
2degrees

KiwiRail Provisions Schedule



1.

- 1.1 This Service Schedule forms part of your Agreement with us.
- 1.2 In the event of any inconsistency between this Service Schedule and any other clause of the Agreement, refer to clause 2 of the Standard Terms and Conditions or Master Services Agreement.
- 1.3 Capitalised terms which appear in this Service Schedule and are not defined in this Service Schedule may be defined under Definitions in the Standard Terms and Conditions or Master Services Agreement.

(v) KiwiRail Holdings will not be providing the Customer with any service level guarantees in relation to any of the services it receives via the KiwiRail Holdings infrastructure; and

- (b) If 2degrees breaches the terms of its agreement with KiwiRail Holdings and KiwiRail Holdings terminates that agreement in accordance with its terms KiwiRail Holdings has the option (exercisable only upon agreement between the Customer and KiwiRail Holdings), to assume by way of novation the agreement between 2degrees and the Customer (to the extent that such agreement requires use of capacity on the Infrastructure).

2. **Kiwirail Holdings Limited Provisions**

- (a) A portion of the Services to be provided under this Agreement will traverse cable infrastructure owned by KiwiRail Holdings Limited ("**KiwiRail Holdings**"). The agreement between 2degrees and KiwiRail Holdings for use of its infrastructure requires that 2degrees Network customers acknowledge that:

(i) KiwiRail Holdings will at all times retain ownership, power, possession and control of the fibre, cables, break-outs, ducts and all associated equipment located on rail land and owned or controlled by KiwiRail Holdings ("**KiwiRail Holdings infrastructure**");

(ii) KiwiRail Holdings will not be responsible or liable for:

- (A) any lack of continuity in, or loss of supply or quality of, any data services;
- (B) any action taken or proceedings brought by any third party in relation to the "KiwiRail Holdings - 2degrees Agreement"; and
- (C) any degradation to the KiwiRail Holdings infrastructure or to the quality of the KiwiRail Holdings infrastructure however caused;

(iii) KiwiRail Holdings accepts no liability for any damage caused as a result of any rail activities, power operations, public utility related activities and other ancillary activities undertaken on the rail corridor or for any damage caused to the KiwiRail Holdings infrastructure as a result of any other activities, operations or circumstances which occur or are being carried out along or on the rail corridor;

(iv) the Customer has no right of physical access to the KiwiRail Holdings infrastructure and that any moves, adds, or changes to the KiwiRail Holdings infrastructure can only be carried out by 2degrees with the express approval of KiwiRail Holdings;

