

Smart Location Installation Agreement – Owner of an asset that is to be a Smart Location

A. What this agreement is about

What is a Smart Location

A “Smart Location” (also known as an NBAP, a non-building access point) is an asset that is to be provided fibre access services (via your service provider), and often does not have a physical address (e.g. the location is a digital billboard, CCTV or lamp post), or if it does have an address, it is not a premise (e.g. a pumping station).

You own or have rights to the Smart Location (“You”).

Overview of what Chorus will do

Chorus will provide equipment and lines to provide the Smart Location services (“Chorus Smart Location Equipment”).

Chorus will install the Chorus Smart Location Equipment and connect the Chorus Smart Location Equipment to our network, and then we will provide ongoing fibre access services to the Smart Location via Your service provider.

Our service company contractors will carry out the installation (and any required network build) on our behalf, along with any maintenance for the Chorus Smart Location Equipment.

Overview of this agreement

This agreement relates to Chorus’ right to install, locate, inspect, operate, maintain, replace, repair, upgrade and remove the Chorus Smart Location Equipment. It also covers other rights and responsibilities of Chorus and You.

As this agreement is between Chorus and You, we may enforce this agreement directly against You without involvement from Your service provider.

B. Details of this Smart Location installation agreement

1. *Chorus Smart Location Equipment will remain Chorus’.* The Chorus Smart Location Equipment installed by Chorus (and our network) will remain Chorus’ asset. You agree the Chorus Smart Location Equipment, and our network must not be worked on or interfered with, without Chorus’ prior approval.
2. *Agreement continues.* This agreement shall continue as long as the Chorus Smart Location Equipment remains at the Smart Location. However, Chorus may on written notice terminate this agreement and transfer the Chorus Smart Location Equipment to You (and in such event Chorus will not be obliged to remove the Chorus Smart Location Equipment).

3. *Chorus' obligations.*

(a) Chorus will:

- (i) comply at all times with Your (or the premises' owner) reasonable conditions of access and any technical and operational requirements for the Smart Location as advised from time to time in writing by You;
- (ii) ensure that any Chorus works are carried out by appropriately qualified service company contractors, in accordance with good industry practice;
- (iii) comply with all applicable laws;
- (iv) maintain and ensure that Chorus' contractors maintain public liability insurance in the amount of not less than NZ\$10 million;
- (v) subject to clauses 4, 5, 6(c)-(e), 8 and 9 below, remain responsible for risk of the Chorus Smart Location Equipment;
- (vi) leave the parts of the Smart Location and surrounding areas that Chorus, or its service company, have worked in a neat and tidy state, and promptly make good any damage caused to the Smart Location, the premises, or any third-party assets, equipment, or facilities (in accordance with (b) below); and
- (vii) take reasonable steps to ensure minimal disruption, or interference with, the operation or maintenance of Your or any third-party assets, equipment, or facilities at the premises.

(b) If there is damage caused by Chorus or its service company under clause 3(a)(vi), Chorus will repair any damage to as reasonably close as possible to the original condition prior to such damage, and as such the repair will only be on a "like for like" basis.

4. *You are not to interfere with Chorus' rights in this agreement.* You must not do or allow anything to be done that may in Chorus' reasonable opinion interfere with or affect the full and free use and enjoyment by Chorus of Chorus' rights in this agreement.

5. *You are responsible for damage You cause.* You will be responsible for all damage that You (or any person under Your control) causes to the Chorus Smart Location Equipment or any other property of Chorus.

6. *Things You will provide us.* You will:

- (a) undertake any works to enable us to carry out the installation without encountering any hazardous material (such as asbestos);
- (b) arrange and provide us access to carry out the installation or any maintenance (such as security clearances or security escorts);
- (c) provide us any fit for purpose supporting infrastructure at the premises required for the installation of the Chorus Smart Location Equipment (such as poles, or cabinets), and for our ongoing services to the Chorus Smart Location Equipment (such as power);
- (d) take reasonable steps to keep the Chorus Smart Location Equipment secure; and
- (e) let us know if the Chorus Smart Location Equipment is damaged.

7. *Health and safety.*
- (a) You and Chorus agree to comply with, and make sure each of our contractors (including Chorus' service company), personnel co-operate, consult and co-ordinate with each other, and any other PCBU (as defined in the Health and Safety at Work Act 2015 ("HSW Act")) who has a duty under the HSW Act in relation to the services, works and activities provided under this agreement to ensure each party can comply with its respective obligations under the HSW Act; and
 - (b) while on Your premises Chorus agrees to comply with all reasonable health and safety (and security requirements) notified in writing by You to Chorus (or Chorus' service company) in advance.
8. *If You don't own the land/premises.* If You do not own the land (or premises) on which the Smart Location is situated, You must ensure that the owner of the land (or premises) on which the Smart Location is situated approves the installation, location, inspection, operation, maintenance, replacement, repair, upgrade and removal of the Chorus Smart Location Equipment. In some situations, the owner of the land will need to provide us any legal easements for the installation, but we'll let you know if that is the case.
9. *Your supplied duct/trench needs to meet our specifications.* You can provide a trench or duct for the installation of the Smart Location Equipment. But if you do it will have to adhere to our network specifications around depth, separation of utilities and type and colour of duct. If it isn't to our standard, we have the right to refuse to use it. You can see details of our required specifications at <https://www.chorus.co.nz/docs/develop-with-chorus/chorus-npd-new-property-technical-requirements-vol-1-general-fibre-network.pdf> (section 3).
10. *You are to give us notice of certain things.* If You:
- (a) wish to, or are required by law to remove, relocate or alter a Smart Location; or
 - (b) are required by law to remove the Chorus Smart Location Equipment from a Smart Location, then

You may give us at least 3 months' notice requiring Chorus to remove the Chorus Smart Equipment from the Smart Location at Your cost. This may mean our ongoing fibre access services to the Smart Location Equipment (via Your service provider) will need to be terminated.

11. *Liability cap and indirect loss exclusion.*
- (a) The maximum liability of Chorus' for all costs, damages, and losses under or in connection with this agreement is limited to:
 - (i) \$500,000 per event or series of events; and
 - (ii) \$10,000,000 in the total aggregate.
 - (b) Your maximum liability of You all costs, damages, and losses under or in connection with this agreement is limited to:

- (i) \$500,000 per event or series of events; and
 - (ii) \$5,000,000 in the total aggregate.
- (c) Neither party will be liable to the other for indirect, special or consequential damages, or loss of profits, rent or savings under or in connection with this agreement.

12. *Mitigation.* You and Chorus will take reasonable steps to mitigate any claim or loss sustained or incurred as a result of any breach or default of the other party.

13. *Privacy.* We collect and use Your information in accordance with our [privacy policy](#).

14. *Other rights at law continue.* Nothing in this agreement alters or restricts any of Chorus' rights, powers, remedies or actions under any law, including the Telecommunications Act 2001.

<u>Consented by: [End customer]</u>	<u>Site Access Contact: (if required)</u>
Business Name:	Name:
Name:	Position Title:
Position Title:	Phone number:
Phone number:	Email address:
Email address:	Site address:
Date:	
Signature:	