



# CL1 FORM

ON COMPLETION OF THIS FORM PLEASE FORWARD TO:

UNISON NETWORKS LIMITED 1101 Omaha Road, PO Box 555, Hastings 4156  
Fax (06) 873 9394 Email: cable.locations@unison.co.nz

**CABLE LOCATIONS 0800 286 476 www.unison.co.nz**

## CUSTOMER REQUEST FORM FOR SUPPLY OF CABLE LOCATION SERVICES AND PLANS

**PLEASE NOTE:** This form is to be completed by the Customer or by the Customer's duly authorised agent. The Customer is the person who wishes to locate the approximate location of electrical cables. On completion of this form, please sign it and forward it to Unison. Upon receipt of the form, a Unison Customer Services representative will contact you.

The service is free for any Unison owned cables in the road reserve or on private property. A fee applies where the service relates to privately owned cables. The minimum charge is \$100 for urban areas and \$175 for rural areas (plus GST). The Actual Fee will be based on time and mileage. A privately owned service main cable is defined as the cable from the road boundary of a property to where it enters the house/primary building.

It is vital that all sections of this application form are completed correctly. This will assist Unison to process this application and avoid delays in performance of the Requested Service. Application forms will be returned, and full information requested, if the information supplied by you is incomplete or inaccurate.

Be aware that damaging underground electrical cables can result in serious injury or even death. The provision of services pursuant to this request does not constitute Unison's consent for any excavation, construction or other work to be undertaken and to undertake any such work you will need to obtain any relevant consents from Unison and/or the appropriate Authority.

Please refer to the **IMPORTANT INFORMATION AND FREQUENTLY ASKED QUESTIONS** listed on our website under the heading "Cable Locations" or available on request from Unison's offices for important safety messages and other information about this form or the Cable Location Services and Plans. For more information on safety with underground cables please obtain independent advice and refer to the "Guide for Safety with Underground Services" available at <http://www.osh.govt.nz>

### CUSTOMER DETAILS

Full Legal Name: (the "Customer", "You", "Your")

Address:.....

City:..... Postcode:.....

Postal Address (if different from above):

City:..... Postcode:.....

Telephone (Home) ..... Telephone (Business).....

Mobile:..... Fax:.....

Email:.....

### PROPERTY DETAILS

(Enter the address/ legal description of the property relating to the Requested Services. If the Requested Services relate to more than one property, enter details for each property) ("Property"):

1.....

2.....

### PREFERRED DATE

(If you have a preferred date for the Requested Service to be performed, please specify that date, allowing a minimum of three working days from Unison's receipt of this completed form):

..... / ..... / .....

### MAP/DIAGRAM OF THE WORK AREA

Please provide a map/diagram if the Property includes multiple road and/or various sides of the road (add extra pages if necessary).

### THE CUSTOMER REQUESTS THAT UNISON PROVIDE (please select):

A location plan, whereby Unison will review its records and based on those records, provide a plan showing an indication only of the approximate location of electrical cables that Unison has record of at the property described on this form. ("Location Plan")

A CABLE LOCATION SERVICE to locate electrical cables owned by Unison, whereby Unison will spray paint on the ground an indication only of the approximate location (but not the depth), determined using an electronic cable locator, of Unison owned electrical cables that may be located underneath the ground at the property described on this form. NOTE THAT THE ACTUAL LOCATION OF THE CABLES MAY VARY. THE CUSTOMER IS ADVISED TO HAND DIG TO ASCERTAIN ACTUAL CABLE LOCATION. ("Works Location Service")

A CABLE LOCATION SERVICE to locate privately owned service main cables, whereby Unison will spray paint on the ground an indication only of the approximate location (but not the depth), determined using an electronic cable locator, of privately owned service main electrical cables that may be located underneath the ground at the property described on this form. NOTE THAT THE ACTUAL LOCATION OF THE CABLES MAY VARY. THE CUSTOMER IS ADVISED TO HAND DIG TO ASCERTAIN ACTUAL CABLE LOCATION. ("Private Cables Location Service")

(The option(s) selected above will hereinafter be referred to as the "Requested Services")

**Note:** Upon receipt of this form a Unison Customer Service Representative will contact you. You will be informed at this time if your Cable Location Request is to incur a cost.

### UNISON OFFICE USE ONLY

### ACCEPTANCE OF UNISON'S TERMS AND CONDITIONS FOR SUPPLY OF CABLE LOCATION SERVICES AND PLANS

The Customer hereby:

1. Requests that Unison supply the Requested Services; and
2. Confirms that it has read and fully understands the Important Information and Frequently Asked Questions and Unison's Terms and Conditions for Supply of Cable Location Services and Plans ("Terms") and hereby agrees to abide and be bound by those Terms.

Signed for and on behalf of the Customer by an authorised signatory of the Customer:

Authorised Signatory's Signature:.....

Name of Authorised Signatory:.....

Position Held ..... Date of Request: ..... / ..... / .....

# TERMS AND CONDITIONS FOR SUPPLY OF CABLE LOCATION SERVICES AND PLANS (“TERMS”)

## 1. Definitions

- 1.1 Unless the context otherwise requires, the following expressions shall have the following meanings:
- (a) “Agreement” means the agreement formed between Unison and the Customer by the Customer completing and signing the Customer Request Form, of which these Terms form a part;
  - (b) “Cable Location Service” means the Private Cables Location Service and the Works Location Service;
  - (c) “Close Approach Consent” means a consent that must be sought from Unison prior to undertaking any activity within the minimum approach distance of Unison’s Works;
  - (d) “Customer” means that Customer described on the Customer Request Form, and includes any employees, agents, contractors or other representatives of the Customer;
  - (e) “Customer Request Form” means that form completed by the Customer in relation to the Requested Services;
  - (f) “Electrical Installation” or “Electrical Installations” means “Electrical Installation” as defined by the Electricity Act 1992 and includes privately owned service main electricity cables;
  - (g) “Fee” means that fee payable by the Customer in relation to the Requested Service as determined at Unison’s sole discretion and as advised by Unison to the Customer, and unless expressly stated otherwise shall be exclusive of GST (if any);
  - (h) “Force Majeure Event” means any war, riot, strike, natural or man-made disaster or other circumstance of a similar nature;
  - (i) “GST” means goods and services tax imposed under the Goods and Services Tax Act 1985;
  - (j) “Private Cables Location Service” means the service of spray painting on the ground an indication only by Unison of the approximate location (but not the depth), determined using an electronic cable locator, of Electrical Installations;
  - (k) “Property” means that land described on the Customer Request Form under the heading “Property”;
  - (l) “Location Plan” means a plan or plans prepared using Unison’s records which provides an indication only of the location of electricity Works that were laid by Unison or on behalf of Unison or Unison’s predecessors;
  - (m) “Requested Service” or “Requested Services” means that service or services requested by the Customer on the Customer Request Form;
  - (n) “Unison” means Unison Networks Limited and includes any employees, agents, contractors, wholly owned subsidiaries or other representatives of Unison;
  - (o) “Works” means “Works” as defined by the Electricity Act 1992 and owned by Unison and includes cables and other fittings that are used, or designed or intended for use, in or in connection with the generation, conversion, transformation, or conveyance of electricity;
  - (p) “Works Location Service” means the service of spray painting on the ground an indication only by Unison of the approximate location (but not the depth), determined using an electronic cable locator, of Works.

## 2. Provision of Requested Services

- 2.1 Notwithstanding that the Customer may specify a preferred date for the Requested Service on the Customer Request Form, Unison shall have no obligation to supply the Requested Services until Unison has received the full amount of the Fee, has obtained from the Customer all relevant information required by Unison to perform the Requested Service, and has gained lawful and safe access to the Property.
- 2.2 On receipt of a completed and signed Customer Request Form and when Unison has obtained from the Customer all relevant information required by Unison in order for Unison to supply the Requested Services, Unison may in its sole discretion either:
- (a) By providing the Customer with an invoice, notify the Customer of the amount of the Fee payable for the Requested Services and require payment of that Fee prior to undertaking the Requested Services; or
  - (b) Undertake the Requested Services and notify the Customer of the amount of the Fee payable for the Requested Services by providing the Customer with an invoice for the Requested Services.
- 2.3 Unless Unison requires payment of the Fee prior to undertaking the Requested Services or otherwise agrees in writing, the Customer shall pay the full amount of the Fee, without deduction, set-off or counterclaim within 7 days of the date of the invoice (the “Due Date”). Where the Customer fails to make payment by the Due Date, the Customer shall pay interest on the amount overdue from the date of issue of Unison’s invoice at 2 per centum per month together with all costs of recovery incurred by Unison (including but not limited to) its legal costs and disbursements on a Solicitor and client basis, any fees paid by Unison to a debt collection agency, and/or any court or service fees.
- 2.4 Notwithstanding clauses 2.1 to 2.3 of these Terms, Unison may in its sole discretion agree to make a credit account available to the Customer. Before agreeing to any credit terms, Unison will require that the Customer complete a Credit Account Application Form and agree to Unison’s Terms and Conditions of Credit.

## 3. Scope of Services

- 3.1 Unison makes no promises, warranties, undertakings or representations (including, without limitation, warranties and conditions as to accuracy, reasonable care and skill, time of completion, suitability, fitness for purpose and merchantability), whether express or implied, and all implied warranties in respect of any Requested Services are expressly excluded from this Agreement (to the extent permissible by law).
- 3.2 The Customer hereby acknowledges and agrees:
- (a) That changes can regularly occur to the location of Works (including the depth) or the position of reference points used to indicate the location of Works and as a result, any Location Plan or Works Location Service is intended to provide no more than an indication of the potential location of Works (but not the depth);
  - (b) That changes can regularly occur to the location of Electrical Installations (including the depth) or the position of reference points used to indicate the location of Electrical Installations and as a result, any Private Cables Location Service is intended to provide no more than an indication of the potential location of Electrical Installations (but not the depth);
  - (c) That the Requested Services will not indicate the location of any other services such as water, sewer, gas or telecommunication lines;
  - (d) That any Location Plan will not indicate the location of any services that were not laid by Unison or on behalf of Unison or any services which Unison does not have a record of;
  - (e) That the Works Location Service will not indicate the location of any services that were not laid by Unison or on behalf of Unison;
  - (f) The provision of the Requested Services by Unison to the Customer does not constitute Unison’s consent for any excavation or other work to be undertaken at the Property or for the Works or Electrical Installations to be moved, displaced, disconnected or otherwise interfered with;
  - (g) That damage to Works, Electrical Installations and underground services can lead to serious and potential fatal consequences. As a consequence, personnel engaged in excavation or other work have a responsibility under the Health and Safety in Employment Act 1992 to identify and manage such hazards and persons planning to excavate or undertake other work near Works, Electrical Installations and underground services must follow all relevant guidelines;
  - (h) Before undertaking any excavation or other work, the Customer will make its own enquiries as to any consents that must be obtained (including any Close Approach Consent that may be required from Unison) before such excavation or other work may commence and will obtain independent advice about how such excavation or other work may be safely carried out in a manner that will ensure no risk of damage to persons, the Works, and/ or Electrical Installations and compliance with all relevant laws; and
  - (i) That if the Customer causes or becomes aware of any damage to Works or Electrical Installations, even if such damage appears to be minor, it will immediately report such damage to Unison.

## 4. Limitation of Liability and Indemnity

- 4.1 Notwithstanding anything at law or in equity to the contrary but subject to clause 5 of these terms and conditions:
- (a) Unison (including, without limitation, Unison’s directors, employees, representatives, contractors and/or agents) will not be liable or have any responsibility for any direct, indirect or consequential loss, damage or injury suffered by the Customer arising howsoever from:
    - (i) Unison relying on the information and warranties provided by or on behalf of the Customer in the Customer Request Form and this Agreement;
    - (ii) Delays or suspension in the performance of the Requested Service;
    - (iii) Unison’s performance of the Requested Service;
    - (iv) The Customer’s use of, or reliance on, any plans or information provided as part of the Requested Service.
  - (b) Unison’s liability for damage or loss arising from performing the Requested Service and all related matters (whether arising under contract, tort (including negligence), equity or otherwise) will be limited to, at Unison’s election, the Fee paid by the Customer to Unison for the Requested Service to which the loss or damage relates.
  - (c) The Customer indemnifies Unison against all and any claim(s) by any third party for losses, including costs, (whether arising under tort (including negligence), equity or otherwise) arising from any act of, or omission by, Unison in its performance of the Requested Service.
  - (d) The Customer hereby acknowledges that it may be liable for any damage it causes to Works and/ or Electrical Installations, including any loss whether direct, indirect, or consequential that may be suffered by Unison as a result of such damage.

## 5. Consumer Guarantees Act

- 5.1 Nothing in these terms and conditions are intended to have the effect of contracting out of the Consumer Guarantees Act 1993 (the “CGA”) save to the extent permitted by the CGA and these terms and conditions are to be modified to give effect to that intention.
- 5.2 Where the Requested Service is supplied for business purposes the Customer acknowledges that the CGA does not apply.

## 6. Access to Property

- 6.1 The Customer must ensure that, for the purposes of Unison performing the Requested Services:
- (a) Unison has lawful access to the Property; and
  - (b) Unison is entitled to rights of ingress to, and egress from, the Property.
- 6.2 Unison’s access to the Property may occur on any date and at any time during normal business hours or such other time as may be arranged between Unison and the Customer.
- 6.3 Where the Customer gives Unison rights of access to the Property in accordance with clause 6.1, the Customer agrees to ensure that any dog or other animal is kept under control and that such dog or other animal will not present any risk of harm to Unison.
- 6.4 Without limiting clause 4.1(c) of these Terms, the Customer agrees to indemnify Unison for any loss suffered by Unison arising from Unison’s access to the Property.
- 6.5 The Customer warrants to Unison that no hazard within the meaning of the Health and Safety in Employment Act 1992 is known to exist upon or in relation to the Property.
- 6.6 If for any reason Unison in its sole discretion believes that there is a risk that accessing the Property may cause harm to any person or property or is otherwise unlawful, or if the Customer or any third party threatens, harasses or assaults any Unison employee, representative, contractor and/or agent in the course of Unison undertaking the Requested Service, Unison may immediately suspend performance of the Requested Service and will be under no obligation to access the Property or perform the Requested Service.
- 6.7 The Customer will remain liable for payment of the Fee in the event that Unison is unable to perform the Requested Service by reason of being unable to access the Property for any reason whatsoever or in the event that clause 6.6 of these Terms applies.

## 7. Subcontractors

- 7.1 Unison may engage a subcontractor or subcontractors to perform the Requested Service or any part of it.
- 7.2 The Customer may not give instructions to any subcontractor in respect of the Requested Service.

## 8. Force Majeure

- 8.1 Unison may suspend its obligations to perform the Requested Services if it is unable to perform as a direct result of a Force Majeure Event. Any such suspension or performance must be limited to the period during which the Force Majeure Event continues.

## 9. Assignment

- 9.1 The Customer shall not assign its rights under these Terms and the Agreement without the prior written consent of Unison. For the avoidance of doubt, an assignment will be deemed to have occurred upon a change in control of the Customer.

## 10. Entire Agreement

- 10.1 The Customer Request Form and these Terms together form the Agreement and constitute the complete and exclusive statement of the agreement between the parties in relation to the Requested Services, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the Requested Services.

## 11. Variation

- 11.1 Unison may from time to time and in its sole discretion amend, add to or delete any of the clauses of these Terms with immediate effect by giving written notice to the Customer.

## 12. Electronic messages from Unison

- 12.1 Subject to clause 12.2, the Customer consents to receiving from time to time, electronic messages from Unison which market or promote Unison’s goods and services.
- 12.2 Unison will cease to send electronic messages as described in clause 12.1 above to the Customer if at any time the Customer instructs Unison in writing to cease sending such electronic messages to the Client at those electronic addresses.

## 13. Privacy Act

- 13.1 The Customer authorises Unison to collect, retain, use and disclose any personal information about the Customer (including the information collected in the Customer Request Form) for the following purposes (in addition to any purposes otherwise authorised by law):
- (a) assessing the Customer’s creditworthiness;
  - (b) disclosing to a third party details of this application and any subsequent dealings the Customer may have with Unison for the purpose of recovering amounts payable by the Customer, ascertaining at any time the Customer’s creditworthiness, obtaining at any time credit statements, providing credit references, enabling a credit reporter to maintain accurate records about the Customer, or performing the Requested Services;
  - (c) marketing goods and services offered by Unison to the Customer;
  - (d) administering, whether directly or indirectly, Unison’s agreements with the Customer and enforcing Unison’s rights thereunder;
  - (e) enabling Unison to communicate with the Customer for any purpose.
- 13.2 The Customer, if an individual, has a right of access to information about themselves held by Unison. The Customer may request correction of that information and may require that the request be stored with that information. Unison may charge reasonable costs for providing access to that information.

## 14. Authority to Sign

- 14.1 The Customer warrants that the Customer is legally entitled to complete the Customer Request Form and agree to these Terms and the Agreement.
- 14.2 The person that signs the Customer Request Form for and on behalf of the Customer, if that person is not the Customer, warrants that he or she is legally entitled to sign the Customer Request Form on behalf of the Customer and indemnifies Unison from any loss in the event that the person is not so authorised.

## 15. Property Rights

- 15.1 Nothing in these Terms or the Agreement shall give the Customer any ownership rights in the Works.
- 15.2 Any Location Plans or other plans provided by Unison to the Customer as part of the Requested Services shall remain at all times the property of Unison and Unison shall retain all intellectual property rights (including, without limitation, copyright) in such plans.
- 15.3 The Customer acknowledges that information on Location Plans or other plans provided by Unison is or may be confidential to Unison, and the Customer hereby agrees to maintain the confidentiality of such information and shall not disclose such information to any person except to the extent that disclosure is required for the purpose of undertaking excavation or other work.
- 15.4 To enable Unison to secure its rights pursuant to clause 15.2 and 15.3, the Customer hereby grants to Unison a security interest in the Location Plans and all other plans provided by Unison to the Customer pursuant to these Terms and the Agreement.

## 16. Miscellaneous

- 16.1 No exercise or failure to exercise or delay in exercising any right or remedy by a party shall constitute a waiver by that party of that or any other right or remedy available to it.
- 16.2 If any provision of these Terms, the Agreement or the application of these Terms or the Agreement to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of these Terms, the Agreement, and the application of these Terms and the Agreement shall not be affected and shall remain enforceable to the greatest extent permitted by law.
- 16.3 Any notice or other communication in connection with these Terms and the Agreement shall be in writing and left at the address of the relevant party as specified on the Customer Request Form.
- 16.4 Notices or other communications are deemed received:
- (a) if delivered by hand, on delivery;
  - (b) if delivered by post:
    - (i) on the third day following posting if sent and received within New Zealand; and
    - (ii) on the tenth day following posting to or from an overseas destination;
  - (c) if delivered by facsimile, on production of a transmission report by the machine from which the facsimile was sent in its entirety to the facsimile number of the recipient, specifying the correct number of pages sent, the date and time of transmission and that transmission was successful, provided that the onus of proving receipt shall be on the sender.

## 17. Relevant Law

- 17.1 These Terms and the Agreement shall be governed by and construed in accordance with New Zealand law and the Customer agrees to submit to the exclusive jurisdiction of the Courts of New Zealand.

# IMPORTANT INFORMATION AND FREQUENTLY ASKED QUESTIONS

## Who owns underground Electrical Cables?

Electrical cables running underground in the service corridor beside residential roads are owned by Unison. They are likely to be below the grass verge between your property boundary and the road. Unison does not own or have records of private service main electrical cables. These are the cables inside your boundary and carrying electricity supply to your home.

## What is the difference between a Location Plan, the Private Cables Location Service, and the Works Location Service?

If you ask for a Location Plan, we will search our records and, based on those records, provide you a plan showing an indication only of the approximate location of electrical cables laid by or on behalf of Unison. Be aware that any Location Plan will not show the location of any private electricity service cables or other services that were not laid by Unison or on behalf of Unison or any services which Unison does not have a record of.

If you ask for the Private Cables Location Service at a particular property, we will provide an indication only of the approximate location (not the depth) of privately owned service main electrical cables (Electrical Installations) at the property, using an electronic cable locator.

If you ask for the Works Location Service at a particular property, we will provide an indication only of the approximate location (not the depth) of Unison owned electrical cables (Works) at the property, using an electronic cable locator.

For both the Private Cables Location Service and the Works Location Service, we will normally spray paint on the ground the approximate location (not the depth) of the cables under the ground surface, as identified using the electronic cable locator. Note that the actual location of cables may vary from that identified using the electronic cable locator.

Our Location Plan, Private Cables Location Service and/or Works Location Service will not indicate the location of any other services such as gas, water or sewer pipes, or telecommunication cables.

The provision of the Location Plan, Private Cables Location Service and/ or Works Location Service by Unison to the Customer does not constitute Unison's consent for any excavation or other work to be undertaken at the Property or for any electrical Works or Electrical Installations to be moved, displaced, disconnected or otherwise interfered with.

## Safety with underground cables

Damaging underground electrical cables can result in serious injury or even death.

Always locate underground cables and services before digging, planting trees or garden or driving stakes or standards into the ground. Do not plant trees or garden or place signs or stakes in the verge outside your property if electricity cables are buried underground in the vicinity. Cables are not designed to withstand a blow from a tool, or any other object.

Electricity may be underground, but don't forget gas, water, sewer and telecommunication lines. If you are not sure exactly where your other services are located, check with your local council or other service provider before you start any excavation work, particularly in the berm outside your property.

Given the safety issues, personnel engaged in excavation, construction or other work have a responsibility under the Health and Safety in Employment Act 1992 to identify and manage such hazards and persons planning to undertake excavation, construction or other work near Works, Electrical Installations and underground services must follow all relevant guidelines and obtain all relevant consents.

Before undertaking any excavation, construction or other work, you should make your own enquiries as to any consents that must be obtained before such work may commence and independent advice about how such work may be safely carried out in a manner that will ensure no risk of damage to persons or the cables and compliance with all relevant laws. Be aware that in some cases you may need to obtain a Close Approach Consent from Unison before undertaking any excavation, construction or other work where that work is to be carried out in the vicinity of Unison owned Works.

For more information on safety with underground cables read the Occupational Safety and Health Service/ Department of Labour publication "Guide for Safety with Underground Services" (ISBN 0-47703665-1). This guide is available for free at <http://www.osh.govt.nz>

## Difficulties in identifying the location of underground cables

You need to be aware that changes can regularly occur to the location of underground cables (including the depth) or the position of reference points used to indicate the location of underground cables. Cables are not necessarily laid in a straight line and depths can vary in different situations. Any Location Plan or Cable Location Service is intended to provide an indication only of the potential location (but not the depth) of electrical cables.

## Access to the Property

If you ask Unison to perform a Cable Location Service in relation to a privately owned property or publicly owned property with access restrictions, you will need to ensure that you arrange for Unison to have access to the Property to perform the service. You will also need to ensure that there are no hazards on the Property.

## What should I do if an electrical cable is damaged?

If an electrical cable becomes damaged or you suspect damage, even if such damage appears to be minor, contact Unison immediately!

Call us before you dig: 0800 286 476

Fees

Unison does not generally charge a fee for the supply of a Location Plan or the Works Location Service but reserves its right to charge a fee in its sole discretion. For the supply of the Private Cables Location Service, Unison's fee will be determined at Unison's sole discretion and will depend on the actual time involved in performing the service and mileage, with minimum fees as follows:

- For providing the service in urban areas, \$100.00 plus GST; and
- For providing the service in rural areas, \$175.00 plus GST.

# TERMS AND CONDITIONS FOR SUPPLY OF CABLE LOCATION SERVICES AND PLANS (“TERMS”)

## 1. Definitions

- 1.1 Unless the context otherwise requires, the following expressions shall have the following meanings:
- (a) “Agreement” means the agreement formed between Unison and the Customer by the Customer completing and signing the Customer Request Form, of which these Terms form a part;
  - (b) “Cable Location Service” means the Private Cables Location Service and the Works Location Service;
  - (c) “Close Approach Consent” means a consent that must be sought from Unison prior to undertaking any activity within the minimum approach distance of Unison’s Works;
  - (d) “Customer” means that Customer described on the Customer Request Form, and includes any employees, agents, contractors or other representatives of the Customer;
  - (e) “Customer Request Form” means that form completed by the Customer in relation to the Requested Services;
  - (f) “Electrical Installation” or “Electrical Installations” means “Electrical Installation” as defined by the Electricity Act 1992 and includes privately owned service main electricity cables;
  - (g) “Fee” means that fee payable by the Customer in relation to the Requested Service as determined at Unison’s sole discretion and as advised by Unison to the Customer, and unless expressly stated otherwise shall be exclusive of GST (if any) (For the minimum fees for urban and rural areas, please refer to the Important Information and Frequently Asked Questions attached. Note that the actual Fee will be based on time and mileage.);
  - (h) “Force Majeure Event” means any war, riot, strike, natural or man-made disaster or other circumstance of a similar nature;
  - (i) “GST” means goods and services tax imposed under the Goods and Services Tax Act 1985;
  - (j) “Private Cables Location Service” means the service of spray painting on the ground an indication only by Unison of the approximate location (but not the depth), determined using an electronic cable locator, of Electrical Installations;
  - (k) “Property” means that land described on the Customer Request Form under the heading “Property”;
  - (l) “Location Plan” means a plan or plans prepared using Unison’s records which provides an indication only of the location of electricity Works that were laid by Unison or on behalf of Unison or Unison’s predecessors;
  - (m) “Requested Service” or “Requested Services” means that service or services requested by the Customer on the Customer Request Form;
  - (n) “Unison” means Unison Networks Limited and includes any employees, agents, contractors, wholly owned subsidiaries or other representatives of Unison;
  - (o) “Works” means “Works” as defined by the Electricity Act 1992 and owned by Unison and includes cables and other fittings that are used, or designed or intended for use, in or in connection with the generation, conversion, transformation, or conveyance of electricity;
  - (p) “Works Location Service” means the service of spray painting on the ground an indication only by Unison of the approximate location (but not the depth), determined using an electronic cable locator, of Works.

## 2. Provision of Requested Services

- 2.1 Notwithstanding that the Customer may specify a preferred date for the Requested Service on the Customer Request Form, Unison shall have no obligation to supply the Requested Services until Unison has received the full amount of the Fee, has obtained from the Customer all relevant information required by Unison to perform the Requested Service, and has gained lawful and safe access to the Property.
- 2.2 On receipt of a completed and signed Customer Request Form and when Unison has obtained from the Customer all relevant information required by Unison in order for Unison to supply the Requested Services, Unison may in its sole discretion either:
- (a) By providing the Customer with an invoice, notify the Customer of the amount of the Fee payable for the Requested Services and require payment of that Fee prior to undertaking the Requested Services; or
  - (b) Undertake the Requested Services and notify the Customer of the amount of the Fee payable for the Requested Services by providing the Customer with an invoice for the Requested Services.
- 2.3 Unless Unison requires payment of the Fee prior to undertaking the Requested Services or otherwise agrees in writing, the Customer shall pay the full amount of the Fee, without deduction, set-off or counterclaim within 7 days of receipt of an invoice from Unison.
- 2.4 Notwithstanding clauses 2.1 to 2.3 of these Terms, Unison may in its sole discretion agree to make a credit account available to the Customer. Before agreeing to any credit terms, Unison will require that the Customer complete a Credit Account Application Form and agree to Unison’s Terms and Conditions of Credit.

## 3. Scope of Services

- 3.1 Unison makes no promises, warranties, undertakings or representations (including, without limitation, warranties and conditions as to accuracy, reasonable care and skill, time of completion, suitability, fitness for purpose and merchantability), whether express or implied, and all implied warranties in respect of any Requested Services are expressly excluded from this Agreement (to the extent permissible by law).
- 3.2 The Customer hereby acknowledges and agrees:
- (a) That changes can regularly occur to the location of Works (including the depth) or the position of reference points used to indicate the location of Works and as a result, any Location Plan or Works Location Service is intended to provide no more than an indication of the potential location of Works (but not the depth);
  - (b) That changes can regularly occur to the location of Electrical Installations (including the depth) or the position of reference points used to indicate the location of Electrical Installations and as a result, any Private Cables Location Service is intended to provide no more than an indication of the potential location of Electrical Installations (but not the depth);
  - (c) That the Requested Services will not indicate the location of any other services such as water, sewer, gas or telecommunication lines;
  - (d) That any Location Plan will not indicate the location of any services that were not laid by Unison or on behalf of Unison or any services which Unison does not have a record of;
  - (e) That the Works Location Service will not indicate the location of any services that were not laid by Unison or on behalf of Unison;
  - (f) The provision of the Requested Services by Unison to the Customer does not constitute Unison’s consent for any excavation or other work to be undertaken at the Property or for the Works or Electrical Installations to be moved, displaced, disconnected or otherwise interfered with;
  - (g) That damage to Works, Electrical Installations and underground services can lead to serious and potential fatal consequences. As a consequence, personnel engaged in excavation or other work have a responsibility under the Health and Safety in Employment Act 1992 to identify and manage such hazards and persons planning to excavate or undertake other work near Works, Electrical Installations and underground services must follow all relevant guidelines;
  - (h) Before undertaking any excavation or other work, the Customer will make its own enquiries as to any consents that must be obtained (including any Close Approach Consent that may be required from Unison) before such excavation or other work may commence and will obtain independent advice about how such excavation or other work may be safely carried out in a manner that will ensure no risk of damage to persons, the Works, and/ or Electrical Installations and compliance with all relevant laws; and
  - (i) That if the Customer causes or becomes aware of any damage to Works or Electrical Installations, even if such damage appears to be minor, it will immediately report such damage to Unison.

## 4. Limitation of Liability and Indemnity

- 4.1 Notwithstanding anything at law or in equity to the contrary but subject to clause 5 of these terms and conditions:
- (a) Unison (including, without limitation, Unison’s directors, employees, representatives, contractors and/or agents) will not be liable or have any responsibility for any direct, indirect or consequential loss, damage or injury suffered by the Customer arising howsoever from:
    - (i) Unison relying on the information and warranties provided by or on behalf of the Customer in the Customer Request Form and this Agreement;
    - (ii) Delays or suspension in the performance of the Requested Service;
    - (iii) Unison’s performance of the Requested Service;
    - (iv) The Customer’s use of, or reliance on, any plans or information provided as part of the Requested Service.
  - (b) Unison’s liability for damage or loss arising from performing the Requested Service and all related matters (whether arising under contract, tort (including negligence), equity or otherwise) will be limited to, at Unison’s election, the Fee paid by the Customer to Unison for the Requested Service to which the loss or damage relates.
  - (c) The Customer indemnifies Unison against all and any claim(s) by any third party for losses, including costs, (whether arising under tort (including negligence), equity or otherwise) arising from any act of, or omission by, Unison in its performance of the Requested Service.
  - (d) The Customer hereby acknowledges that it may be liable for any damage it causes to Works and/ or Electrical Installations, including any loss whether direct, indirect, or consequential that may be suffered by Unison as a result of such damage.

## 5. Consumer Guarantees Act

- 5.1 Nothing in these terms and conditions are intended to have the effect of contracting out of the Consumer Guarantees Act 1993 (the “CGA”) save to the extent permitted by the CGA and these terms and conditions are to be modified to give effect to that intention.
- 5.2 Where the Requested Service is supplied for business purposes the Customer acknowledges that the CGA does not apply.

## 6. Access to Property

- 6.1 The Customer must ensure that, for the purposes of Unison performing the Requested Services:
- (a) Unison has lawful access to the Property; and
  - (b) Unison is entitled to rights of ingress to, and egress from, the Property.
- 6.2 Unison’s access to the Property may occur on any date and at any time during normal business hours or such other time as may be arranged between Unison and the Customer.
- 6.3 Where the Customer gives Unison rights of access to the Property in accordance with clause 6.1, the Customer agrees to ensure that any dog or other animal is kept under control and that such dog or other animal will not present any risk of harm to Unison.
- 6.4 Without limiting clause 4.1(c) of these Terms, the Customer agrees to indemnify Unison for any loss suffered by Unison arising from Unison’s access to the Property.
- 6.5 The Customer warrants to Unison that no hazard within the meaning of the Health and Safety in Employment Act 1992 is known to exist upon or in relation to the Property.
- 6.6 If for any reason Unison in its sole discretion believes that there is a risk that accessing the Property may cause harm to any person or property or is otherwise unlawful, or if the Customer or any third party threatens, harasses or assaults any Unison employee, representative, contractor and/or agent in the course of Unison undertaking the Requested Service, Unison may immediately suspend performance of the Requested Service and will be under no obligation to access the Property or perform the Requested Service.
- 6.7 The Customer will remain liable for payment of the Fee in the event that Unison is unable to perform the Requested Service by reason of being unable to access the Property for any reason whatsoever or in the event that clause 6.6 of these Terms applies.

## 7. Subcontractors

- 7.1 Unison may engage a subcontractor or subcontractors to perform the Requested Service or any part of it.
- 7.2 The Customer may not give instructions to any subcontractor in respect of the Requested Service.

## 8. Force Majeure

- 8.1 Unison may suspend its obligations to perform the Requested Services if it is unable to perform as a direct result of a Force Majeure Event. Any such suspension or performance must be limited to the period during which the Force Majeure Event continues.

## 9. Assignment

- 9.1 The Customer shall not assign its rights under these Terms and the Agreement without the prior written consent of Unison. For the avoidance of doubt, an assignment will be deemed to have occurred upon a change in control of the Customer.

## 10. Entire Agreement

- 10.1 The Customer Request Form and these Terms together form the Agreement and constitute the complete and exclusive statement of the agreement between the parties in relation to the Requested Services, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the Requested Services.

## 11. Variation

- 11.1 Unison may from time to time and in its sole discretion amend, add to or delete any of the clauses of these Terms with immediate effect by giving written notice to the Customer.

## 12. Electronic messages from Unison

- 12.1 Subject to clause 12.2, the Customer consents to receiving from time to time, electronic messages from Unison which market or promote Unison’s goods and services.
- 12.2 Unison will cease to send electronic messages as described in clause 12.1 above to the Customer if at any time the Customer instructs Unison in writing to cease sending such electronic messages to the Client at those electronic addresses.

## 13. Privacy Act

- 13.1 The Customer authorises Unison to collect, retain, use and disclose any personal information about the Customer (including the information collected in the Customer Request Form) for the following purposes (in addition to any purposes otherwise authorised by law):
- (a) assessing the Customer’s creditworthiness;
  - (b) disclosing to a third party details of this application and any subsequent dealings the Customer may have with Unison for the purpose of recovering amounts payable by the Customer, ascertaining at any time the Customer’s creditworthiness, obtaining at any time credit statements, providing credit references, enabling a credit reporter to maintain accurate records about the Customer, or performing the Requested Services;
  - (c) marketing goods and services offered by Unison to the Customer;
  - (d) administering, whether directly or indirectly, Unison’s agreements with the Customer and enforcing Unison’s rights thereunder;
  - (e) enabling Unison to communicate with the Customer for any purpose.
- 13.2 The Customer, if an individual, has a right of access to information about themselves held by Unison. The Customer may request correction of that information and may require that the request be stored with that information. Unison may charge reasonable costs for providing access to that information.

## 14. Authority to Sign

- 14.1 The Customer warrants that the Customer is legally entitled to complete the Customer Request Form and agree to these Terms and the Agreement.
- 14.2 The person that signs the Customer Request Form for and on behalf of the Customer, if that person is not the Customer, warrants that he or she is legally entitled to sign the Customer Request Form on behalf of the Customer and indemnifies Unison from any loss in the event that the person is not so authorised.

## 15. Property Rights

- 15.1 Nothing in these Terms or the Agreement shall give the Customer any ownership rights in the Works.
- 15.2 Any Location Plans or other plans provided by Unison to the Customer as part of the Requested Services shall remain at all times the property of Unison and Unison shall retain all intellectual property rights (including, without limitation, copyright) in such plans.
- 15.3 The Customer acknowledges that information on Location Plans or other plans provided by Unison is or may be confidential to Unison, and the Customer hereby agrees to maintain the confidentiality of such information and shall not disclose such information to any person except to the extent that disclosure is required for the purpose of undertaking excavation or other work.
- 15.4 To enable Unison to secure its rights pursuant to clause 15.2 and 15.3, the Customer hereby grants to Unison a security interest in the Location Plans and all other plans provided by Unison to the Customer pursuant to these Terms and the Agreement.

## 16. Miscellaneous

- 16.1 No exercise or failure to exercise or delay in exercising any right or remedy by a party shall constitute a waiver by that party of that or any other right or remedy available to it.
- 16.2 If any provision of these Terms, the Agreement or the application of these Terms or the Agreement to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of these Terms, the Agreement, and the application of these Terms and the Agreement shall not be affected and shall remain enforceable to the greatest extent permitted by law.
- 16.3 Any notice or other communication in connection with these Terms and the Agreement shall be in writing and left at the address of the relevant party as specified on the Customer Request Form.
- 16.4 Notices or other communications are deemed received:
- (a) if delivered by hand, on delivery;
  - (b) if delivered by post:
    - (i) on the third day following posting if sent and received within New Zealand; and
    - (ii) on the tenth day following posting to or from an overseas destination;
  - (c) if delivered by facsimile, on production of a transmission report by the machine from which the facsimile was sent in its entirety to the facsimile number of the recipient, specifying the correct number of pages sent, the date and time of transmission and that transmission was successful, provided that the onus of proving receipt shall be on the sender.

## 17. Relevant Law

- 17.1 These Terms and the Agreement shall be governed by and construed in accordance with New Zealand law and the Customer agrees to submit to the exclusive jurisdiction of the Courts of New Zealand.