



End-User Terms and Conditions for the Supply of Flexibility Technology Services and other services offered by Flex-Able Ltd

Effective Date: 1st January 2024

Last Updated: 2nd March 2026

These End-User Terms and Conditions ("Terms") govern your use of the technology services (the "Services") provided by Flex-Able Ltd, a New Zealand company based in Ashburton. ("we", "us", or "our").

By accessing or subscribing to the Services, you ("you", "your", or "User") agree to be bound by these Terms. Your continued use of our Services, platforms, software, or hardware is deemed acceptance of the most current version of these Terms.

1. Service Description

Our Services help optimise your electricity usage based on your needs, grid needs, price signals, or carbon intensity by enabling flexible demand management through automated or manual responses.

Services may include:

- a. Real-time or scheduled load shifting;
- b. Monitoring and control of energy systems or devices;
- c. Participation in grid flexibility programs or incentives;
- d. Data analytics and reporting.
- e. Participation in grid flexibility programs or incentives;
Data analytics and reporting.

2. Eligibility and Registration

- a. You must be the legal occupant, owner, or authorized agent of the premises where flexibility is enabled.
- b. You are responsible for ensuring compatibility of any devices or systems you connect with our Services.
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3. User Responsibilities

You agree to:

- a. Where you agree to participate in a demand response program, you are responsible for maintaining your energy systems (e.g. HVAC, EV chargers, hot water cylinders) in working condition
- b. Notify us of any changes that affect your ability to provide flexibility (e.g. equipment upgrades, disconnection);

- c. Ensure safe operation of all connected devices.

3A. Site-Specific Compliance and Operational Responsibility

You are solely responsible for ensuring that your site, systems, and operational practices comply with all applicable laws, regulations, codes of practice, and industry standards relevant to your activities and use of the Services.

We do not guarantee that the use of the Services will ensure compliance with any regulatory or industry requirements that may apply to your specific circumstances. You acknowledge and agree that:

- a. It is your responsibility to assess and ensure the correct configuration, operation, and performance of your systems in connection with the Services;
- b. Any failure to comply with industry-specific regulations or operational standards is at your own risk;
- c. We shall not be liable for any direct, indirect, or consequential loss or damage arising from your failure to meet such obligations.

4. Access and Use

Subject to your subscription plan, we grant you a non-exclusive, revocable right to use the Services. We may provide software, APIs, or hardware interfaces that allow us to control or monitor certain loads.

You must not:

- a. Tamper with software or devices used to deliver the Services;
- b. Use the Services to manipulate market signals or cause harm to the grid;
- c. Allow unauthorised third parties to access the Services.

5. Energy Data and Privacy

By using the Services, you authorise us to collect, use, and process your electricity consumption and device performance data. We may share anonymised or aggregated data with utilities, aggregators, or energy market participants. Our Privacy Policy outlines how your data is handled.

6. Flexibility Events

You may receive automatic or scheduled instructions to adjust your energy usage ("Flex Events"). Depending on your plan, participation in Flex Events may be voluntary or automatic. We are not liable for any impact on comfort or operations resulting from Flex Events.

7. Third-Party Services

We may integrate with utilities, system operators, or other partners. You authorise us to act on your behalf, as needed, to enrol in demand response or flexibility programs. Your participation may be subject to separate program terms, which will be communicated to you in advance.

8. Fees and Payments

Any subscription fees are billed annually and are non-refundable except as required by law. You may be eligible for incentives or rebates for providing flexibility; such incentives are subject to availability and partner program rules, and any payments or rebates will be communicated to you ahead of time for you to accept or decline participation in electricity flexibility programs.

8A. Pricing

All prices are in New Zealand Dollars and are inclusive of any Goods and Services Tax ("GST") unless stated to be otherwise but are exclusive of delivery charges. All prices are correct when published. We reserve the right to alter prices at any time. An invoice will be emailed to you at the email address you supply when you place your order. You are responsible for ensuring that your contact details are correct.

8B. Platform Access, Optimisation and Fee Waiver Model

Access to the Services includes access to the customer-facing web portal and associated software tools, through which you may:

- a. View energy data and device performance;
- b. Configure preferences and schedules for automated time-of-use (TOU) optimisation; and
- c. Enable or disable certain optimisation settings in accordance with your selected service configuration.

Our system will automatically optimise connected electrical assets in accordance with your selected TOU preferences, applicable tariffs, grid signals, and system conditions. In addition to customer-configured optimisation, you authorise us to apply additional automated load control, scheduling, or dispatch of connected assets where required for flexibility services, grid support, or electricity market participation. Any such market participation or trading activity is undertaken by us in our own name and at our own commercial risk. You are not a market participant and do not assume any trading risk.

Fee Waiver Condition

We may, at our discretion, waive or reduce the annual subscription fee where you permit:

- (a) continued automated optimisation of connected assets through our system; and
- (b) Access to, and control of, connected load assets for the purpose of monitoring, controlling, scheduling, and dispatching electrical load associated with those assets for time-of-use optimisation, flexibility services, grid support, and electricity market participation.

Any waiver or reduction of the subscription fee is conditional upon your ongoing participation in our controlled optimisation and load management. If you disable, restrict, or withdraw from such optimisation or load management, the applicable subscription fee shall become payable from the date of such change.

All electricity market participation or trading activities are undertaken by us in our own name and at our own commercial risk. You are not a market participant and assume no trading risk.

If you:

- a. Disable or materially restrict our optimisation capability;
 - b. Elect to independently control connected assets outside the platform; or
 - c. Authorise a third party to control, optimise, aggregate, or dispatch connected assets,
- then the applicable subscription fee shall become payable from the date such change takes effect.

Nothing in these Terms prevents you from engaging third-party services. However, any waiver of fees applies only where our controlled optimisation remains enabled.

Third-Party Access:

- a. We reserve the right to restrict, condition, or charge reasonable fees to third parties seeking integration, control capability, data access, API connectivity, or interoperability with the Services. Any such access will be subject to a separate agreement.

9. Service Changes and Termination

- a. We may modify or discontinue parts of the Services with reasonable notice.
- b. You may cancel at any time by contacting Us on 0800 359 797.
- c. We may suspend or terminate your access for non-payment, breach of these Terms, or misuse of the Services.

10. Liability and Disclaimers

Services are provided “as is” and we make no warranties, express or implied. We are not responsible for losses related to energy usage, bill impacts, or equipment failure unless caused by our gross negligence. Our total liability is limited to the amount paid by you in the last 12 months.

10A. Service Interruptions and No Liability for Consequential Loss

While we strive to maintain uninterrupted access to the Services, you acknowledge that availability may occasionally be affected by factors outside our control, including but not limited to system failures, maintenance, outages, or interruptions caused by third parties.

We will make reasonable efforts to inform you of any significant service interruptions or anticipated downtime. However:

- a. We make no guarantees regarding the continuous availability or error-free operation of the Services;
- b. We accept no liability for any losses, damages, or disruptions—including business interruption, data loss, or consequential loss—arising from any delay, suspension, or unavailability of the Services, whether or not we were aware of the possibility of such damages.

10B. Grid Emergency and System Security Override

Notwithstanding any customer-configured preferences, schedules, or optimisation settings, you acknowledge and agree that we may temporarily override, suspend, or adjust automated optimisation and load control where reasonably necessary to:

respond to a grid emergency, system security event, network reliability issue, or capacity constraint;

- a. comply with any instruction, request, or requirement from a grid operator, electricity distributor, system operator, regulator, or other competent authority; or
- b. protect the stability, safety, security, or integrity of the electricity network.

Any action taken under this clause shall be proportionate and limited in duration to what is reasonably required in the circumstances.

You acknowledge that such actions may result in temporary changes to charging schedules, storage levels, export behaviour, or electricity consumption patterns of connected assets

To the maximum extent permitted by law, we shall not be liable for any loss, inconvenience, operational impact, financial consequence, or indirect or consequential loss arising from actions taken in good faith under this clause.

11. Governing Law

These Terms are governed by the laws of New Zealand, and any disputes will be resolved in the courts of New Zealand.

12. Contact Information

For questions, contact us at:

load@flex-able.co.nz or phone 0800 359 797