

# LICENCE TO INSTALL TELECOMMUNICATIONS EQUIPMENT



## PARTIES

### ULTRAFAST FIBRE LIMITED

Attention	Service Desk
Address	11 Ken Browne Drive, Te Rapa, Hamilton 3257
Phone	0800 833 622 Option 1
Email	servicedesk@ultrafast.co.nz

Signed for and on behalf of ULTRAFAST FIBRE LIMITED by:

SIGNATURE

FULL NAME

### PROPERTY OWNER

Full Name(s)	_____	Phone	_____
Address	_____ _____ _____	Email	_____

### COMPANY

Company Name	_____	Company No.	_____
Date of Incorporation	_____		
Address for Service	_____ _____ _____		
Full Name(s) of Directors(s)	_____ _____	Phone	_____
		Fax	_____
		Email	_____

### TRUST

Full Names of Trustees	_____ _____	Phone	_____
		Email	_____
Address	_____ _____ _____		

Signed by (or for and on behalf of) PROPERTY OWNER:

SIGNATURE(S)

FULL NAME(S)

Date: \_\_\_\_\_



# PROPERTY DETAILS

## LEGAL DESCRIPTION:

Lot	Lot #	DP	DP #	CT
Property Address	Street # & Address			Additional Information:
	Suburb, City			
Contact Person(s)	Name			
Phone Number(s)	Number			Ord#

## LICENCE TO INSTALL TELECOMMUNICATIONS EQUIPMENT

By signing this licence you confirm you are either: (a) the legal owner of the Property; or (b) authorised to act on behalf of the legal owner of the Property; or (c) you have the permission of the legal owner of the Property to sign this licence and accept all of the following terms on behalf of that owner:

- Ultrafast Fibre's Rights:** (a) Subject to the terms of this licence, you grant us the right to: (i) install, maintain, inspect, repair, relocate, replace, test, upgrade or remove any of our ultrafast broadband (**UFB**) network, ducting, cables, lines and associated equipment (the **UFB Network**) at the Property; and (ii) subject to your consent and any existing third party rights, use the UFB Network and (if required by us, and approved by you) any of the existing telecommunications cables, ducting and associated equipment at the Property that is owned and controlled by you (the **Existing Infrastructure**) to provide broadband services to you and/or occupants of the Property - together referred to as the **Licence Rights**); and (b) The Licence Rights will: (i) continue until we remove the UFB Network from the Property; and (ii) shall, at all times, remain independent from any terms you agree with a telecommunications service provider.
- Location:** We will install the UFB Network in locations agreed with you (both parties acting reasonably).
- Access:** (a) You agree that we can enter the Property to carry out the Licence Rights (including carrying out any repairs or maintenance to the UFB Network pursuant to section 155ZD of the Telecommunications (Property Access and Other Matters) Amendment Act 2017 (the **Act**)) on giving you reasonable prior notice; (b) You will provide reasonable assistance where needed, including obtaining any other consents required to allow us to access the Property for the purpose of the Licence Rights; (c) You acknowledge that unless we have all the approvals we need, we are not obligated to proceed with the installation of the UFB network at the Property and we are not liable to you for any delay, failure or disruption to any telecommunications services you have requested or receive from a phone or broadband provider; (d) You acknowledge that for the duration of the Licence Rights we are not liable to you for any failure or disruption in the services you obtain from phone or broadband provider; (e) We will try to give you reasonable prior notice before entering the Property and carry out any works on the UFB Network without unfairly disturbing the occupants of the Property; and (f) You will only sign this licence once and if, after signing this licence, another person who resides in the Property orders a new UFB service to be connected we will access the Property and carry out the work under the terms of this licence.
- Your Obligations:** (a) If you wish to undertake any alterations to any part of the Property which will or may affect the UFB Network or the Existing Infrastructure, you must contact us before you commence such work. You will be liable to us for our costs to perform any work in response to your alterations to the Property; (b) You must not (and you must not allow any other person to)

either: (i) interfere with, have access to or tamper with any part of the UFB Network; and/or (ii) tamper with or remove any of the Existing Infrastructure that holds any part of the UFB Network without our prior consent, and you must notify us immediately if you become aware of anyone else interfering with, or removing, accessing or tampering with the UFB Network or Existing Infrastructure; and/or (iii) convey or receive, or permit any person other than a service provider to convey or receive any signal, communication or other service over or using any part of the UFB Network unless we first agree; (c) You will be liable and indemnify us for any loss or damage to the UFB Network located at the Property and you will reimburse us immediately on demand for such loss or damage caused by you or anyone you are responsible for or have control over; (d) If the Property is a development that is yet to be built, you will, on depositing the Property's Unit Title Plan (**UTP**) pursuant to the Unit Titles Act 2010, procure the Body Corporate for the Property to enter into a licence agreement with us on terms and conditions substantially the same as this licence in relation to the common areas comprised in the UTP; (e) If the Property is an existing unit title development, you acknowledge that each unit owner has rights for the passage or provision of telecommunications services through the common property, and you will notify the owner(s) and the body corporate (if applicable) of the installation, location and means of connection of the UFB Network and, if we ask you to, you will help us to obtain access to the common areas to install the UFB Network. You will be responsible to us for any loss we incur if you do not ensure the owner has given their approval, and you will provide us with written evidence of this approval; (f) You agree to use your reasonable endeavours to ensure that our right to the UFB Network is not disrupted by you or any other person; and (g) You must notify us immediately if you breach this clause 4 or you become aware of anyone else causing any damage to the UFB Network.

- Ownership:** (a) Ultrafast Fibre remains the owner of the UFB Network despite the fact that the UFB Network assets may be installed and located at the Property. (b) The UFB Network does not include any line or equipment provided by a third party, even if we may use that line or equipment. (c) We have the right to remove the UFB Network from the Property (at any time and/or for any reason) and will provide reasonable notice of our requirement to access the Property to complete the removal. (d) By signing this licence you confirm that you are the owner of the Existing Infrastructure and you have the ability to grant the Licence Rights in relation to the Existing Infrastructure and you will remain the owner of, and be solely responsible for, all of the Existing Infrastructure.
- Ultrafast Fibre's Obligations:** We will: (a) exercise the Licence Rights at our discretion; (b) replace or repair any Existing Infrastructure which is damaged by Ultrafast Fibre; (c) not unreasonably interfere with the Existing Infrastructure or any lawful tenant, occupant or user of the Property; (d) subject to clauses 10 and 11, and otherwise in accordance with section 155ZB of the Act, reinstate the surface of the area of the Property impacted or disturbed by the installation to as closely as

reasonably possible to its original condition before the installation (such reinstatement to only be performed in respect of the area where the installation works were performed); (e) comply with all laws that apply to the Licence Rights; and (f) not interfere with any existing equipment installed at the Property without your prior consent.

7. **Assignment:** We can assign this licence to another company in the Ultrafast Fibre Limited group or Waikato Networks Limited (or any related party of the same) or to any purchaser of all or part of our UFB Network.
8. **Sale of Property:** You will inform any purchaser of the Property that they must contact us and enter into a new licence on the same terms as the Licence Rights.
9. **Charges and Costs:** (a) Subject to clause 9(c), you (as the owner of the Property) will not be charged by (and you will not charge us) for the provisioning and installation of the UFB Network. (b) You will not charge us for the use of any Existing Infrastructure. (c) If you ask us to perform any other work at the Property (including: (i) any work you ask us to perform in conjunction with the installation of our UFB Network; and/or (ii) any additional work in relation to reinstatement; and/or (iii) otherwise to assist you in relation to any of your obligations under clause 4(a), clause 4(d) and/or clause 4(e) of this licence) we will charge you and you will be liable for payment to us to complete that work. (d) If you or someone who occupies the Property has requested a service from a telecommunications service provider, then charges may apply depending on the work required and/or that service provider's charges; but we have no obligation to you, any lawful occupant or tenant of the Property or the service provider in relation to a telecommunications service provider's charges. (e) If you accept the terms of this licence and subsequently prevent us from installing the UFB Network or otherwise accessing the Property (other than in the event of an emergency or risk of life situation), we may charge you for the cost of preparing any design and/or deployment plan and/or any other work we have performed in relation to the Property. (f) You and Ultrafast Fibre will each pay all of their own costs in relation to the preparation, negotiation and execution of this licence.
10. **Liability:** (a) We will only be liable to you for costs, loss or damages actually suffered or incurred by you as a direct result of our exercise of the Licence Rights, including where we or any of our contractors or agents perform work on or at the Property (including installation of our UFB Network) and damage the Property through not taking reasonable care, we will pay the reasonable cost of repairing the damage. (b) Notwithstanding anything to the contrary contained in this licence and subject to clause 10(c): (i) our liability to you under this licence will be limited to the following: (A) in the case of a single residential premises, we will pay the reasonable cost of repairing the damage up to a maximum of \$500,000; or (B) in the case of a large commercial business or residential premises with one or more business or residential tenants, we will pay the reasonable cost of repairing the damage up to a maximum of \$1,000,000; (ii) we will not be liable to you for any alleged, indirect, special or consequential claims, loss or damages, including but not limited to loss of business, profits, stock, equipment, revenue or savings, or loss of goodwill, whether or not the possibility of such indirect, special or consequential claims, loss or damage has been disclosed in advance or could have been reasonably foreseen; and (iii) we will not be liable to you under this licence for any interruption to your UFB services. (c) For us to consider any claim under this clause 10 you must tell us within 1 month after you become aware of, or suffer or incur, the claimed costs, loss or damages.
11. **Limitation of Liability:** (a) We have set out your rights to claim compensation from us in clause 10 and we now exclude all other liability we may have to you which will apply for our benefit. (b) The limitations in clause 11(a) apply in relation to whatever you are claiming for and however liability arises or might arise if it were not for this clause 11. (c) This clause 11 also applies to any liability we have to you for damage to the Property where reasonable care has been taken in carrying out work on or at the Property, provided that where reasonable care has been taken the liability limits that apply are the ones described in clause 11(d) below. (d) We have set out your rights to claim compensation from us and excluded all other liability, and if we are ever liable to you and, for any reason, cannot rely on the exclusion of liability set out in clause 11(a), then this clause 11(d) applies and our maximum combined liability to you is limited to: (i) \$50,000 for any event or for any series of related events; and (ii) a total of \$100,000 in any 12 month period. For clarity, these liability limits also apply where reasonable care has been taken in carrying out work on or at the Property, provide that this limitation does not limit any rights you may have under applicable law.
12. **Trustee Limitation of Liability:** (a) To the extent permitted by law and subject to clause 12(b), the liability of an independent trustee shall be limited to the amount recoverable from the net capital assets of the relevant trust existing at the date formal written demand is served on that trust. (b) The limitation in clause 12(a) will not apply to the extent that any liability arises from fraud, negligence or breach of trust by a trustee (including any independent trustee).
13. **Defined Terms:** Unless stated otherwise, in this licence: (a) "Ultrafast Fibre", "us", "we" or "our" includes Ultrafast Fibre Limited and its employees, contractors, related companies, shareholders, agents, engineers, other network operators whose networks are connected to our UFB Network (and all of their officers, employees, contractors and agents), and anyone acting on Ultrafast Fibre's behalf; (b) "you" or "your" includes you (as the owner of the Property) and anyone acting on your behalf; and "Property" includes the land and buildings situated on the premises described above and all other rights you or the Property (e.g. easements) has over other properties or common areas.
14. **Amendments:** No amendment to this licence shall be effective unless it is in writing signed by both you and Ultrafast Fibre.
15. **Partial Invalidity:** The illegality, invalidity or unenforceability of a provision of this licence under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of any other provision.
16. **Entire Agreement and Precedence:** This licence and, if applicable, the UFF Pre-Installation form, UFF Post-Installation form and End User Terms constitute the entire agreement between you and Ultrafast Fibre in respect of the matters covered by those documents and will supersede all previous agreements in respect of those matters. In the event of any inconsistency between those documents, the order of precedence will be: (a) this licence and the Licence Rights; (b) the UFF Pre-Installation form and UFF Post-Installation form; and (c) if you the owner of the Property who as ordered a UFB service, the UFF End User Terms.
17. **Counterparts:** This licence may be executed in any number of counterparts (including facsimile copies) all of which, when taken together, will constitute one and the same instrument. You and/or Ultrafast Fibre may enter into this licence by executing any counterpart.
18. **Governing Law:** This licence is governed by, and is to be construed in accordance with, New Zealand law. You and Ultrafast Fibre submit to the non-exclusive jurisdiction of the New Zealand courts. You and Ultrafast Fibre agree to resolve any dispute in the spirit of good faith and on a commercially realistic basis by negotiation. If (after 20 working days of the dispute being notified, or longer if we both agree) negotiation does not provide a resolution, you and/or Ultrafast Fibre may refer the dispute to mediation by an independent mediator. If mediation fails to resolve the dispute, you and/or Ultrafast Fibre may refer the dispute for resolution through the New Zealand courts. This clause 18 does not affect a party's right to seek urgent interlocutory relief.
19. **Privacy Statement:** Ultrafast Fibre is committed to ensuring that your privacy is protected and we will at all times comply with our obligations under the Privacy Act 1993. Any personal information that you provide to Ultrafast Fibre will be kept confidential, provided that we may disclose the location of our UFB Network to certain third parties under confidentiality but we will not disclose any information which identifies you personally.