

Terms and Conditions

This NPD Early Design Contract (“ED Contract”) comprises of the cover page, these terms and conditions and the NPD Contract [Policies](https://www.chorus.co.nz/develop-with-chorus/docs/npd-policy) available at <https://www.chorus.co.nz/develop-with-chorus/docs/npd-policy> (the “Policies”). Other than those provisions expressed to survive expiry or termination, this ED Contract will expire 12 months after delivery of the Early Design Plan by Chorus.

For the purposes of this ED Contract terms and conditions, the following definitions are applicable. Terms used but not defined in this ED Contract will have the meanings contained in the Policies:

Charges means the charges set out on the cover page of your ED Contract;

Early Design Plan means the plan prepared by us which outlines relevant Materials, architecture design and some of the Development Communal Infrastructure likely to be required at the Site; and

Site means the site to which this ED Contract relates as identified on the cover page of your ED Contract.

Ordering Portal

1. A quote will be generated based on the information you supply in the portal relating to your development (“Development Scope”). You are solely responsible for any errors or omissions relating to the Development Scope. Chorus accepts no liability for any additional activities or services outside of the Development Scope.
2. Chorus will provide a quote based on the Development Scope for the early design work and provision of the Early Design Plan that Chorus will provide to you (“ED Service(s)").

Quote

3. Any quote will be valid for 90 days from the date it is issued (“Quotation Period”). Upon expiry of the Quotation Period without acceptance by you and payment of the Charges, the quote will expire and be incapable of acceptance.
4. Prior to your acceptance of the quote, Chorus may alter the quote if circumstances change, such as where you change the Development Scope or there are technical issues with the portal.

Early Design Service

5. As part of your project, you will need to provide us with the following documents for us to provide the ED Services:
 - a. The physical address of the Site;
 - b. The number of proposed connections;
 - c. A Scheme Plan relating to the Site;
 - d. An MDU level plan showing the floor layout for any MDUs included in the Site if internal MDU design is required; and
 - e. A power plan if available relating to the Site if you want power and telecommunication designs to be aligned.
6. For the ED Services provided under this ED Contract we cannot accept changes in your Development Scope which would give rise to a change in the number of connections covered by the Early Design Plan. Any change to the Development Scope, Scheme Plan or other details provided under this ED Contract after acceptance of a quote, or any errors in the quote, will require you, or allow Chorus, to cancel this ED Contract and you will need to agree to a new ED Contract which includes the updated details.

7. Chorus will prepare an Early Design Plan based on the details you provide to us. Chorus retains all intellectual property rights in the Early Design Plan, and the Early Design Plan is not to be shared with anyone other than those involved in the development.

8. The Early Design Plan is an indicative plan to assist with early planning of developments. It is appropriate for those developments that will need to install Development Communal Infrastructure within their Site as further described in the Policies. It should not be used as a basis for construction and does not take the place of a Design Plan as provided for in our NPD Contract. You must not use our Early Design Plan as a basis for construction with any other telecommunications services provider. Should you subsequently enter into a NPD Contract in relation to the same Site, you will need to execute the full NPD Contract and pay the relevant Charges and a finalised Design Plan will be provided to you under that NPD Contract.

Termination

9. Either party may on written notice terminate this ED Contract if the other party has materially breached its obligations under this ED Contract and if capable of remedy, has not remedied the breach within 30 days of being notified of the breach;

10. Prior to Chorus completing the Early Design Plan you may terminate this ED Contract on five (5) working days' notice and we will retain a proportion of the Charges paid by you in order to reimburse Chorus for the following costs it incurs up to the date of termination ("Termination Costs"):

- a. Any costs paid or payable to third parties; and
- b. Prior to completion of the Early Design Plan, a fixed cost of \$250 to recover Chorus' internal costs.

For the avoidance of doubt, no refund of Charges will be payable where termination takes effect after completion of the Early Design Plan.

Liability

11. Each party's liability for any loss of income, profits, revenue or savings (whether direct or indirect), or any indirect or consequential loss or damages, is excluded.

12. Subject to clause 11, each party's total liability for all losses or damages arising out of or in connection with this ED Contract, whether in contract, tort (including negligence), equity, or otherwise, will be limited to \$25,000.

Confidentiality

13. Each party will keep confidential, secure, and not misuse any information received from the other in connection with this ED Contract (including the contract itself). The disclosure and use of confidential information by either of us is permitted to the extent required by law or to comply with a party's obligations under this ED Contract. Where required to disclose a party will where practical give prior written notice before disclosure. No written notice is required where confidential information is being disclosed by you to any contractor acting on your behalf in relation to the Site or by Chorus to our service companies. For the purposes of this ED Contract, you are deemed to have given notice and Chorus permits disclosure of the Early Design Plan to contractors, councils and utilities companies for the purposes of planning a development at a Site, but must not be provided to a competitor of Chorus or used by anyone to construct any telecommunications infrastructure.

General

14. Each notice or other communication will be made in writing and brought to the attention of the other party. No notice or communication will be effective until received.

15. In the event that any personal information (as that term is defined in the Privacy Act 2020) about you is disclosed to Chorus under or in relation to this ED Contract, the use, disclosure and security of, and your access to, that information, will be as set out in our Privacy Policy, which can be found at <https://www.chorus.co.nz/terms-and-conditions/our-privacy-policy>.

16. You warrant you are acquiring the ED Services as a business in the course of trade and represent you are not a consumer.

17. Other than updates to the Policies, any amendment to this ED Contract must be agreed by both parties and recorded in writing.

18. Clauses 7, 8, 10, 11, 12, 13, 15, and 18 – 21 and the Policies will survive termination or expiry of this ED Contract.

19. Unless and until you have entered into a separate developer partnership agreement or a New Property Development Contract in relation to the same development, this ED Contract represents the entire agreement between the parties for the ED Services and supersedes all prior negotiations, representations, and agreements whether written or oral.

20. Each term in this ED Contract is separately binding. If for any reason either of us cannot rely on any term then all the other terms remain binding.

21. This ED Contract is governed by the laws of New Zealand. We both submit to the non-exclusive jurisdiction of the Courts of New Zealand.