled by the customer prior to the contracted end date.
- 5.11. **Rural Wireless Customers:** If the 6 month contract is terminated, ETCs are calculated as remaining months of the term multiplied by the monthly fixed fee. If the 12 month contract is terminated with 7+ months remaining, ETCs are charged at \$500. If the 12 month contract is terminated with 1-6 months remaining, ETCs are charged at \$250.
- 5.12. **Business Customers:** ETCs are calculated as remaining months in contracted term multiplied by the monthly fixed fee.

6. Billing Policy

- 6.1. All Lightwire recurring services will be invoiced monthly in advance.

7. The Customers Obligations

- 7.1. The Customer will:
 - a) Ensure that all of the information given to Lightwire is correct and complete.
 - b) Notify Lightwire immediately of any change of the Customer's address, or land line or mobile phone number, or any other relevant contact details.
 - c) Comply with any legal requirements concerning the use of Lightwire's Internet Services.
 - d) Comply with any requirements of any other carrier in relation to the use of the Network.
 - e) Ensure that everyone is aware of the Customers obligations and responsibilities under these Customer Terms.
 - f) Provide reasonable access to Lightwire employees, its agents, its contractors or its representatives or its sub-contractors including any other carrier to undertake any and all work required for the commencement, operation, continuance and maintenance of Lightwire's Services and the Network. Lightwire will undertake this work by appointment and during reasonable working hours. In the event that Lightwire

requires access at a time outside of reasonable hours then the Customer will be notified but access must be provided to Lightwire.

- g) Provide Lightwire with the Internet Service login and email information to enable Lightwire to rectify any faults with either the Network or the Customer's connections.
 - h) Follow the instructions and directions Lightwire provide about using the Internet Services and only use them for lawful purposes.
 - i) Ensure that anyone using the Customer's connection will not view/download objectionable content in contravention to applicable laws.
 - j) Comply with all applicable laws, regulations, standards and codes when using our Services, including, but not limited to, the Privacy Act 1993, Fair Trading Act 1986, Copyright Act 1994, Defamation Act 1992 and the Crimes Act 1961, and not infringe a third party's rights.
 - k) Make sure everyone who uses the Internet Services that Lightwire provide to the Customer, or does anything in relation to them, is also aware of, and meets, these responsibilities. The Customer is responsible and liable for any use by any other person (authorised or unauthorised) of the Internet Services Lightwire provide the Customer, including any charges associated with that use and any consequences if such person misuses the Internet Services or breaches these Customer Terms.
- 7.2. If Lightwire requires a bond or some other such security to ensure payment of Lightwire's charges, the money will not accrue interest and it will be repaid to the Customer when these Customer Terms are terminated so long as all monies owed by the Customer have been paid.
 - 7.3. Lightwire reserves the right to impose a credit limit on the Customer's account at any time. The Customer agrees that a credit limit imposed by Lightwire may be altered at Lightwire's discretion and from time to time without notice to the Customer.
 - 7.4. **Residential Customers:** If the Customer is a Residential Customer, and or consuming a standard Internet Service found on the Lightwire Website, the Customer acknowledges and agrees that all equipment (for example but not limited to routers, CPE's, aerials etc.) installed or located at the Customer's premises is loaned by Lightwire to the customer and must stay with the property, including if the customer moves out. If the customer causes damage to the equipment, a replacement fee may be incurred.
 - 7.5. **Business Customers:** If the Customer is a Business Customer, and is consuming products and services that have been customized and tailored for their operation, and not listed on the Lightwire Website, the Customer acknowledges and agrees that all equipment (for example but not limited to routers, switches, CPE's, aerials etc.) installed or located at the Customer's premises remain at all times the property of Lightwire and the Customer agrees not to take any action, or omit to take any action, that affects or is likely to affect Lightwire's ownership rights.

8. Acceptable Use Policy

- 8.1. Lightwire's Acceptable Use Policy (AUP) is designed to ensure that the Network is used equitably by all users so as to create an online community where all users enjoy a high-quality Internet Service. The AUP sets out obligations and restrictions for users while they are using Lightwire's Internet Service. Lightwire reserves the right to limit and/or suspend its Internet Service to Customers who breach the AUP. Customers will remain legally responsible for their actions when using Lightwire's Internet Service and Customers will indemnify Lightwire for any loss incurred by Lightwire or any third party (or other users) due to the Customer's action.
- 8.2. AUP obligations and restrictions:
 - a) Customers will ensure that their Network usage does not adversely impact on Lightwire's ability to provide Internet Services to other Customers and the ability of other Customers to access and use the network.

- b) Customers will not flood Lightwire's Network, launch denial of Internet Service attacks, overload an Internet Service or impair Lightwire's ability to provide an Internet Service.
- c) Lightwire reserves the right to use network management tools to ensure that all users have equitable access and network usage rights. Lightwire also reserves the right to limit and/or suspend its Internet Service to Customers who misuse their Network usage obligations. Lightwire may also terminate Users' sessions if they have been continuously online for a considerable period of time.
- d) Customers will take all practicable steps to ensure that they do not transmit, receive or view objectionable, illegal, defamatory or restricted content. Lightwire acknowledges that some content may be restricted to adults over 18 years of age. It is the Users' responsibility to ensure that such content is not available to minors and others entities that it was not intended for.
- e) Customers will not attempt to gain unauthorised access to any other computers, networks, electronic storage/retrieval systems, or any other communications equipment on Lightwire's Network or any other network.
- f) Customers will not modify, alter, delete or edit content unless they either have explicit written authority or consent to do so or the content belongs to them.
- g) Customers will not transmit or post viruses and other harmful code over the Lightwire Network.
- h) Users will not send spam, junk email or any other unsolicited material over the Lightwire Network. Please note that sending viruses, spam and other junk email may be illegal under New Zealand Law. It is the Customers' responsibility to secure their usernames and passwords. Customers will also be responsible for their own identity and password security by organising their own antivirus, spam or junk email filter, firewalls and pop up blockers.
- i) Customers will not distribute, download or transmit password guessing programs, unauthorised keystroke loggers, password gatherers, cracking tools, Trojan horses, spyware, adware or any other illicit programs.
- j) Users will not attempt to ascertain private information about third parties without their knowledge and consent.
- k) Customers will not attempt to impersonate any person or entity, forge any persons or entities signatures, or perform any fraudulent activities.
- l) Users will comply with copyrights, trademarks and intellectual property rights of other people or entities.
- m) Users will not attempt to plagiarise, download, transmit or distribute content that infringes other peoples/entities intellectual property rights, trademarks or copyrights.
- n) Customers will not resell Lightwire's Internet Services, add accounts or share the Internet Services between more than one household without written permission from Lightwire.
- o) Lightwire's instructions, advertising, promotional and other material will remain Lightwire's copyright and unauthorised copying or distribution of this material is prohibited. As part of Lightwire's Internet Service we may use or display our partner companies' trademarks and copyrights. Lightwire acknowledges that these trademarks and copyrights remain the property of their owners. Although Lightwire has no obligation to monitor the Network and/or Internet Service, Lightwire, its partners and suppliers reserve the right at any time to monitor content, bandwidth, network usage and transmissions from time to time to operate the Internet Service; to identify violations of this Policy; and/or to protect the Network, Internet Service and other users.

9. Suspension or Disconnection of Internet Services

- 9.1. If the Customer exceeds its credit limit as set out in clause 7.3 Lightwire will be entitled to suspend the provision of its Internet Services to the Customer.

- 9.2. If the Customer does not meet all or any of its obligations under these Terms and Conditions Lightwire may suspend or disconnect the Customer from Lightwire's Network or discontinue any other services that Lightwire provides to the Customer.
- 9.3. Lightwire may suspend or disconnect the Customer from the Network if another carrier suspends or interrupts Lightwire's Internet Service and that suspension or interruption affects Lightwire's ability to provide its Internet Services to the Customer.
- 9.4. Lightwire may suspend or restrict an Internet Service in an emergency or whenever Lightwire, another carrier, or any other appropriate person considers that step necessary or reasonable to protect persons, systems or other property.
- 9.5. In the event that the Customer is suspended or disconnected from Lightwire's Network for failing to meet any of its responsibilities under these Customer Terms, the Customer may be required to pay a recommencement fee before it can use Lightwire's Network again. All costs and expenses of or incurred by Lightwire as a result of suspension or disconnection by the Customer and any recommencement shall be payable by the Customer upon demand by Lightwire.
- 9.6. Normal charges, as outlined in Lightwire's price list, will continue to apply during the Customer's suspension or disconnection from Lightwire's Network.

10. Warranty and Liability

- 10.1. **Residential Customers:** If the Customer is a residential customer and the Internet Services are not being 'supplied or acquired in trade' (Residential Customer) within the meanings of the Fair Trading Act 1986 and the Consumer Guarantees Act 1993 (the Consumer Protection Legislation), the Customer may have rights under the Consumer Protection Legislation in addition to those rights set out in these Customer Terms. These Customer Terms will apply subject to the provisions of the Consumer Protection Legislation.
- 10.2. **Business Customers:** If the Customer is not a Residential Customer (a Business Customer), then the Business Customer acknowledges and agrees that the provisions of the Consumer Guarantees Act 1993 and sections 9, 12A, and 13 of the Fair Trading Act 1986 will not apply to these Customer Terms and that it is fair and reasonable to exclude their application.
- 10.3. **Indemnity:** The Customer will indemnify Lightwire (including its Affiliates) against all liabilities, costs (including full costs between solicitor and client), losses, claims or demands incurred by Lightwire arising out of or incidental to any of the Internet Services or these Customer Terms. The Customer also agrees to indemnify Lightwire (including its Affiliates) against all liabilities incurred by the Customer due to viruses, spam, junk emails and hacking/disruptive activities caused by a User.
- 10.4. **No representations:** Except to the extent specifically stated under these Customer Terms or as required by law, Lightwire (including its Affiliates) makes no representation and gives no assurance, condition or warranty of any kind to the Customer in relation to the Internet Services provided to the Customer (whether express, implied or whenever arising) whether originating in statute, law, trade, custom or otherwise that would apply if it were not for this clause.
- 10.5. **Exclusion of all other Liability:** To the maximum extent permitted by law, Lightwire and its Affiliates will not be liable to the Customer for any loss of profit, loss of bargain, loss of business opportunity or exemplary damages or losses suffered by the Customer arising out of or flowing from any breach of contract, any pre-contractual misrepresentation or other dispute arising out of these terms and whether actionable in contract, tort (including negligence), equity or otherwise. For the avoidance of doubt, if Lightwire's Internet Services fail to operate for any reason and the Customer uses different services provided by another provider, Lightwire will not be responsible for that provider's charges. This exclusion of liability applies whether or not Lightwire's agreement with the Customer has ended and regardless of the type of damage the Customer suffers or howsoever it was caused.

- 10.6. **Copyright and related exclusions:** To the maximum extent permitted by law, the Customer agrees that Lightwire will not be liable for any:
- copyright infringement by a User; or
 - unauthorised access to or alteration of the Customer's communications or data by any third party; or
 - material or data sent or received (or not sent or received); or
 - transaction entered into by a User through use of the Internet Services; or
 - threatening, defamatory, obscene, offensive or illegal content or conduct of any other party or any infringement of another's rights, including intellectual property rights; or
 - any content sent using, or included in, Lightwire's Internet Services by any third party.

11. Limitation of Liability

- 11.1. If Lightwire (or any of its Affiliates) are found liable to the Customer for any direct losses arising from Lightwire's breach of this Agreement or for Lightwire's negligence despite the provisions of clause 10, Lightwire's (including its Affiliates) obligation to pay damages or losses is limited to \$5,000 for one incident or \$10,000 for a number of incidents within any 12 month period provided that the Customer notifies Lightwire of its claim within 3 months following date of the relevant event or series of events becoming reasonably discoverable to the Customer.
- 11.2. Lightwire (including its Affiliates) will not liable for any loss caused by any User or any loss that results from the User's failure to take reasonable steps to avoid or minimise loss.
- 11.3. To the extent that the Customer is a residential customer, the Customer's liability to Lightwire for a breach of these Customer Terms or a Customer's negligence is limited to \$5,000 for one incident or \$10,000 for a number of incidents within any 12 month period. This limitation does not apply to the Customer's obligations to pay any outstanding amounts payable under these Customer Terms or for any loss or damage caused by fraud, wilful breach or wilful damage.
- 11.4. The limitations in this clause 11 will not limit any rights the Customer may have under the Consumer Protection Legislation.

12. Force Majeure

- 12.1. Failure by either party to perform its obligations under these Customer Terms due to a Force Majeure event shall not be a breach of those obligations, and the obligations of both parties shall be suspended during the currency of the Force Majeure event.
- 12.2. For the purpose of this clause 12, Force Majeure means any act of God or act of nature, strike, lockout, work stoppage or other labour hindrance, confiscation or expropriation, embargo, electrical supply failure, fire, smoke damage, flood, water damage, ice, explosion, nuclear accident, sabotage, revolution, riot, act of war whether declared or not, warlike operations, any act or terrorism, requirement or restriction of governmental authorities, land slide, earthquake, epidemic, quarantine restriction, and any cause beyond the reasonable control of the Customer or Lightwire preventing either of them performing their obligations under these Customer Terms.
- 12.3. Neither party shall be entitled to the benefit of this clause to the extent that the failure was caused by the party's negligence or contributory negligence or if the failure was caused by a shortage or lack of money.
- 12.4. The party claiming the benefit of this clause shall give notice as soon as possible after the Force Majeure event or condition or cause has ceased or been remedied that it is in a position to resume the performance of its duties and obligations.

13. Privacy and Personal Information

- 13.1. The Customer agrees for the purposes of these Customer Terms and the performance of Lightwire's obligations to the Customer

that Lightwire may collect information about the Customer. The information Lightwire will collect about the Customer may be obtained from the Customer and from others. Lightwire may obtain information about the Customer when the Internet Services offered to the Customer are used, either by the Customer or anyone else in connection with the Customer.

- 13.2. Lightwire will treat all personal information in a manner which meets the requirements of the Privacy Act 1993.
- 13.3. If the Customer does not provide information then Lightwire may not be able to provide its Internet Services to the Customer.
- 13.4. Lightwire may use the information it holds about the Customer and may exchange information about the Customer with Lightwire's Affiliates and with credit reporting and debt collection agencies for the purposes of Lightwire's business or to comply with any relevant legislation or regulation.
- 13.5. All information held by Lightwire will be held or accessed at our offices located at Lightwire's place of business in Hamilton. The Customer may obtain access to, and correct, any information held by Lightwire under the Privacy Act 1993.
- 13.6. The Customer agrees and acknowledges that Lightwire may monitor and record calls that the Customer makes to Lightwire or that Lightwire makes to the Customer for the purpose of maintaining and improving the quality of our services to the Customer.

14. Electronic Communications and Email

- 14.1. The Customer agrees that during the term of these Customer Terms, there is an on-going business relationship between Lightwire and the Customer. The Customer gives Lightwire and its officer's explicit consent and permission to communicate with the Customer at a nominated email address with regard to the Internet Services and any related services provided by Lightwire or its Affiliates. The Customer may request that email communications be directed to a different address, and Lightwire undertakes to change its records for all future email communications in a timely manner.

15. Other Terms

- 15.1. Other terms may apply to some of the Internet Services provided by Lightwire. At such time as appropriate Lightwire will advise the Customer of these terms and conditions in writing.

16. Notices

- 16.1. Any written notice required to be given to Lightwire must be sent to the address below and shall be deemed to be received within two Working Days of posting, or immediately if transmission is electronically. Any notice given on a non-Working Day or after 5:00pm on a Working Day shall be deemed to have been given at the commencement of the next Working Day.

Lightwire Limited
 Street Address: Level 2, 19 Knox Street, Hamilton
 Postal Address: PO Box 9361, Hamilton 3240

Telephone: 0800 12 13 14
 Email: support@lightwire.co.nz
 Attention: Customer Service Manager

- 16.2. If the Customer changes address or moves premises, it must inform Lightwire of this event in writing so that Lightwire can ensure there is no interruption in its supply of Internet Services to the Customer. If the Customer does not inform Lightwire of this event, it may not be able to ensure the continuous supply of our Internet Services to the Customer.
- 16.3. The Customer agrees that all agreements, notices, disclosures and other communications that Lightwire provide to the Customer electronically satisfy any legal requirement that such communications be in writing.

16.4. The Customer agrees that any electronic communication from the Customer will be taken to be received by Lightwire at the time that that electronic communication comes to Lightwire's attention.

17. Term and Termination

17.1. **Term:** These Customer Terms will come into effect on the earlier of:

- a) the date that these Customer Terms are signed by the Customer; or
- b) the Customer consents to these Customer Terms by telephone; or
- c) the Customer using or accessing the Internet Services, and
- d) will continue in full force and effect unless terminated in accordance with this clause 17.

17.2. **Lightwire Termination:** Lightwire may terminate these Customer Terms and may restrict, suspend, or cancel the Internet Services:

- a) immediately without notice;
- b) if the Customer fails to pay any invoices or fails to meet its responsibilities to Lightwire under these Customer Terms; or
- c) immediately for the health and safety of any person or the safety and security of the Network;
- d) if any of our thirty party licensors terminates or suspends any licence or agreement in connection with the Network or such licence or agreement expires; or
- e) for any other commercial reason that we can no longer provide the Internet Services; or
- f) the Service is permanently or temporarily (for any reason) unavailable to you.
- g) for any other reason, by Lightwire giving the Customer at least one month's written notice.

17.3. **No release:** Termination of these Customer Terms by Lightwire shall not release the Customer from any outstanding obligations or responsibilities that it has to Lightwire.

17.4. **Rights on termination:** On termination of these Customer Terms, Lightwire will cease providing its Internet Services to the Customer and all amounts which the Customer owe to Lightwire will immediately become due and payable. Lightwire shall not be liable to the Customer for any loss or damage suffered, or claimed to have been suffered, by the Customer on or following termination of the supply of Lightwire's Internet Services to the Customer.

17.5. **Customer Termination:**

- a) The Customer may terminate these Customer Terms by providing Lightwire with one month's written notice to the address provided in clause 16.
- b) Termination by the Customer may be subject to any additional terms, which may have been agreed to as part of an application completed via telephone as outlined in clause 2.2.
- c) In the case that the Customer is bound to a minimum term period, a disconnection fee may apply if the Customer wishes to disconnect prior to the end of the minimum term. The Customer may not transfer its responsibilities under these Customer Terms to anyone else.

17.6. **Consequences of Termination:** If either party terminates the Internet Services or these Customer Terms during a billing period, any applicable charges for that period remain payable. Lightwire will not refund a pro-rata portion of any minimum monthly fee paid in advance.

17.7. **Insolvency:** Notwithstanding this clause 17, if the Customer fails to pay any monies, commits any act of bankruptcy, or being a company does any act which would render it liable to be wound up or have a receiver appointed over its property, Lightwire may (without prejudice to any other remedies available to it) suspend or terminate these Customer Terms and the proportion of the monies owed will fall immediately due and payable. The Customer shall pay any costs incurred by Lightwire in relation to such termination.

18. Intellectual Property

18.1. Ownership of all intellectual property rights in respect of all documents, technical specifications, design drawings, charts, plans and software relating to the Internet Service shall belong to Lightwire.

19. Dispute Resolution

19.1. In the event of a dispute between the parties in relation to these Customer Terms, the Customer shall first seek to resolve such dispute by contacting Lightwire's Helpdesk. If the Helpdesk is not able to resolve the Customer's concerns the matter will be escalated to the Customer Services Manager.

20. General

20.1. **Assignment:**

- a) Lightwire may assign or transfer its rights and responsibilities under this Customer Terms to another party. Lightwire will provide the Customer with written notice in advance if it intends to do this.
- b) Lightwire may subcontract the performance of any of its obligations and responsibilities under this Customer Terms to a third party.
- c) The Customer may not assign or transfer any of its rights or responsibilities under these Customer Terms to anyone without Lightwire's prior written consent.

20.2. **Invalid Clauses:** If any provision or part of these Customer Terms is held to be invalid, unenforceable or illegal for any reason, these Customer Terms will be deemed to be amended by the addition or deletion of wording as appropriate to remove the invalid, unenforceable or illegal provision or part, but otherwise to retain the provision and other provision of these Customer Terms to the maximum extent permissible under applicable law.

20.3. **Waiver:**

- a) No delay, neglect or forbearance by a Lightwire in enforcing against the other any provision of these Customer Terms will be a waiver, or in any way prejudice any right, of that party.
- b) None of the provisions of these Customer Terms will be considered to be waived by Lightwire except when such waiver is given in writing.
- c) No waiver by Lightwire of any breach will be deemed a waiver of any continuing or reoccurring breach, unless it is expressly agreed to be so in writing by Lightwire.

20.4. **Relationship:**

- a) The parties will perform their respective obligations under these Customer Terms as independent contractors to each other.
- b) Nothing in these Customer Terms will create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and neither party may make or allow to be made, any representation that any such relationship exists between the parties.
- c) Neither party will have the authority to act for, or incur any obligation on behalf of, the other party, except as expressly provided for in this agreement.

20.5. **Survivorship:** Termination of these Customer Terms for any reason will not affect such rights and obligations of the parties as are intended to survive the termination.

20.6. **New Zealand Law Applies:** These Customer Terms are governed by the laws of New Zealand and the parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this Agreement.