

# Residential Customer Terms and Conditions

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The following terms apply to any services or equipment we provide for our residential customers. Please call us on 0800 438 669 if you have any questions about these terms. Different terms may apply to some services we provide for Residential customers, as we explain in this agreement. If you want to use our services for business purposes, other terms apply. Please ask for a copy by calling us on 0800 438 669 or visiting <https://www.nownz.co.nz/terms-conditions/residential-terms-and-conditions/>

## 1. This Agreement

The parties agree that these terms and conditions serve as a written Agreement. This agreement should be read in conjunction with Residential Service Terms and any Promotional Terms and Conditions (if applicable). These collectively shall be known as the Agreement.

This agreement applies whenever NOW provides services of any kind or does anything else for NOW residential customers except where a separate written agreement covers other services we provide. In this agreement, we have used "we" or "us" for NOW providing services for you, "you" for the customer and members of your household and "Service" or "Services" to cover all goods and services of any kind we provide and anything else we do. "NOW Network" means the network of communication facilities owned by NOW, which NOW uses to provide Services for you and other customers of NOW. NOW may at any time subcontract out any or all of its obligations under the Agreement without your consent as long as NOW is ultimately responsible for its obligation under the Agreement.

The Agreement supersedes all prior discussions and agreements that you may have had with NOW for the provision of the Services and Equipment.

Any notice or other communication to be given by NOW to you under the Agreement may be given in-person, sent by post or by email or fax to the address contained in the Agreement. Any notice or communication to be given by you to NOW under the Agreement may be given in person, sent by post or sent by email.

## 2. Your General Responsibilities

When we provide services for you, it is your responsibility to:

- follow our reasonable directions about the use of our services
- use our services for lawful purposes and without causing annoyance to anyone
- make sure all information you give us or to any service provider approved by us is correct and complete
- notify us immediately of any change of your address, email address or land line, or mobile phone number or any other relevant contact details
- never interfere with the reasonable use of our services by our other customers
- make sure you use the service only for your own use and not sell, rebill or otherwise provide any of our services to anyone else without our written consent
- allow us to test the configuration of your equipment from time to time and comply with any reasonable directions given to you to reconfigure your equipment if we reasonably believe it is necessary to do so
- use our services without gaining unauthorised access to or interfering with anyone else's computer or communications equipment
- 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, the Unsolicited Electronic Messages Act 2007, when using the Services.

- and not infringe a third party's rights
- edit, delete or cease any future publication of any material or communication which we reasonably, and in good faith, consider to be unauthorised, misleading, objectionable, restricted, defamatory, illegal, inappropriate or contrary to these Terms, or detrimental to our reputation or to our brand, and if you do not do so to our satisfaction, you agree that we may edit, delete, block or disconnect that material or communication ourselves
- not use the services, or content or anything else provided by us or available on our websites, in any way that implies an endorsement, sponsorship or association by us with any product, service, person or entity.
- make sure anyone else who uses the services we provide to you, or does anything relating to them, also meets your responsibilities under this Agreement. You can take steps to prevent unauthorised use of your services (for example, depending on the services, by using passwords, PIN numbers, toll barring options and/or other security measures to control who gains access to and uses your service). You will not be responsible and liable for any unauthorised use of the services if such use is a result of our breach of contract or negligence.
- immediately report any misuse of the Services or disclosure of your account information.

### **3. Acknowledgement**

You acknowledge that:

- you are aware the internet contains unedited materials, some of which are sexually explicit or may be offensive to you and that NOW has no control over and accepts no responsibility for such materials;
- all content accessed by you through the Services is accessed and used by you at your risk and NOW and its representatives shall not be liable for any claims losses actions damages or proceedings arising out of or otherwise relating to access to such content by you;
- NOW specifically disclaims any responsibility for the accuracy, quality and confidentiality of information obtained, transmitted or distributed through the Services.
- other entities may be able to access and/or monitor your use of the Services.
- any sensitive or confidential information (such as credit card numbers or other financial information, medical information or trade secrets) sent by you or to you is sent at your sole risk. NOW and its representatives shall have no liability whatsoever for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such actions;
- you are aware that when using the Services to access the internet or any other online services, there are certain applications, such as FTP, HTTP, proxy or gateway server applications, which may be used to allow other service users and Internet users to gain access to your computer. NOW and its representatives shall have no liability whatsoever for any claims, losses, actions, damages, suits or other proceedings resulting from, arising out of, or otherwise relating to the use of such applications by you, including, without limitation, damages resulting from others accessing your computer;
- you are aware that the Services provided by NOW to access the internet is undertaken on the basis of a “shared” form of internet delivery service, meaning time critical applications (video conferencing, online gaming etc) may not be suitable for you, or maximum data transfer speeds may not always be available.

### **4. Supply of Services**

After an Agreement has been entered into by the parties, where necessary NOW shall as soon as reasonably practical, arrange for the supply, delivery and installation of Equipment to your specified site. You shall, at your own expense, secure and maintain all necessary approvals and consents for the installation of the Equipment at or on your selected site, for any alterations at your site needed to install such Equipment and

for the right of access to install the Equipment. NOW shall have no responsibility whatsoever in relation to any such approval or consent.

NOW shall be entitled at any time to alter, at its own expense, the mechanism or method by which NOW provides the Services, provided that any such alteration shall not, diminish, impinge or otherwise reduce the quality, capacity or accessibility of the Services.

The NOW Network has been designed to support monitored alarm signalling to replicate the traditional analogue copper line communications networks but NOW cannot guarantee that the transmission of alarm signals will be fault free. Accordingly, NOW shall not be held liable in any way for any failure of alarm signalling over the NOW Network.

## **5. Term of the Agreement**

The term of the Agreement shall be in accordance with the term as specified in the Agreement between NOW and yourself and shall continue thereafter until cancelled by either party in accordance with the specific terms contained in the Agreement.

If you are on a minimum term contract we will not change the monthly plan charge or any early termination fee during the term of your minimum term contract, without either your consent or giving you the option to terminate your contract without incurring an early termination fee. Notwithstanding the aforementioned we may change the monthly plan charge if the change arises from, relates to or is the result of a regulated charge outside our control, for example where the charge is a tax or levy imposed by law or there is a charge for a regulated input required to provide you service, and the terms of your minimum term contract will remain in effect.

You may give up any service simply by telling us. If you exercise your right to terminate a service that is subject to a minimum or contracted term, and you are ending that service prior to the minimum or contracted term, then an early termination fee may apply. The maximum early termination fee will be calculated as the total monthly recurring charges for all services covered by the Agreement as at the date of notice multiplied by the number of months remaining till the end of the minimum term.

Subject to any minimum term or notice period (where, as noted an early termination fee may apply), charges will stop 30 days after we receive your notice to terminate a service, unless we agree that charges will stop earlier. You can choose to continue to receive the benefit of a service during the 30 days' notice period.

## **6. Credit Check and Credit Reporting Agencies**

As governed by the Financing Terrorism Act 2009, you authorise us to make credit references and other enquiries within our normal procedures. For this purpose, we may seek from any such source information concerning you.

You also authorise the collection and disclosure of all information relevant to your accounts including repayment history information from/to any credit reporting agency. Credit reporting agencies may use information disclosed by us to update their credit reporting database and disclose any information that they hold about you to their own customers as permitted under the Credit Reporting Privacy Code. In addition, we may use any service provided by our credit reporting agencies to receive updates of the information it holds about you.

If you are in default under any credit facility from us, we are authorised to disclose all relevant information about you, to and for the use by, credit reporting agencies, debt collection agencies and law firms.

## 7. Our Charges

You must pay for the services we provide for you no matter who uses them. However, if you have any unexplained usage and/or charges on your account please contact us as soon as you become aware of them and we will investigate for you.

Most charges are payable monthly.

All prices shown for the Services include GST unless specified. All charges are shown in New Zealand Dollars unless specified otherwise.

Unless otherwise specified in the Agreement, NOW may change prices for the Services, change the way it charges or introduce chargeable services that were previously free.

When we decrease charges for any of our services we may make the change immediately and we will tell you about the change as soon as possible after the change has been made. We do this by emailing or writing (for example by bill message) to you.

When we increase the charges for any of our services (including introducing charges for services that are currently free) and you are impacted by the change, we will give you one month's notice of these changes. We will notify you of these changes by emailing or writing (for example by bill message) to you.

We may also change you to a new plan if we consider that you will be better off. We will give you one month's notice of any change in plan. We will notify you by emailing or writing to you.

We may assign any amounts you owe. Charges usually begin from the time you are connected to the network. We may at any time, if we consider it reasonable and necessary to do so, require you to:

- satisfy us that you will be able to pay our charges
- give us a fair bond, guarantee or other security

## 8. Payment and Billing

NOW's standard billing period is one calendar month.

You agree to pay to NOW the following:

- any installation or hardware fees (e.g. router) specified in the Agreement;
- charges for Services and access, as specified in the Agreement, with such charges for the first month being due immediately prior to connection of establishment of the Services;
- after the first month, charges for the Services and access as specified in invoices rendered by NOW with such charges to be paid on the 20th of the month following the invoice date unless otherwise agreed;
- any financing charges for equipment including payment terms for router purchase;
- on demand, a delivery fee of \$2 for delivery of paper statements (per statement) except for phone only customers (customers receiving their statements via e-billing will not incur this delivery fee);
- on demand, any additional services or usage fees as specified in the Agreement or any relocation fees if any Equipment is relocated at your request to an alternate site;
- on demand, GST and any other applicable taxes, levies or duties which may be payable on payments under the Agreement;
- on demand, reimbursements for any costs caused by a dishonoured payment from you;
- on demand, all reasonable costs incurred for the collection of any overdue debts owed by you to NOW under the Agreement; and

- on demand, a reconnection fee of \$150 after disconnection of Services for non-payment of account.
- on demand, a fault handling fee of \$150 fee for any reported incidents where there is no fault found or a fault that has been caused by you
- on demand, any reasonable expenses we incur in collecting any money you owe us or in exercising any of our other legal rights.

We will send you bills for our charges. The bills will include any charges for directory assistance, directory listing services and 0900 calls charged to you or made from your phone.

Our bills are based on records. Please let us know before the due date for payment if you think there is a mistake in your bill. If we are investigating a bill charge for you, you do not need to pay the queried part of the bill by the due date for payment. However, if you have already paid your bill you may still query your bill within three months of the due date if you think there is a mistake. You must not set-off or deduct any amount in any other circumstances.

Normally, we will be able to find out if there is a mistake in our records and get back to you within seven days. If there is a mistake we will adjust your next bill or, if appropriate provide a refund.

If there is no mistake, and if the due date for payment has already passed, you must pay the amount outstanding immediately or as otherwise agreed with us. If you do not pay a bill by the due date for payment:

- we may either charge you a late payment charge (which reflects the costs to us of recovering money owed to us) or interest on the unpaid amount from that date until you pay it; the current late payment charge and interest rate is 2% per month, you may be required to pay any reasonable costs that are incurred by anyone (including agents) in recovering the money you owe or in exercising any other rights, including commissions and legal costs on a solicitor and client basis
- provided we have followed our standard debt collection process and you still have not paid your outstanding balance we may withhold, suspend or restrict any service we provide for you. We will always do our best to contact you before doing this and will give you at least five business days' notice if we are going to disconnect your services for non-payment.

## **9. Sending Bills and Notices**

We will send bills and other notices to the last physical or email address you have given us. We can assume any bill or notice we send by post has been delivered three business days after we post it and, if sent electronically has been received by you on the date it was sent. Please tell us if you change your address or require a change in email address.

You also agree that all agreements, notices, disclosures and other communications that we provide you electronically satisfy any legal requirement that such communication be in writing.

## **10. Acceptable use**

You must not use our services in ways that constitutes criminal or civil breaches of any statute, regulations, government requirements or any other law (including general or common law) of any country. Those breaches include, without limitation, breach of intellectual property rights (such as copyright, trademarks, patents, trade secrets and confidential information); defamation; breach of obscenity laws; breach of laws as to objectionable publications (such as pornography and hateful materials); fraud; theft; misappropriation of money, credit card details or personal information; and breaches of privacy obligations.

You must not use our services to breach, or attempt to breach, the security and operation of any network, equipment, or any other system used by NOW or any other third party. This includes, without limitation, hacking, cracking into, monitoring or using systems without authority; scanning ports (including scanning for open relays), improper configuration of mail servers and FTP servers enabling disruption of Spam and unlicensed material by others; interference of service to any user or network (or activities that might encourage such interference by others) including mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks; denial of service attacks or activities which might encourage denial of service attacks by others; unnecessarily excessive traffic (including excessive pings); distributing viruses, Spam or other harmful material or software; any communications across the Services which do not accurately identify (or disclose in a manner that is misleading) addresses, headers, names and other relevant details; and using the NOW Network in any way as a staging ground for any of those breaches or to disable or “crack” other systems.

NOW prohibits the distribution of Spam and other unethical marketing activities through your use of the Services provided by NOW. Specific examples of prohibited activity include (but are not limited to) the following:

- Using or causing to be used NOW's Services or systems to facilitate the transmission of unsolicited or unauthorised material. This includes any promotional materials, URLs, "junk mail", "chain letters", "pyramid schemes", or any other form of unauthorised solicitation that you may upload, post, email, transmit, or otherwise make available. This includes Spam which is defined as email sent in bulk without regard to the recipient's wishes. NOW reserves the right, in its sole discretion, to identify material transmitted over the NOW Network as Spam. NOW reserves the right to take all legal and technical steps available to prevent Spam or any other unauthorised email from entering, utilising or remaining within the Services or the NOW Network
- Manipulating or forging identifiers, such as email headers or domain names, to disguise the origin of any content transmitted to or through NOW's Services or systems;
- Relaying mail through a third party's mail servers without the permission of that third party, or using similar techniques to hide or obscure the source of the email;
- Harvesting or collecting email addresses from websites for purposes of sending unsolicited or unauthorised material;
- Uploading, posting, emailing, or transmitting the same message, URL, or post multiple times.

## **11. Our Right to Suspend or Restrict any Service**

If you do not pay our charges or meet any responsibilities you have to us, we may suspend or restrict any service at any time. We will always do our best to contact you before doing this (and as noted above, will give you at least five business days' notice if we are going to disconnect your services for non-payment). In most cases, if you have not met a responsibility you have to us (for example, where you did not pay your bill by the due date) normal charges continue to apply during the suspension or restriction of any service. However, if following a suspension or restriction of any service we permanently disconnect that service, you will only be responsible for the charges incurred up to the date of the suspension or restriction.

Where we suspend or terminate a service for non-payment, we may require you to pay a reconnection charge before you can use it again. Your account will also need to be paid in full or you will have to negotiate a repayment plan with us. The reconnection will be subject to our standard credit approval.

Where we permanently disconnect your services, you will remain liable for all charges incurred up to the date of a withholding, suspension or restriction of your services. Where such disconnection is before the end of a minimum term contract an early termination fee will also apply.

We may suspend or terminate a service for any breach of the terms of this Agreement including breach of the acceptable use policy, unlawful use of service abusive or threatening behaviour towards NOW's employees or authorised representatives.

We may also suspend, restrict or terminate any service in other circumstances if we think it reasonable or necessary (by way of example only, to protect our network from attacks, for maintenance or repairs, or interruptions to the availability of the network). We will always do our best to contact you before doing this but may not be able to do so in all circumstances.

Please call us on 0800 438 669 to request removal of a suspension or restriction.

## **12. Our Right to Stop Providing any Service**

We may stop providing any of our services to you. We may do this at any time if you do not pay our charges or meet your other responsibilities under any agreement you have with us. Otherwise:

- where we have agreed to provide a service for a minimum or contracted period, we will continue providing it until the end of that period except if the circumstances set out below apply
- we will always tell you at least one month before we stop providing the service.

We may end the availability of any service to you and any other NOW customers at any time if the relevant service is no longer viable, we or a service provider are unable to provide it, we or a service provider are withdrawing it from general availability, or we or a service provider are replacing it with a new service.

We may alter our services from time to time. If we alter our services in a way that reduces the service offering currently received by you and the change is within our control we will provide you one month's notice, of such alterations. However, if the change is outside of our control, and it is possible, we will provide you notice of the change beforehand. If the change is outside of our control and we are unable to provide you notice of the change beforehand we will provide you notice as soon as possible after the change has been made. When determining whether a change in the service offering has a negative impact on you we will act in good faith. We will tell you about any such alterations by emailing or writing to you (for example by bill message). If you are in a minimum term contract, we will not reduce the service offering currently received by you without either your consent or giving you the option to terminate your contract without incurring an early termination fee.

## **13. Equipment**

NOW may supply equipment to you in connection with the provision of Services to you. Where equipment is sold to you on a deferred payment plan, you agree to pay the full amount due under the plan regardless of whether you remain a NOW customer. If you cancel your services before clearing the balance owing on the deferred payment plan, the outstanding balance will be added to your final bill. Where equipment is supplied as part of the Service or leased to you, ownership remains with NOW and you must not:

- remove the equipment from your site without the prior written consent of NOW
- sell, lease, dispose of, lend or otherwise part with possession of or modify in any way the equipment;
- use the equipment for any purpose other than the Services in your specified site in accordance with the Agreement;
- deface, obliterate or remove any label or mark which identifies the ownership of the equipment by NOW or
- do any other act which may adversely affect or prejudice the ownership of the equipment by NOW

You also agree:

- to follow directions about using any equipment you lease from, or is supplied by, NOW.

- to follow directions when connecting anything to the NOW Network and make sure it is installed to NOW's specifications and that nothing on the property under your control interferes or damages the NOW Network.
- to supply at your sole cost electricity sufficient to operate the equipment. To ensure that the Services continue when electricity is unavailable, NOW strongly recommends you obtain an uninterrupted power supply unit.
- immediately return the equipment to NOW on termination or cancellation of the Agreement. Return of NOW equipment to NOW is at your cost. For deferred payment plans on equipment, all outstanding balances must be paid on cancellation of your agreement with NOW in accordance with the payment terms in this agreement.
- that you will be liable for any loss (including by fire), theft, or damage caused to the equipment. It is your responsibility to effect insurance cover if you elect to do so, against potential liability under this clause.
- to NOW or its agent having the right during the term of the Agreement to enter your specified site in order to maintain, replace or repossess the equipment or where NOW has reasonable grounds to believe that you are not complying with your obligations under the Agreement.

#### **14. Software**

Where we provide you with any software:

- we remain the owner or licensee of the software
- you may only use the software for your own use and for the purposes for which we provide it
- you must not change or interfere with the software in any way
- you must not copy any part of the software without our permission.

We may at any time provide upgraded or new versions of the software. As long as an upgraded or new version does not adversely affect any service we provide to you, or your use of our service, you must install the upgrade or new version as soon as you reasonably can and not later than three months after we provide it to you.

#### **15. Numbers, Email Addresses and Other Codes**

Depending on the services you acquire from us, we will arrange for appropriate telephone numbers, electronic numbers, email or IP addresses and other codes to be allocated to you. Unless we have agreed otherwise with anybody else, all addresses, numbers and other codes allocated to you remain the property of NOW and you must not transfer or sell your address, number or code to anyone else.

You are responsible for keeping confidential your NOW account number and any personal identification number or password used by or allocated to you. We may assume that any request or instruction we receive is authorised by you if it is accompanied by suitable verification (for example, your NOW account number, personal identification code or password). It is recommended, for security reasons, that you change these on a regular basis. If requested by NOW you must change your password or PIN number in a timely manner.

We may change any number we have allocated and allocate you a new number. We will always give you as much notice as we reasonably can before making any change.

If you wish for your details to be available through directory assistance and/or in the phone book then you will need to contact the Yellow Pages Group directly, NOW is not responsible for any listings. The Yellow Pages Group can be contacted on 0800 803 803.



## 16. How to Request Assistance

Our standard residential support hours are 8am to 9pm Monday to Friday and 8.30am to 5pm on Saturday and Sunday.

To make a Service Request or report an Incident, you shall do so by contacting NOW.

Any of the following methods may be used for creating a ticket:

- Send an email to [help@nownz.co.nz](mailto:help@nownz.co.nz). Emailing from your customer assigned email address will automatically generate a case in NOW's support system.
- Contact our Technical Support Team via our toll-free number 0800 438 669.
- Via webchat on our website [www.nownz.co.nz](http://www.nownz.co.nz)

## 17. Fixing Faults

### Fixing Faults in the Network

We will take all steps that we reasonably can to arrange for all faults on the network to be repaired. There is no charge for this except where you or anyone you are responsible for cause the fault. We will begin fixing the fault as soon as we reasonably can, we will advise you of our current service levels when a fault is reported. For standard restoration times please refer to the relevant service schedule.

### Fixing Faults in Sockets and Wiring

Our separate wiring maintenance charge covers the cost of fixing most faults in sockets and wiring within your house which connect telecommunications equipment you have to the network. The faults covered are those which occur through normal wear and tear or a defect in design, materials or manufacture.

If you do not pay the wiring maintenance charge you will be responsible for fixing these faults. Please ask us if you want us to show you where the sockets and wiring end and the network begins.

## 18. No Warranty

NOW shall provide the Services to you with reasonable care and skill. NOW shall ensure that the Services are reliable and are of a high standard although NOW does not warrant that the Services will be continuous or fault free. NOW does not warrant that any information, software or other material accessible via the Services will be free from viruses or other harmful components.

No verbal advice or information given by NOW or its representative shall create a warranty.

## 19. Liability

You may have the benefit of statutory guarantees under the Consumer Guarantees Act 1993 (CGA). Unless you use, or hold yourself out as using, the Services for the purpose of a business, nothing in these Residential Customer Terms and Conditions will limit or exclude your rights under the CGA.

NOW is not liable to you (and nor are any of NOW's officers, employees, contractors or agents liable to you):

- if any communication you make is intercepted;
- if any communication you make is not properly transmitted or received;
- if any of our Services are not available at any time or are faulty;
- for any delay in commencing the provision of Services;
- if any Equipment supplied by NOW does not operate properly;

- (for internet customers) if your computer becomes affected by any virus or other harmful components.
- for any fault in or non-provision of services, which is caused by an event beyond our reasonable control.
- if you use another service provider's services during any period when NOW's Services are not fully operational, NOW is not liable to pay any amount you are charged by that service provider.

You agree to indemnify and hold harmless NOW, NOW's authorised representatives, and each of their respective officers, directors, agents, contractors and employees from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, punitive damages, amounts in interest, expenses and disbursements of any kind and nature whatsoever (including reasonable lawyer's fees) brought by a third party arising out of or in relation to your breach of the Agreement.

We may become aware that we have suffered loss before you do. If we suffer any loss as a result of this Agreement, we agree to take reasonable steps to avoid or minimise our loss and that you are not liable for any loss that results from our failure to take reasonable steps to do so.

You may become aware that you have suffered loss before we do. If you suffer any loss as a result of this Agreement, you agree to take reasonable steps to avoid or minimise your loss and that we are not liable for any loss that results from your failure to take reasonable steps to do so.

No other network operator and/or third-party supplier (including their officers, employees, contractors and agents) will be liable to you for loss or damage of any kind arising from your use of the services. This clause creates a right and benefit that NOW, network operators and/or suppliers can enforce as a defense to any claim.

If NOW is held to be liable to you for any reason, then NOW's liability to you is limited to an amount equal to NOW's average charges to you for one month in respect of any single event or related series of events and to a maximum amount equal to NOW's average charges to you for a three-month period in any one year. You must notify us of your claim within 12 months after you reasonably became aware of the occurrence of the relevant event or series of events that gave rise to your claim. These limitations do not limit any rights you may have under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986.

## **20. Using Information About You**

During any relationship you have with NOW you agree that we may collect personal information about you. The information may be obtained from you and others or generated within the network when you or anyone else use our services. You may decide whether to provide any information we seek from you. However, if you do not provide it, we may not be able to provide services to you.

You may ask to see information we hold about you, as long as we can readily retrieve it, and ask for any details that are wrong to be corrected. We and, to the extent appropriate, any service providers approved by us, may hold the information and share it to the extent appropriate with employees, contractors and agents and with credit reference and debt collection agencies. This enables us and any service provider approved by us to:

- provide services to you and others
- help prevent and investigate instances of fraud
- send you bills and recover and report on money you owe
- keep you informed of services available to you from us and other people
- exercise any lawful right any of us has (which includes registration and maintenance of financing statements under the Personal Property Securities Act 1999).

Credit reporters may include credit checks, your repayment history and any defaults in payment to NOW in their databases and share this information with others who wish to conduct credit checks on you.

You can let us know at any time that you do not want to receive sales and marketing information by calling us on 0800 438 669. We may:

- share to the extent appropriate your name, address and the telephone numbers allocated to you with any person (except other network operators) using services provided by any of us or any service provider approved by us for providing directory assistance and directory listing services; this information may also be used or accessed by us or any such service provider in or from any directories and other publicly available accessible publications and database
- share with other network operators any information needed to enable you to make and receive calls through their networks; this does not include your name and address
- share with any 0900 service provider or its agent to whom an 0900 call is made, your name, address and any information about that call; this applies only where the call is charged to you and you do not pay for the call by the due date for payment share aggregated information which does not identify any individual with partners, advertisers and others.
- monitor and record telephone calls between customers and our personnel for training and quality purposes.

## **21. Intellectual Property Rights**

We or others may have intellectual property rights in the services and in any equipment, including software, we provide to you. These rights include, for example, all copyright, trade mark and design rights relating to the services or equipment. All those rights are retained when we provide services or equipment to you.

Any intellectual property rights arising from any improvement or change to any service devised or made by anyone belongs to us.

## **22. More Than One Customer**

Every person named as a customer in any agreement with us must meet all the customer's responsibilities under that agreement.

## **23. Other Terms**

Other terms apply to some of our services. Where we provide those services, we will tell you about the other terms. Service terms for all NOW residential services can be found on the NOW website at <https://www.nownz.co.nz/terms-conditions/residential-terms-and-conditions/>

## **24. Changing This Agreement**

We may change these terms or any service schedule for services provided to you. We may do this by changing or removing existing terms and schedules or by adding new ones.

NOW may change these Residential Terms and Conditions or any additional terms of the Agreement from time to time. If so, NOW will provide you with a minimum of ten (10) working days (one month where possible) written notice.

We will tell you about any changes to these terms or service schedules by writing or emailing to you. The notice will set out the actual changes or explain their general nature. If you do not agree to the changes you may exercise your right to terminate this Agreement. Our most current version of our Residential Customer

Terms and Conditions and Service Schedules can be found on our website at <https://www.nownz.co.nz/terms-conditions/residential-terms-and-conditions/>

## **25. Dispute Resolution**

If any dispute arises out of or in connection with the Agreement, neither party shall commence any court proceedings relating to the dispute unless that party has complied with the provisions of this clause.

A party claiming a dispute will promptly give notice to the other party, specifying the nature of the dispute. On receipt of a notice claiming a dispute has arisen, the parties will endeavour in good faith to resolve the dispute.

If the parties do not resolve the dispute within six (6) weeks of receipt of the notice claiming a dispute has arisen (or such further period as agreed in writing by the parties) then the dispute shall be referred to Telecommunications Dispute Resolution for determination. Details of Telecommunications Dispute Resolution are available at [www.tdr.org.nz](http://www.tdr.org.nz).

## **26. Force Majeure**

If NOW is prevented from carrying out any obligation imposed upon it in terms of the Agreement by reason of any act of God, inclement weather, act of State, riot, insurrection, civil commotion, strike, sanctions, boycott, embargo or any other circumstances beyond NOW's reasonable control, NOW must endeavour to advise you of the existence of the circumstances and the expected duration thereof. The performance of the Agreement will, to the extent that it is made impossible by such circumstances, be suspended until such circumstances cease to prevail. NOW shall not be liable for any loss, damage, compensation or other reimbursement arising from any damage done to your equipment or network by reason of any of the matters specified in this clause.

## **27. Assignment**

NOW may at any time assign the Agreement to any person, company or business entity. You cannot assign or otherwise transfer your rights under the Agreement. If any clause or term of the Agreement is found to be invalid, unenforceable or illegal, then the remaining conditions of the Agreement shall be deemed to be severable from that and will continue in full force and effect until such invalidity, unenforceability or illegality is fundamental to the Agreement. The failure of either party at any times to require performance by the other party in relation to the Agreement shall not affect the right to enforce the same. The waiver by either party to any breach of terms contained in the Agreement shall not be construed to be a waiver of any succeeding breach of such term or any other term.

## **28. New Zealand Law Applies**

The Agreement shall be governed by and construed in accordance with the laws of New Zealand. All of our services are provided under New Zealand law. You may take action against us only in a New Zealand court.