



## AGREEMENT FOR ACCESS TO THE CRASH ANALYSIS SYSTEM AND USE OF INFORMATION

**Between:** WAKA KOTAHI NEW ZEALAND TRANSPORT AGENCY

**And:**

---

***[Insert name of organisation/individual]***

**Agreement executed on:** \_\_\_/\_\_\_/\_\_\_

[WAKA KOTAHI to insert the date on which both parties have signed the agreement]

**Agreement to expire on:** .....

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## 1. PARTIES

1.1 The **parties** to this **agreement** are:

### **WAKA KOTAHI NZ Transport Agency**

Victoria Arcade  
50 Victoria Street  
Private Bag 6995  
Wellington 6141  
New Zealand

Contact: cas.administrator@nzta.govt.nz

And

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**[Insert name of organisation/individual]** (Customer)

Contact telephone number: \_\_\_\_\_  
**[Individual/organisation to insert]**

Contact email address: \_\_\_\_\_  
**[Individual/organisation to insert]**

## 2. BACKGROUND

2.1 **Waka Kotahi** maintains the Crash Analysis System (**CAS**), a system which holds **information** about, and allows analysis of, motor vehicle crashes in New Zealand. The purposes for which the **information** is collected by **Waka Kotahi** and held in **CAS** are:

- (a) Informing transport policy and regulations
- (b) Designing and prioritising a range of road user behaviour and road safety initiatives
- (c) Supporting funding applications for network and road safety improvements
- (d) Monitoring and evaluating the effectiveness of road safety initiatives
- (e) Providing statistics to support a wide range of public information requests
- (f) Providing information for research purposes connected with road network user behaviour, road safety and transport policy
- (g) Administering **CAS** (**Waka Kotahi** staff and approved contractors only)

2.2 The **customer** wishes to obtain a licence to access **CAS** in order to **use** the **information** for the following **purpose(s)**:

- (a) **[insert purpose(s)]**.

2.3 **Waka Kotahi**, by this **agreement**, grants the **customer** a licence to access **CAS** and **use** the information for the **purpose** and on the terms and conditions contained in this **agreement**, as it believes on reasonable grounds that:

- (a) the disclosure of the information for the **purpose** is, or is directly related to, one of the purposes in connection with which the information was obtained, namely

- clause(s) **XI** as set out in clause 2.1 above, in accordance with Information Privacy Principle 11(1)(a) of the Privacy Act 2020; and
- (b) the information (i) is to be used in a form in which the individual concerned is not identified; or (ii) is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned, in accordance with Information Privacy Principle 11(1)(h) of the Privacy Act 2020.

### 3. INTERPRETATION

- 3.1 In this **agreement**, parts of speech and grammatical forms of words defined have corresponding meanings and, unless the context otherwise requires:

**agreement** means this agreement including the schedules

**CAS** means the Crash Analysis System maintained by **Waka Kotahi**

**customer** means the legal entity specified in clause 1 of this **agreement** that is not **Waka Kotahi** and includes any and all **customer users**

**customer user** means any officer, employee, contractor, agent, advisor, representative, or student of the **customer** who requires access to **CAS**, and **use** of the **information**, as part of their work or study for the **customer**

**data breach** means any incident involving facilities, systems, suppliers and/or **customer users** of the **customer** that: (a) involves (or gives rise to a real risk of) unauthorised or accidental access to, use, disclosure, alteration, loss or destruction of, any of the **personal information**; or (b) prevents **Waka Kotahi** from accessing the **personal information** on either a temporary or permanent basis; or (c) would prompt a reasonable and prudent person in the position of **Waka Kotahi** or the **customer** to notify (or consider notifying) the incident to the Privacy Commissioner and/or one or more individuals under **NZ Privacy Laws**.

**information** means all information collected by **Waka Kotahi** and held in **CAS**

**LGOIMA** means the Local Government Official Information and Meetings Act 1987

“**NZ Privacy Laws**” means the Privacy Act 2020, and any New Zealand laws, regulations, codes of practice and approved information sharing agreements insofar as they regulate the collection, processing, storage, use and/or disclosure of information about individuals; in each case as amended or replaced from time to time.

**OIA** means the Official Information Act 1982

**parties** means the parties to this **agreement** as specified in clause 1 of this **agreement**

**personal information** has the same meaning given in the Privacy Act 2020

**purpose** means the purpose(s) set out in clause 2.2

**use** includes, in relation to **CAS**, the holding, use and disclosure of **information** by the **customer**

**Waka Kotahi** means the New Zealand Transport Agency established as a Crown entity by section 93 of the Land Transport Management Act 2003.

#### 4. LICENCE TO ACCESS CAS AND USE THE INFORMATION

- 4.1 In order to help achieve the purposes for which **information** is collected by **Waka Kotahi** described in clause 2.1, **Waka Kotahi** grants the **customer** a non-exclusive, non-assignable, revocable licence to access **CAS** and use the **information** strictly in accordance with the terms and conditions of this **agreement**.
- 4.2 The **customer** agrees that it is granted access to **CAS** and **use** of the **information** on the condition that it will only access the minimum amount of information required for the **purpose** and that any **personal information** obtained from **CAS** will be kept confidential and will only:
- (a) be used in a form in which the individual concerned is not identified; or
  - (b) be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.
- 4.3 The **customer** agrees that it will only **use** the **information** from **CAS** for a **purpose** set out in clause 2.2 that fits within one of the purposes specified in clause 2.1, and in accordance with clause 4.2. If the **customer** wishes to **use** the **information** for a different purpose, or to use the information other than as set out in clause 4.2, the **customer** may make a request to **Waka Kotahi**, and the **Waka Kotahi** will consider the request.
- 4.4 Without limiting any other provision of this **agreement**, the **customer** acknowledges that any other **use** or misuse of the **information** by the **customer** and/or its users is a breach of this **agreement** and may, in accordance with clause 5, result in either or both of the following:
- (a) the immediate suspension of one or more **customer users'** access to **CAS**;
  - (b) the immediate suspension of this **agreement** by **Waka Kotahi** without notice, and subsequent termination of this **agreement**.
- 4.5 The following provisions apply if the **customer** is not an individual:
- (a) each **customer user** may access **CAS**, and **use** the **information**, under the **customer's** licence, in accordance with this agreement;
  - (b) the **customer** must ensure that each of its **customer users** has:
    - (i) been provided with a copy of this **agreement** before the **customer user** requests access to **CAS**;
    - (ii) been assessed as requiring access to **CAS** in order to perform their duties as a **customer user**;

- (iii) requested, from **Waka Kotahi**, access to **CAS** under the **customer's** licence;
  - (iv) signed a privacy and confidentiality acknowledgement in respect of the **information** and the **personal information** and given it to **Waka Kotahi**;
  - (v) been approved by **Waka Kotahi** to access **CAS**, and **use** the **information**, under the **customer's licence**; and
  - (vi) been made aware of, and has received appropriate training in relation to, the **NZ Privacy Laws** and requirements of this **agreement**.
- (c) the **customer** must notify **Waka Kotahi** if any of its **customer users** no longer require access to **CAS** under the **customer's licence** as soon as reasonably possible after becoming aware of that fact, so that **Waka Kotahi** can remove the **customer user's** access rights.

## 5. RESPONSIBILITIES OF THE CUSTOMER IN RESPECT OF THE INFORMATION

- 5.1 The **customer** must ensure that any **information** that it accesses and **uses** is protected by such safeguards as it is reasonable in the circumstances to take against loss, unauthorised access, use, modification, or disclosure, and other misuse of any **information**.
- 5.2 In particular, the **customer** must do everything reasonably within its power to prevent any access, **use** or disclosure of the **information** other than that which is expressly provided for in this **agreement**, including by ensuring that its **customer users** and other persons do not access or **use** the **information** except as expressly provided for in this **agreement**.
- 5.3 The **customer** must not, in any circumstances, make contact with any person identified in **CAS**.
- 5.4 The **customer** must allow, and provide reasonable assistance in connection with, any audit of **CAS** access and **use** conducted by **Waka Kotahi**.

## 6. TERM, VARIATION, SUSPENSION AND TERMINATION

- 6.1 This **agreement** commences on the date it has been executed by both parties, and expires on the date specified on the cover page of this **agreement**. This **agreement** can be renewed from time to time by further agreement of the **parties** in writing.
- 6.2 The **customer** may not access **CAS** or **use** any **information**, and **Waka Kotahi** will not disclose any **information**, unless and until this **agreement** has been executed. However, if at the date of execution of this **agreement**, the **customer** does hold **information**, that **information** may be **used** only in accordance with this **agreement**.
- 6.3 **Waka Kotahi** may vary or terminate this **agreement**, on 30 days' notice to the **customer**.
- 6.4 The **customer** may terminate this agreement on 30 days' notice to **Waka Kotahi**
- 6.5 Notwithstanding anything to the contrary in this **agreement**, **Waka Kotahi** may suspend, either wholly or in part, the **customer's** access to **CAS** and **use** of the **information**, without notice and with immediate effect, if **Waka Kotahi** considers on reasonable grounds that the **customer** has breached any part of this **agreement** or the **customer** does something or fails to do something that may result in damage to the reputation or business of **Waka Kotahi** or the reputation or business of the Crown. Any such suspension of access and **use** will remain in force until **Waka Kotahi**, in its sole discretion, determines to reinstate the access and **use** or to terminate the **agreement**.

## 7. NZ LAW INCLUDING NZ PRIVACY LAWS, OIA, and LGOIMA

- 7.1 This **agreement** is governed by New Zealand law. The **parties** submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this **agreement**.
- 7.2 **NZ Privacy Laws:**
- (a) The parties agree that any collection, storage, access, **use**, processing and disclosure of **personal information** must be in accordance with the provisions of **NZ Privacy Laws** including the Information Privacy Principles in section 22 of the Privacy Act 2020, and will comply with their obligations under **NZ Privacy Laws**.
  - (b) The **customer** must implement and maintain reasonable security safeguards to protect the **personal information**, including from unauthorised use or disclosure.
  - (c) The **customer** must promptly return and/or irreversibly erase all the **personal information** (at the option of **Waka Kotahi**), once no longer required for the purposes of this **agreement**, and otherwise where directed by **Waka Kotahi**.
  - (d) If the **customer** is a 'foreign person or entity' within the meaning of the Privacy Act 2020 (NZ), then this **agreement** is conditional on the **customer** and **Waka Kotahi** entering into an Agreement for Cross-Border Transfer of Personal Information on terms satisfactory to **Waka Kotahi** in its sole discretion. If at the end of 10 Business Days following the date of this **agreement** this condition

remains outstanding, then at any time while that remains the case **Waka Kotahi** may give notice cancelling this **agreement** without any obligation or liability to the **customer**. This condition is solely for the benefit of **Waka Kotahi**, and cannot be waived except by an unequivocal written notice from **Waka Kotahi**.

- (e) If the **customer** is not a 'foreign person or entity' within the meaning of the Privacy Act 2020 (NZ), then notwithstanding anything to the contrary in this **agreement**, the **customer** must not provide or make available any **personal information** to such a 'foreign person or entity' where doing so would be treated under that Act as a 'disclosure' made on behalf of **Waka Kotahi**, except where that 'foreign person or entity' has entered into an Agreement for Cross-Border Transfer of Personal Information in respect of that **personal information** on terms satisfactory to **Waka Kotahi** in its sole discretion.
- (f) If the **customer** becomes aware of, or has reason to suspect the existence of, a **data breach**, or a breach of the **NZ Privacy Laws** or the **customer's** obligations under this **agreement**, the **customer** must as soon as practicable notify **Waka Kotahi** and take all practicable steps to mitigate the effects of any such **data breach**.
- (g) This Section 7.2 survives the expiration or earlier termination of this **agreement**.

7.3 Where the **customer** receives a request for **information** (and such **information** is not publicly available), from a third party, the **customer** will take all reasonable steps to first consult with **Waka Kotahi** before responding to the request, and if reasonably recommended by **Waka Kotahi**, will transfer that request to **Waka Kotahi** in accordance with section 14 of the Official Information Act 1982 or section 12 of the Local Government Official Information and Meetings Act 1987.

## 8. ACCURACY OF INFORMATION

8.1 The **parties** acknowledge that the **information** is sourced from a number of **agencies**. While **Waka Kotahi** endeavours as far as is practicable to ensure the accuracy of the **information**, it provides no warranty as to the accuracy of the **information**, and is not liable to the **customer** or any third party in relation to reliance on, or the accuracy of, the **information**.

## 9. RESPONSIBILITIES OF WAKA KOTAHI

9.1 **Waka Kotahi** will make all reasonable endeavours to provide a secure and reliable system allowing the **customer** to access **CAS** at all times other than at such time being set aside for **CAS** maintenance.

9.2 **CAS** will generally be available to the **customer** unless there is a planned outage, a scheduled backup process, a maintenance window, or an unforeseen interruption.

## 10. INDEMNITY AND LIMITATION OF LIABILITY

10.1 The **customer** indemnifies **Waka Kotahi** against, and is liable to **Waka Kotahi** for, all costs, losses, or damages incurred by **Waka Kotahi** that may result directly or

indirectly from any breach of this **agreement** by the **customer**, or any **use** or misuse of **CAS** ("losses"), to the extent that **Waka Kotahi** has not caused or contributed to such losses. The **customer's** liability to **Waka Kotahi** under this clause in respect of any single claim by **Waka Kotahi** for a loss will not exceed \$300,000.

- 10.2 Subject to clause 10.1, **Waka Kotahi** will not be liable under or in connection with this **agreement**, including but not limited to the **use**, misuse, operation, or failure of operation of **CAS**, whether in tort, contract or any other basis, for any direct, indirect or consequential loss suffered or incurred by the **customer** or any third party.

## 11. ASSIGNMENT

- 11.1 **Waka Kotahi** may assign its rights and responsibilities under this **agreement** on 30 days' notice to the **customer**.
- 11.2 The **customer** will not in any way assign, transfer, charge or otherwise deal with any of its rights or obligations under this **agreement** without the prior written consent of **Waka Kotahi**. Any such consent will be given at the sole discretion of **Waka Kotahi** but will not be withheld arbitrarily. For the avoidance of doubt, any change in the controlling shareholding, or other actual control, of the **customer** is, for the purposes of this **agreement**, an assignment.

## 12. GENERAL

- 12.1 This **agreement**, including any variation, records everything agreed between the **parties** in relation to access to **CAS** and the **use** of **information**. It replaces any previous communications, negotiations, arrangements or agreements that the **parties** had with each other relating to access to **CAS** and the **use** of **information** before this **agreement** was executed, whether they were verbal or in writing.
- 12.2 Nothing in this **agreement** constitutes a legal relationship between the **parties** of partnership, joint venture, agency, or employment.
- 12.3 Neither **party** has authority to bind or represent the other **party** in any way or for any purpose.
- 12.4 All notices to a party must be sent by email to that Party's address stated in clause 1.1. Notices must be sent by the appropriate manager or person having authority to do so. It will be considered received at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered as an error.

## 13. EXECUTION OF AGREEMENT

- 13.1 This **agreement** is executed by being signed below first by a person authorised to execute the **agreement** on behalf of the **customer**, and then by being signed below by a person authorised to execute the **agreement** on behalf of **Waka Kotahi**. For the avoidance of doubt, this **agreement** is not executed, and does not come into effect,

until the date it is signed by the person authorised to execute the **agreement** on behalf of **Waka Kotahi**.

Signed for on behalf of the **customer**:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

Signed for on behalf of **Waka Kotahi**:

\_\_\_\_\_  
Signature

Mel Smalley  
Full name

Manager CAS  
Position

\_\_\_\_\_  
Date