

FileSender End User Terms and Conditions

1. Eligibility to access Service

- a) This Agreement is between the Research and Education Advanced Network of New Zealand Limited (**REANNZ**) and the end user (hereafter referred to in this Agreement as **You** and **Your**). You may not enter into this Agreement on behalf of any trust, partnership, body corporate, entity or incorporated association.
- b) You may only enter into this Agreement and receive the Service if:
 - i. You are a current employee, contractor or officer of a Member; or
 - ii. You are an enrolled student of a Member; or
 - iii. You are issued a Voucher to access the Service by a person in subclause i and ii above.
- c) You agree that You will only use the Service for the Permitted Purposes.
- d) By using the Service You are deemed to have accepted this Agreement.

2. Service

- a) REANNZ will make the Service available to You subject to and in accordance with this Agreement, but requires that You, as the owner of Your Data, take appropriate steps to secure Your Data (including appropriate encryption of any of Your Data and management of encryption keys) independently of any action REANNZ may take. The Services will meet the service description set out at clause 1c).
- b) REANNZ undertakes that Your Data will be stored at locations within New Zealand.
- c) REANNZ may modify the Service from time to time to apply improvements and to manage associated resources such as storage limits. The parameters related to the Service are available at www.reannz.co.nz/filesender.
- d) The Service may be unavailable from time to time as REANNZ conducts regular maintenance. REANNZ does not warrant that the Service will be error free or continuous.

3. Intellectual Property

- a. Except as otherwise specified in this Agreement:
 - i. nothing in this Agreement confers on a party any right, title, or interest in or to the Pre-Existing IP of the other party; and
 - ii. As between You and REANNZ, REANNZ and/or its licensors own all Intellectual Property Rights that are created in connection with, or as a result of, providing the Services to You, including any modifications to Pre-existing IP (**New IP**).
- b. As between You and REANNZ, all Intellectual Property Rights, title, and interest in "FileSender" are the property of REANNZ and/or its licensors (subject to the terms of the applicable open source licence under which "FileSender" is developed and updated from time to time).
- c. For the term of this Agreement, REANNZ grants you a non-exclusive, royalty-free, non-transferrable and non-sublicensable licence to use "FileSender" and any New IP solely for the purpose of You using the Services for the Permitted Purposes.
- d. Neither the name of REANNZ, nor the names of its contributors may be used to endorse or promote products derived from "FileSender" without specific prior written permission.
- e. Except as expressly otherwise mentioned, this Agreement does not grant REANNZ or any third party any intellectual priority rights in Your Data.

4. Privacy

- a. You acknowledge that REANNZ may collect parts of Your Data that are relevant to the operation of the Service.
- b. This information may include Personal Information including email addresses, file names and other operational data that is needed for administration and reporting. REANNZ will collect, use, hold and disclose any Personal Information it collects under this Agreement in accordance with the Privacy Policy.
- c. You acknowledge that You have gained all necessary consents to collect, use and store Your Data in FileSender.

5. Term and Termination

- a. This Agreement will be deemed to have been terminated once Your Data has been automatically removed from FileSender.
 - b. REANNZ may terminate the Service by giving 60 days' notice, either via email distribution or on the REANNZ website.
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6. Indemnity

- a. You will indemnify REANNZ from and against all liabilities, damages and costs including settlement costs and legal fees arising out of any claim against REANNZ, including any claim regarding:
 - i. Your use of the Service; and
 - ii. Storage of Your Data on a temporary basis including, but not limited to any applicable laws relating to privacy.

7. Exclusion of Warranties

- a. The Service is provided “as-is” by REANNZ.
- b. To the maximum extent permitted by law, REANNZ makes no warranty of any kind regarding the fitness of purpose of the Service.
- c. You are responsible for the security of Your Data including ensuring appropriate encryption is used to protect Your Data.
- d. You are responsible for each third party’s use of the Service who is authorised by You to receive and send files.

8. Limitation of Liabilities

- a. To the maximum extent permitted by law, REANNZ will not be liable to You for any claim against REANNZ for any direct loss of data, profits, revenue, business interruption and all indirect, special, incidental, consequential losses, damages, costs or expenses incurred or sustained by You arising from Your use of the Service, or the unavailability of the Service, the loss, corruption or compromise of Your Data or any Harmful Code that is transmitted using the Service.

9. Governing Law

- a. This Agreement is governed by New Zealand law. Each party submits to the non-exclusive jurisdiction of the New Zealand courts.

10. Miscellaneous

- a. This Agreement constitutes the entire agreement between You and REANNZ with respect to the Service.
- b. You agree to notify REANNZ immediately on **0508 466 466** or **help@reannz.co.nz** if You become aware of any security incident related to the Service.

11. Definitions

Agreement means this agreement.

FileSender means the web-based application that allows authenticated users to securely and easily send arbitrarily large files to other users and use of which is subject to this Agreement.

Harmful Code means any computer code or routine that is harmful, destructive, disabling or that assists in or enables theft, alteration, denial of service, unauthorised disclosure or destruction or corruption of data, including viruses, worms, spyware, adware, keyloggers, trojans.

Intellectual Property Rights means all industrial and intellectual property rights whether conferred by statute, at common law or in equity, including all copyright, rights in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs, rights in relation to trade marks, business names and domain names.

Member means an organisation or institution that is part of the REANNZ membership and has executed a current master services agreement with REANNZ.

Permitted Purposes means a purpose, of which the primary basis is to enable or facilitate:

- a) the conduct or co-ordination of research in New Zealand
- b) the provision of education, training or teaching in New Zealand
- c) any activity that is related to an organisation that has been granted REANNZ membership
- d) the administration of any activity referred to in a) or b) or c), and
- e) the provision of support or ancillary services to any entity or person engaging principally in any activity referred to in a) or b) or c).

All users must only use their FileSender service to communicate with parties who have consented to supply their email address and receive FileSender emails from REANNZ.

Pre-Existing IP means all Intellectual Property Rights means all Intellectual Property Rights that a Party owns or is licensed as at the date of this Agreement or is developed independently of this Agreement, including any modifications.

Privacy Policy means REANNZ's the policy of that name made available on REANNZ's website and updated or amended by REANNZ from time to time.

Personal Information has the same meaning as in the Privacy Act 2020.

REANNZ has the meaning given in clause 1a).

Service means the FileSender service operated by REANNZ.

Voucher means a digital token which allows an authorised user to both send and receive files.

You has the meaning given in clause 1a) and **Your** has a corresponding meaning.

Your Data means all information or similar You send via the Service.
