



Ministry of Business, Innovation & Employment

API Access Agreement

Parties

This Agreement is made the _____ day of _____
20_____

BETWEEN **The Ministry of Business, Innovation & Employment**

AND

(Name and address of other party)

Introduction

The party on whose behalf this Agreement is entered into (“**you**”, “**your**”) agrees to accept and use the Ministry of Business, Innovation & Employment’s (“**MBIE**”, “**we**”, “**us**”, “**our**”) Registers via the MBIE application program interfaces (“**MBIE APIs**”), which MBIE will provide upon acceptance of your registration as a user, on the terms and conditions of this Agreement.

1 **About the MBIE APIs**

1.1 The MBIE APIs are web services that allow data to be sent to and from MBIE in the prescribed format. This enables transactions, rapid multiple searches, and retrieval of information from MBIE systems including the MBIE registers. It also allows customers to build their own interface to conduct searches and carry out transactions with MBIE systems. A major advantage is that the MBIE APIs can be developed and deployed within many different technology environments.

1.2 MBIE will not provide the software required in order to generate, send or receive data pursuant to this Agreement. This must be developed by you.

1.3 Use of the MBIE APIs is governed by this Agreement.

2 **Acceptance of Agreement**

By agreeing to these terms you agree to be bound by this Agreement. MBIE may amend or replace any of the provisions of this agreement by notifying

the changes on the API Website. Unless otherwise stated in the changes, they will come into effect the working day after they are published on the website. Please review the terms and conditions of this Agreement regularly.

3 **Definitions used in this Agreement**

In this Agreement, unless the context requires otherwise, words beginning with capital letters must be interpreted by reference to the use of those words as they appear in bold on the front page and as set out below:

Acknowledgement Guidelines means the acknowledgement guidelines as set out in schedule 2 and as updated by MBIE from time to time.

Agreement means this document entitled API Access Agreement, which comprises these standard terms and conditions and any Schedules, and any replacement or additional terms and conditions published on the API Website from time to time.

API Specifications means the specifications provided by MBIE relating to the MBIE APIs on the API Website.

Confidential Information includes:

- the security measures employed to protect MBIE's computers and networks, including the RealMe logon; and
- all other documentation or information that may be supplied or made available to you by MBIE from time to time which is either described as confidential or is made available in circumstances which give rise to an obligation of confidence.

Customer Site means your website, on or through which you use or make available MBIE Content to third parties.

Excluded Websites means any website of the type that is excluded by us and notified to you from time to time by displaying on the API Website. An initial list of Excluded Websites is set out at schedule 1.

MBIE APIs has the meaning set out in clause 1.1.

API Website means the website operated by MBIE for the provision of the MBIE APIs, located at www.api.business.govt.nz.

MBIE APIs logon means the username, password and any authentication keys provided to you by the MBIE for the purpose of using the MBIE APIs which may include a RealMe logon.

MBIE Content means any information sourced from the Registers.

Registers means the registers administered by MBIE as detailed in the 'Explore' section of the API website, and any other MBIE registers as advised by MBIE from time to time.

4 **Licence and restrictions on use of the MBIE Content and the MBIE APIs**

4.1 Subject to the terms of this Agreement, MBIE grants you a non-exclusive, non-transferable, non-sub-licensable, royalty-free licence to display on the Customer Site MBIE Content or other materials that you specifically select to receive from us. We do not transfer any ownership rights in the MBIE Content and we reserve all rights not expressly granted.

4.2 Without limiting clause 13.1(b), you must ensure that you do not use any MBIE content in a way which is contrary to any relevant legislation, including but not

limited to the legislation under which the MBIE registers are established and administered and the Privacy Act 1993.

4.3 You must not use or display any MBIE Content on any Excluded Website.

4.4 MBIE Content sourced from the Insolvency Register relating to a bankruptcy, an entry into the no asset procedure or a summary instalment order may only be used or displayed on the Customer Site for a maximum period of (as applicable):

- (a) 4 years from the date of discharge from bankruptcy;
- (b) 4 years from the date of discharge from the no asset procedure; or
- (c) 5 years from the date of the summary instalment order.

4.5 You must not use MBIE Content for:

- (a) direct marketing purposes; or
- (b) the creation of direct marketing lists for on-sale to other parties.

4.6 Any fee you charge your clients for data that can be obtained for free directly from the Registers must be a reasonable fee.

4.7 You must ensure that all MBIE Content on the Customer Site has an acknowledgement that MBIE is the source of the information, in accordance with the Acknowledgement Guidelines.

4.8 For the purpose of ensuring your compliance with your responsibilities under this Agreement, you acknowledge and agree that we may audit or track your use of the MBIE APIs from time to time. You agree to respond within 48 hours to any reasonable request made to you by MBIE for information relating to your compliance with your responsibilities under this agreement.

4.9 You must not:

- (a) reverse engineer, decompile or disassemble, modify, translate or make any derivative works of any part of the MBIE APIs;
- (b) remove any copyright, trade mark, patent or other proprietary notices from the API Website or otherwise breach any of our intellectual property rights; or
- (c) offer to provide the MBIE APIs to any other person in any way.

4.10 You must use your best endeavours to ensure that any third party to whom you supply the MBIE Content complies with the licence and restrictions on use of the MBIE Content as set out in this Agreement as if they were you and you must include in all relevant agreements the right for MBIE to directly enforce such obligations (for example by including equivalent provisions in the terms and conditions in any agreement relating to the provision of MBIE data to third parties).

5 Charges

5.1 The charges payable by you (if any) and the term of payment of those charges for the MBIE APIs are set out on the API website (as updated by MBIE from time to time).

6 Your other responsibilities

6.1 You must:

- (a) report any queries, faults, failures, errors or omissions in respect of the MBIE Content or the MBIE APIs directly to MBIE; and
- (b) procure that any third party to whom you supply the MBIE Content reports any queries, faults, failures, errors or omissions in respect of the MBIE Content or the MBIE APIs directly to MBIE.

6.2 You must ensure that you have the correct hardware and software configuration which is required for the MBIE APIs. You must accept responsibility for full systems testing to ensure the valid operation of this interface.

6.3 You must not engage in any illegal or offensive behaviour using the MBIE APIs or the MBIE Content.

6.4 MBIE is not responsible for faults which occur in your computer or communication equipment (including any software used or stored in them), or any part of the internet, or because you use the MBIE APIs incorrectly or because of any other event beyond our reasonable control.

6.5 You must comply with the technical and organisational requirements outlined in the API Specifications when using the MBIE APIs and make sure that your API account details are kept up to date.

7 Security

7.1 You must:

- (a) ensure that (i) no third party or unauthorised employee, agent or contractor, gains access to, and/or uses, the MBIE APIs, and (ii) no other interference with the MBIE APIs occurs (*Unauthorised Use*);
- (b) effect and maintain security measures to prevent (i) Unauthorised Use occurring and (ii) any loss or damage to MBIE arising from the occurrence of Unauthorised Use;
- (c) notify MBIE immediately you become aware of any Unauthorised Use and, at your cost, take any action which is necessary or which MBIE may require to prevent any further Unauthorised Use occurring and any loss or damage to MBIE arising from any Unauthorised Use;
- (d) notify MBIE immediately of any claims by a third party in relation to your use of the MBIE APIs; and
- (e) advise MBIE promptly of any unauthorised disclosure of your RealMe login.

7.2 Your access to the MBIE APIs may be reviewed by MBIE from time to time to ensure compliance with this Agreement, and as a result may be suspended or terminated by MBIE in accordance with clause 17.3.

7.3 MBIE may monitor and log at all times any access and use of MBIE's systems.

7.4 You agree that you are responsible for your own boundary management security and destructive/malicious software security, and will maintain these to meet best industry standards.

7.5 You must:

- (a) use your best endeavours to ensure that no virus, Trojan horse, worm or other such destructive code is transmitted to MBIE's internal systems and networks, in accordance with best industry standards;
- (b) maintain a list of individuals within your organisation authorised to access the MBIE APIs;
- (c) not attempt to bypass any security mechanism in place on our systems, or use any of our systems or services to attempt to bypass any security mechanisms in place on

any remote system. This includes, but is not limited to, running any password cracking software, or attempting to access a system which you or any user authorised by you or using your MBIE APIs logon knows or reasonably should know is not authorised for access in the manner or to the extent attempted; or

- (d) not otherwise gain or attempt to gain unauthorised access to the MBIE APIs, our systems or any of our customers' systems, information or data.

7.6 MBIE will not be liable in any way to you or any other person for any loss or damage to your systems or business as the result of any communication with, or data received from or through, MBIE, including as a result of the transmission of any destructive code.

7.7 You are fully responsible for the safekeeping of your MBIE APIs logon and for all use of or access to the MBIE APIs by anyone using your MBIE APIs logon. You may not share your MBIE APIs logon, or allow your MBIE APIs logon to be used by anyone but the individuals within your organisation to whom they have been issued.

7.8 If you become aware of a security violation or Unauthorised Use of the MBIE APIs, you must immediately notify MBIE, and on the request of MBIE, immediately cease using the MBIE APIs and close any connection with MBIE's systems until any security violation has been rectified.

8 Confidentiality

8.1 You agree that all Confidential Information, regardless of how communicated or recorded, received by you from MBIE is confidential and proprietary to MBIE and will be kept as such and shall not be disclosed to any third party other than your agents, officers, employees, contractors and consultants, provided that such persons agree to observe all your obligations under this clause 8 and that you shall be responsible for the compliance of those persons with this clause 8.

8.2 All right, title and interest (including all copyright and other intellectual property rights) in the Confidential Information, the MBIE APIs and the API Specification belongs to MBIE. You acknowledge and agree that you will acquire no proprietary interest or licence in relation to the Confidential

Information, the MBIE APIs or the API Specification, other than a limited licence for the purpose set out in clause 4 of this Agreement.

8.3 The obligations of confidentiality shall not apply to any Confidential Information disclosed to you to the extent that:

- (a) is generally available to the public (but not because you or anyone that you are responsible for has disclosed it or allowed it to be disclosed); or
- (b) any use or disclosure by you is required to be made by law.

9 Support services

Support services may be available for registered users of the MBIE APIs. To enable us to provide support services, we may need to use information we have about you. You confirm that you grant us a licence to use any information we have about you to provide those support services.

10 Privacy

10.1 We will keep your information and data secure in compliance with all applicable laws.

10.2 We may receive and collect information and data about and from you but we will not disclose that information or data to anyone else except to our authorised agents or where required or permitted by law or with your consent. You consent to us and our authorised agents and partners using your information for the purpose of providing the MBIE APIs to you, for auditing you to ensure your compliance with this Agreement, or for credit checking or collection of debts. You authorise us and our authorised agents to collect all information we may require from any third parties and authorise those third parties to release that information to us and our authorised agents.

10.3 You may update your account details at any time using the API Website. You have the right to review and request amendment of any additional personal information we hold about you by contacting us at apisupport@business.govt.nz.

11 Intellectual property rights

11.1 All title, ownership rights and intellectual property rights in and to the MBIE Content remains the property of the New Zealand Government and/or the relevant New Zealand Ministry or agency.

- 11.2 Nothing in this Agreement grants you any right to use the MBIE's trade marks or logos.
- 11.3 Your information and data is your property. You grant us a licence to use that information and data to provide the MBIE APIs to you.
- 11.4 All other intellectual property rights in and relating to the MBIE Content, the MBIE APIs and the API Website, belongs to us or our licensors, including copyright, trademarks, patents, trade secrets and any other intellectual property or other proprietary rights.
- 12 Changes to this Agreement**
- 12.1 We reserve the right, at our discretion, to change this Agreement. Any changes will be effective from the date on which they are posted on the API Website.
- 12.2 We also reserve the right to change any part or all of the MBIE APIs, or the configuration you must have to use the MBIE APIs. Any material changes will be notified to you by posting them on our API Website or emailing them to you, however, no notice will be required for immaterial changes.
- 12.3 Your continued use of the MBIE APIs after a change made under this clause 12 will be subject to this Agreement and will constitute conclusive acceptance of that change.
- 13 Indemnity**
- 13.1 Without any exclusion or limitation and to the fullest extent permissible by law, you hereby indemnify, hold harmless and defend MBIE and each of its officers, employees, partners, agents and suppliers in respect of all damages, costs and expenses, including legal fees (on a solicitor and own client basis) and litigation expenses, arising out of or as a result of:
- (a) any breach of this Agreement or otherwise in connection with your use of the MBIE APIs (including the MBIE Content);
 - (b) any act or omission for which you are responsible at law;
 - (c) any information and data provided by you;
 - (d) your use of the MBIE APIs; or
 - (e) any infringement of the rights of any other person.
- 13.2 You indemnify MBIE against any loss or damage to MBIE's systems or business as the result of any communication with you, or data received from or through you, including, without limitation, as a result of the transmission of any destructive code.
- 14 Warranties & liability**
- 14.1 You warrant to MBIE that:
- (a) you will not make misleading or deceptive statements, particularly on public websites controlled by you (including the Customer Site), in relation to the MBIE Content, MBIE APIs, MBIE or any services provided by MBIE;
 - (b) you have fully complied with, and shall continue to comply fully with, all applicable laws and regulations;
 - (c) the Customer Site shall contain no material which is libellous or defamatory of MBIE or any third party, pornographic, obscene or which brings MBIE into disrepute, or which is in breach of any third party intellectual property rights or third party confidentiality; and
 - (d) users of the Customer Site will be required to comply with terms that are no less protective of MBIE than the terms and conditions set out in this Agreement in relation to their use of MBIE Content.
- 14.2 To the maximum extent permitted by law, MBIE excludes all liability to you for any loss or damage howsoever arising out of or in connection with this Agreement, including but not limited to any liability arising in relation to the MBIE Content or any virus or other contamination or any unavailability of MBIE Content.
- 14.3 Nothing in this Agreement prevents MBIE from seeking injunctive relief before an appropriate court.
- 14.4 If we breach any of our obligations under this Agreement or if you become dissatisfied with the MBIE APIs, your sole and exclusive remedy is to terminate this Agreement in accordance with clause 17.
- 15 Disclaimer**
- 15.1 To the fullest extent permissible by law, the MBIE APIs and all related materials, features, components, programs and other sites, materials, features,

components, and programs available through the MBIE APIs are provided:

- (a) on an “as is” and “as available” basis;
- (b) at your sole risk; and
- (c) without representations or warranties of any kind, either express or implied,

and all warranties, whether express or implied, are excluded, including but not limited to implied warranties of merchantability and fitness for a particular purpose.

15.2 We do not warrant that the MBIE APIs will be continuously available or error-free, or that defects will be corrected. We will use all reasonable endeavours to keep our systems and the MBIE APIs free of viruses by using industry standard virus checking programs but do not otherwise warrant that the MBIE APIs will be free of viruses or other harmful components.

15.3 Under no circumstances (including, but not limited to negligence) will MBIE or its officers, employees, partners, agents or suppliers, be liable for:

- (a) your reliance on the MBIE APIs;
- (b) any inaccuracy or incompleteness of or any change to the MBIE Content; or
- (c) any direct, incidental, special, consequential, indirect or punitive damages, including loss of use, loss of data, loss of profits, loss of anticipated savings, or loss of goodwill, that result from the use of, or the inability to use, the MBIE APIs, or that otherwise arise in relation to the MBIE APIs.

15.4 If you are using the MBIE APIs for the purposes of a business then you agree that you are acquiring the MBIE APIs in trade and you agree that the provisions of the New Zealand Consumer Guarantees Act 1993 do not apply to any such use or any reliance on the MBIE APIs and that such exclusion is fair and reasonable. Subject to this clause 15.4, nothing in this Agreement is otherwise intended to limit the rights of a “consumer” under the Consumer Guarantees Act 1993 where that Act applies, and the terms of this Agreement are to be modified to the extent necessary to give effect to this intention. This provision will survive termination or expiration of this Agreement.

16 **Breach of this Agreement**

16.1 If you breach any term of this Agreement or any other term relating to your use of the MBIE APIs, we may, at our discretion:

- (a) require you to remedy such breach;
- (b) remove any information or data causing or relating to the breach;
- (c) block, suspend or terminate (at our discretion) access to all or any part of the MBIE APIs; or
- (d) take any other action appropriate to remedy such breach.

17 **Term and termination**

17.1 This Agreement will continue until terminated under this clause 17.

17.2 Either party may terminate this Agreement immediately upon written notice to the other party.

17.3 MBIE may restrict, suspend or terminate the MBIE APIs, this Agreement, the licence granted under clause 4 or your access to the MBIE APIs at any time without liability.

18 **Effect of termination**

18.1 All licences granted under or pursuant to this Agreement will end and you will not be authorised to use the MBIE APIs after expiry or termination of this Agreement.

18.2 You must immediately cease using the MBIE APIs and destroy or remove all API functionality (including any MBIE Content) from all your hard drives, networks and other storage media, and from the Customer Site.

18.3 We will continue to hold your information and data provided to us for a period of not longer than 90 days following termination.

18.4 Clauses 13, 14, 18 and 19 survive termination of this Agreement.

19 **General**

19.1 You may not assign, charge, sublicense or otherwise deal with your rights or obligations in this Agreement in whole or in part to any third party.

19.2 Any unlawful provision in this Agreement will be severed, and the remaining provisions enforceable,

but only if the severance does not materially affect the purpose of, or frustrate, this contract.

19.3 You acknowledge that when entering into this Agreement, you will not be infringing any of your policies and rules for use of Information and Communications Technology systems and resources.

19.4 Any failure or delay by either party in exercising its rights under any provisions of this Agreement will not be construed as a waiver of those rights at any time now or in the future.

19.5 This Agreement supersedes all prior agreements, arrangements and understandings between the parties concerning its subject matter.

19.6 Each of the parties acknowledges that it has not relied on any statement made by the other in the course of entering into this Agreement.

19.7 This Agreement is governed by, construed and takes effect in accordance with the laws of New Zealand and the courts in New Zealand will have non-exclusive jurisdiction to settle any claim or dispute which may arise out of or in connection with this Agreement.

EXECUTED this _____ day of _____ 20_____

SIGNED for and on behalf of
THE MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT by:

Signature:

SIGNED for and on behalf of

_____ by:

Signature:

Print name:

Email address:

Phone:

SCHEDULE 1 - EXCLUDED WEBSITES

The MBIE Content may only be displayed on websites that do not fall into any one or more of the categories listed below. A site will be deemed to fall within one of the following categories where there is a material and prominent section of the site that falls within such category.

- 1 Sites that incite hatred whether based on race, religion, gender, sexuality or otherwise, or promote encourage or facilitate anti-social behaviour;
- 2 Sites that promote, encourage or facilitate violence;
- 3 Sites that promote, encourage or facilitate terrorism or other activities that risk New Zealand national security;
- 4 Sites that discriminate against any specific social group or otherwise exploit vulnerable sections of society;
- 5 Sites that promote, facilitate or encourage illegal activity;
- 6 Sites which are misleading, pornographic, defamatory, or that contain illegal, or otherwise actionable content under New Zealand law; or
- 7 Sites which infringe individual privacy.

SCHEDULE 2 - ACKNOWLEDGEMENT GUIDELINES

In providing data sourced directly from the Registers, you must include the following information with the data set:

- 1 Date and time of the search; and
- 2 The source of the data in the following format:
"Data sourced from the [Register name]"