Model clauses template for a legally binding Information Sharing Agreement between a Government Agency and a Non-Government Third Party: July 2025

## Purpose

This guidance section is for reference only and must be deleted before any agreement is prepared.

This template contains model clauses for an Information Sharing Agreement between a Government Agency (Agency) and a Non-Government Third Party (Third Party).

This template has been prepared as a resource to help Agencies create legally binding information sharing agreements with Third Parties. A legally binding agreement may be required under the Standard for providing non-government third parties with access to, or collection of, government-held personal information in force from 1 July 2025.

The guidance to implement the standard must be read before implementing any model clauses from this template. Guidance to implement the standard is on [www.digital.govt.nz](http://www.digital.govt.nz)

Agencies can choose to use specific model clauses from this template to insert into their own information sharing agreement templates or existing agreements, or to use the whole template as a foundation for building a legally binding information sharing agreement.

Agencies are responsible to ensure that any legally binding information sharing agreement is correct and enforceable. Agencies should seek legal advice before any agreement is signed with a Third Party. The Department of Internal Affairs is not liable for any inappropriate clauses in an Information Sharing Agreement created from this template.

## Responsibilities of respective parties

The Agency and the Third Party each have roles and responsibilities in a legally binding information sharing agreement. A legally binding information sharing agreement must ensure both parties are aware of their roles and responsibilities. Below is a non-exhaustive list of roles and responsibilities for the Agency and the Third Party in an information sharing agreement.

### Agency responsibilities

An Agency has the responsibility to comply with any requirement listed in an information sharing agreement. These requirements include the Agency will:

1. ensure they have a legal authority to share the information provided to the Third Party. This is valuable personal or sensitive information, to be used solely for the purposes for which it was given.
2. retain responsibility for the information provided under the Public Records Act 2005 and Privacy Act 2020.
3. maintain a record of this Information Sharing Agreement and review the use of this information by the Third Party at a frequency agreed to with the Third Party.
4. work in good faith with the Third Party to resolve any privacy, security, conflict of interest or confidentiality concerns, including any potentially notifiable incidents and breaches.
5. make every effort to protect personal and sensitive information or removing access to the information, undertaking assurance activity, notifying breaches to relevant regulators, working with those relevant regulators, and taking legal action if required.
6. confirm in writing on termination that all information has been received from the Third Party and securely deleted from their systems or otherwise appropriately destroyed.

### Third Party responsibilities

A Third Party has the responsibility to comply with any requirement listed in an information sharing agreement. These requirements include the Third Party will:

1. treat information shared by or with the Agency as valuable personal or sensitive information.
2. use information solely for the purposes for which it was given and not pass on to any other third parties, including subcontractors, without the express permission of the Agency.
3. secure, manage, retain and dispose of information on instructions from the Agency as if it were being managed by the Agency under the Public Records Act 2005.
4. have appropriate security and information management controls in place to manage sensitive and personal information.
5. monitor and maintain a record of who has access to the information and for what purpose.
6. assess and appropriately manage any conflict of interest and provide this information to the Agency when reasonably requested.
7. assure the Agency of compliance with privacy, confidentiality, security and information management conditions and allow the Agency to audit the use of that information on the Agency’s request.
8. in the case of a suspected or actual privacy, security, conflict of interest or confidentiality breach, work with the Agency in good faith to investigate and resolve the issue and share relevant information, including working with the Privacy Commissioner or other authorities if the Agency deems the potential breach to be notifiable.
9. understand that the Agency can at any time reasonably restrict or remove the supply or use of the information and request the return of information and any further related information collected by the Third Party on behalf of the Agency.
10. understand that any privacy or confidentiality breach may lead to penalties including, but not limited to, education support, suspension of this agreement, termination of this agreement, suspension of government business requiring access to confidential or sensitive information, and prosecution under legislation including but not limited to the Privacy Act 2020.
11. return information including any additional information collected on behalf of the Agency, and to subsequently delete all information under their responsible control from their systems or otherwise appropriately destroyed.

**AGREEMENT TO SHARE PERSONAL INFORMATION**

[(delete before use)]

Between

[Agency’s full legal name]

and

[Third party’s name]

[\*insert purpose(s) of this Information Sharing Agreement – should mirror the purpose/s in clause 8].



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# Signatories

[\*The signatory page can be moved to the back of the Agreement if you prefer]

**[\*NB – If the Agreement is to be executed as a deed, then this Signatory page should be changed, including to allow for the signing to be formally witnessed]**

Signed for and on behalf of [\*insert Agency’s name]

………………………………………………. Date: ……/……/……

[\*insert signatory’s name]

[\*insert role in Organisation]

[\*insert Business Group]

Signed for and on behalf of [\*insert Third Party’s name]

………………………………………………. Date: ……/……/……

[\*insert signatory’s name]

[\*insert role in Organisation]

[\*insert Business Group]

**Add extra signature blocks for other parties as needed**

# 1. Parties

1.1 The Parties to this Agreement are:

* 1. [\*insert Agency’s full legal name] (Agency); and
  2. [\*insert Third Party’s name] (Third Party).

# 2. Background to Information being shared

2.1 [\*insert text describing the background/context to the Agreement].

2.2 The Information to be shared under this Agreement is described in the Sharing Activity Schedule(s). This Agreement:

(a) should be read in conjunction with [\*if there is an associated contract for services between the Agency and Third Party, insert a reference to that contract here];

(b) records the Parties’ agreement about the purpose of the Information sharing, what Information will be shared, the legal authority enabling the Information sharing and how the Information will be used; and

* 1. record the terms, conditions, and controls that will be applied to the sharing of the Information.

# 3. Definitions and interpretation

3.1 In this Agreement the following terms have the following meanings, unless the context requires otherwise:

| Term | Meaning |
| --- | --- |
| [\*insert term] | [\*insert agreed meaning of the term] |
| Agreement | This agreement, including the Schedules to this Agreement. |
| Authorised Personnel | Personnel who:   1. require access to the Information to use it for a Purpose; and 2. have completed appropriate privacy, statistics, data and information security training. |
| Business Day | A day when most businesses are open for business in New Zealand. It excludes Saturday, Sunday, and public holidays. A Business Day starts at 8:30am and ends at 5pm. |
| Confidential Information | In relation to a Party, all information of any kind, whether written, electronic or otherwise, and whether marked or identified as being confidential, relating to that Party or its business operations. |
| Conflict of Interest | A conflict of interest arises if the Third Party or any of the Third Party’s approved subcontractors personal or business interests or obligations conflicts with its obligations under this Agreement. Examples of types of Conflict of Interests are:   1. actual: where the conflict currently exists; 2. potential: where the conflict is about to happen or could happen; or 3. perceived: where people may reasonably think that a person is compromised. |
| Dispute | As defined in clause 22.1. |
| Information | All the personal information that the Agency will disclose to the Third Party under this Agreement, or the Third Party will collect or manage on behalf of the Agency as described in the Sharing Activity Schedule(s). |
| Notice | A communication from one Party to the other that meets the requirements of clause 29. |
| Official Information Act 1982 | The Official Information Act 1982. |
| Parties | The Agency and the Third Party, being the parties to this Agreement. |
| Permitted Disclosures | As defined in clause 15.1. |
| Personal information | As defined in section 7 of the Privacy Act 2020. |
| Personnel | Any employee, agent or representative of the Third Party, or of any subcontractor of the Third Party, who has access to Information. |
| Privacy Act 2020 | The Privacy Act 2020, and includes any codes, or regulations issued under that Act. |
| Protective Security Requirements | Framework used by the government and private sector to protect people, information, and assets in the areas of personnel security, information security, and physical security. |
| Public Records Act 2005 | The Public Records Act 2005 and any standards, instructions, advice or guidelines issued under that Act. |
| Purposes | The purposes set out in clause 8.1. |
| Records | Information, whether in its original form or otherwise, including a document, a signature, a seal, text, images, sound, speech, or data compiled, recorded, or stored, as the case may be:   1. in written form on any material; 2. on film, negative, tape, or other medium so as to be capable of being reproduced; or 3. by means of any recording device or process, computer or other electronic device or process. |
| Relationship Manager | The relationship manager named for a Party in Schedule 1. |
| Schedules | Schedules 1 and 2 to this Agreement. |
| Sharing Activity Schedules | The sharing activity schedules that are included in Schedule 2. |
| Technical Contact | The technical contact named for a Party in Schedule 1. |
| Term | As described in clause 4. |
| Transfer outside New Zealand | Information Privacy Principle 12 notes businesses and organisations must ensure that personal information transferred overseas is adequately protected. |

3.2 In this Agreement, unless the context requires otherwise:

(a) the singular includes the plural and vice versa;

(b) references to clauses are to the clauses in this Agreement;

(c) headings are for convenience only and have no effect on construction and interpretation;

(d) wherever the words ‘includes’ or ’including’ are used, they are deemed to be followed by the words ‘without limitation’;

(e) an obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

(f) references to any statute include any amendment to, or replacement of, that statute and any subordinate legislation made under it;

(g) if there is any conflict between the terms of this Agreement, the following order of precedence will apply: [\*if there is an associated contract for services, this clause will need to be amended to ensure that, when necessary, the terms of the associated contract for services take precedence over this Agreement.]

(i) the terms of the body of this Agreement; and

(ii) the Schedules.

# 4. Commencement and term

4.1 The Agreement will commence on [\*insert date] and will continue until [\*insert date] (the **Term**), unless:

1. the Parties agree in writing to extend the Term; or
2. the Agreement is terminated earlier in accordance with clause 23.

# 5. Amendments

* 1. Subject to clause 5.2, any amendment to this Agreement must be in writing and signed by [\*insert agreed role] or their authorised delegates.

5.2 Despite clause 5.1:

1. any amendment to Schedule 1; or
2. any amendment to, or addition or termination of, a Sharing Activity Schedule, only may be agreed in writing by each Party’s [\*insert agreed role e.g., Relationship Managers].

# 6. Legally binding obligations and consideration

6.1 The Parties agree that the obligations in this Agreement are legally binding on the Parties.

6.2 The Third Party acknowledges the importance of the Information to the Agency and to the people to whom the Information is about.

6.4 The Third Party recognises that by entering into this agreement they have obligations to ensure that all information that is part of this agreement is handled in accordance with the requirements of this agreement and other obligations required by law.

# 7. Legal authority

[Drafting note: If there will be:

* only one Sharing Activity Schedule, use **Option 1**; and
* more than one Sharing Activity Schedule, use **Option 2**.]

**Option 1**

7.1 The Agency is permitted to share the Information with the Third Party in accordance with:

[\*Set out the legal authority for sharing Information. This may be:

* an information privacy principle or exception to a principle (e.g. Information Privacy Principle 11(1)(a)) or information privacy code provision in a code of practice; or
* a specific legislative provision (e.g. clause 33 of Schedule 7 of the Tax Administration Act 1994 and section 18H of that Act).

If the legal authority is different for different Purposes, set out the legal authority for each Purpose.]

7.2 The Third Party is permitted to collect and use the Information in accordance with:

[\*Set out the legal authority for collecting Information. Again, this may be:

* an Information Privacy Principle (e.g. Information Privacy Principle 2(2)(g)(ii)), section 22 of the Privacy Act 2020); or
* a specific legislative provision].

**Option 2**

7.1 The legal authority enabling:

1. the Agency to disclose particular Information to the Third Party; and
2. the Third Party to collect particular Information from the Agency,

will be set out in the relevant Sharing Activity Schedule.

# 8. Use, disclosure and Purposes

* 1. The Third Party will use the Information solely for the following Purpose(s):

1. [\*insert purpose(s)]
   1. The Third Party must not disclose the Information to other individuals or agencies, unless:
2. that disclosure is necessary for a Purpose;
3. the Third Party must explicitly disclose who the information will be disclosed to; and
4. there is a lawful basis for the disclosure.
   1. [\*Detail any other considerations or limitations on use that will ensure access to, use and disclosure of the Information is appropriate].

# 9. Access to Information

* 1. Access to the Information must be limited to those Authorised Personnel whose role is to perform activities for the Third Party directly related to the Purpose.
  2. The Third Party must maintain an accurate and up-to-date list of all Authorised Personnel. This list will include the names of Authorised Personnel, the date that access rights to the Information was granted, and the date access rights to the Information was removed. Upon request by the Agency, the Third Party must immediately provide a copy of that list, or confirmation of the name of any Authorised Personnel, to the Agency.

# 10. Secure transfer and frequency of sharing

* 1. The Agency will supply the Information to the Third Party by way of secure [\*insert agreed secure file transfer mechanism].
  2. Where [\*insert agreed secure file transfer mechanism] is not available, the Parties will designate an alternative transmission method in the relevant Sharing Activity Schedule that protects the Information against privacy breach, unauthorised use, modification, destruction, access and/or disclosure.
  3. The Agency will send Information to the Third Party at the frequency and in the format set out in the Sharing Activity Schedule(s).

# 11. Information security classification and controls

11.1 The security classification for a particular Information share will be recorded in the relevant Sharing Activity Schedule.

* 1. The Third Party must ensure that all Authorised Personnel:

1. comply with the Privacy Act 2020;
2. comply with the mandatory requirements for the handling of information ​​under the [Protective Security Requirements](https://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html), as amended from time to time; and
3. are appropriately trained to handle Information, are aware of their responsibilities and are aware of the conditions on access, use and disclosure of Information.
   1. The Parties must ensure that all Information, whether digital or physical, is protected from unauthorised access, use and disclosure, both in transit and at rest (where applicable), and whether inside or outside the Parties’ business systems environment.
   2. Where the Third Party has access to Information under or in connection with this Agreement, the Third Party must:
4. only use, access, store, process or transmit that Information to the extent necessary to provide the services or deliverables in accordance with the purposes set out in this Agreement;
5. ensure that the Information is protected against unauthorised loss, access, use, modification, or disclosure;
6. provide all information and assistance reasonably required by the Agency to comply with its obligations under the Privacy Act 2020 in relation to this Agreement; and
7. where the Information is kept or stored in any portable form (such as printed material, laptop or tablet, phone, memory card or other storage media such as USB devices and compact disks), ensure appropriate safeguards will be in place to guard against any unauthorised loss, access, use, modification or disclosure of the Information. If the Information is kept or stored in a portable format or on a portable device for the purpose of transfer or comparison, that Information will be permanently destroyed once the transfer or comparison has been completed.
   1. The Parties agree to the following controls to ensure the obligations in clause 11.4 are met:

(a) [\*for instance: “all staff authorised to access and disclose Information shared under this Agreement will have successfully completed the Parties’ Privacy Training Modules”].

(b) [\*or “The Information shared under this Agreement will be securely deleted from the device once it has been transferred”].

# 12. Authorised Personnel

12.1 The Third Party will:

1. ensure that all Authorised Personnel are informed of, and comply with, their obligations under this Agreement with regard to the security and protection of Information; and
2. remove an Authorised Personnel’s access to the Information when they no longer require access to the Information as part of their role.

# 13. Subcontractors

13.1 The Third Party must not subcontract any of its obligations under this Agreement to any other person without first obtaining the Agency’s written consent.

[\*Delete the following sections if no subcontractors are expected to be used]

* 1. Where the Agency has given written consent for a subcontractor, the Third Party must:
  2. ensure each subcontractor complies with the terms of this Agreement;
  3. ensure that an appropriate written agreement is in place between the Third Party and the subcontractor that is consistent with the terms of this Agreement, including the obligations in clause 20 (reviews and reporting), including access to facilities or systems;
  4. manage the agreement between the Third Party and the subcontractor in the best interests of the Agency;
  5. inform the Agency if there are any Conflicts of Interest (consistent with its own obligations under this agreement) involving its subcontractors;
  6. ensure that it manages all Conflicts of Interest involving its subcontractors;
  7. authorise the Agency to deal with the subcontractor directly; and
  8. if requested by the Agency, ensure that the agreement referred to in clause 13.2(b) acknowledges the benefit to the Agency for the purposes of Part 2 of the Commercial and Contract Law Act 2017 and is therefore enforceable by the Agency.

13.3 The Third Party will remain liable to the Agency for all acts or omissions of each subcontractor as if they were the acts or omissions of the Third Party. The entry by the Third Party into a written agreement with a subcontractor will not:

1. create a contractual relationship between the Agency and the subcontractor except as described in clause 13.2; or
2. relieve the Third Party from liability for the performance of any obligations under this Agreement.

13.4 The Third Party must obtain the Agency’s prior written consent to the replacement of any subcontractor, and clauses 13.2 and 13.3 will apply to all replacement subcontractors.

# 14. Conflicts of Interest

14.1 The Parties affirm that they have discussed interests of relevance to this Agreement that could give rise to possible conflicts, and agree that any conflicts of interest identified to date will not prevent this Agreement from proceeding.

14.2 Where a conflict of interest has been identified, the Parties must discuss, agree, and record in writing whether it can be managed and, if so, how it will be managed. Each Party must pay its own costs in relation to managing any Conflict of Interest.

14.3 The Third Party:

(a) is responsible for raising any interests that could give rise to possible conflicts with the agency for discussion;

(b) must have appropriate policies and processes in place to identify and manage conflicts of interest;

(c) is responsible for ensuring any conflicts of interest in relation to their Personnel and sub-contractors are appropriate recorded and managed to the satisfaction of the Agency; and

(d) must notify the Agency of new or changed conflicts of interest (including circumstances where a conflict no longer exits) as they arise and ensure these are managed to the satisfaction of the Agency.

14.4 If a conflict of interest is not disclosed, cannot be managed, or is not being managed to the satisfaction of the Agency, the Agency may seek further information or assurance (clause 21), consider use of the Breach and Incident Management provisions (clause 19) and/or consider whether the Agreement should be terminated (clause 23).

# 15. Confidentiality

15.1 Each Party (and their respective employees, agents and subcontractors) must not during the Term, or at any time thereafter, use or disclose to a third party any of the other Party’s Confidential Information other than:

* + 1. to the extent that use or disclosure is permitted under this Agreement;
    2. where the Confidential Information has already become public, other than through a breach of the obligation of confidentiality owed by the Party receiving the Confidential Information; or
    3. with the prior written consent of the relevant Party,

(the **Permitted Disclosures**). Any such use or disclosure must be solely for the purpose of, and solely to the extent necessary for, the relevant Permitted Disclosure.

15.2 The Third Party must not, without first obtaining the Agency’s written consent:

* + 1. transfer any Information outside of New Zealand;
    2. make any Information available to any person outside of New Zealand;
    3. permit any person to access any Information from a location outside of New Zealand; or
    4. permit or authorise any of the things described in (a) to (c) to occur.

# 16. Privacy Act 2020

16.1 The Third Party must:

1. provide all information and assistance reasonably required by the Agency to comply with its obligations under the Privacy Act 2020 in relation to this Agreement; and
2. comply with the Privacy Act 2020 and not do anything under this Agreement that would cause the Agency or the Third Party to breach the Privacy Act 2020.

# 17. Public Records Act 2005

17.1 The Third Party must take any steps necessary to ensure the Agency complies with the Public Records Act 2005, in consultation with the Agency.

17.2 The Third Party must comply with the Public Records Act 2005 in so far as it applies to the Third Party and not do anything under this Agreement that would cause the Agency or the Third Party to breach the Public Records Act 2005.

17.3 The Third Party must consult with and take direction from the Agency regarding the return or destruction of Information upon expiry or termination of this Agreement.

17.4 The Third Party must not refuse return or destroy or otherwise dispose of any Information received from the Agency or generated as a result of this Agreement without written notice from the Agency.

17.5 The Third Party must comply with any reasonable requirements regarding the return and destruction of Information.

17.6 The Third Party will implement the following retention and destruction controls as informed by the Agency to ensure the Agency complies with the Public Records Act 2005:

(a) [\*insert retention/destruction control, e.g. “will ensure that the Information supplied by the Agency is securely returned or destroyed by [insert date]”].

(b) [\*insert retention/destruction control, e.g. “will ensure that the Information supplied by the Agency for the purposes of comparison is securely deleted as soon as the comparison process has been completed and subject to information quality checking”]

17.7 The Third Party must confirm in writing with the Agency when Information subject to the controls set out in clause 17.6 has been returned or destroyed.

# 18. Intellectual property

18.1 Nothing in this Agreement is to be construed as a transfer of, or license to use, any intellectual property owned by a Party prior to entering into this Agreement.

[\*or insert negotiated clauses regarding assignment or grant of license to use intellectual property as required]

# 19. Breach and Incident management

19.1 The Third Party must:

1. notify the Agency of any actual or suspected loss, unauthorised access to, modification, use or disclosure of the Information as soon as practical (but no later than 24 hours) after the actual or suspected breach is identified; and
2. use its best endeavours to ensure any necessary security measures are implemented as quickly as possible and any adverse consequences are minimised; and;
3. respond promptly to the Agency’s communications regarding the notification matter.

19.2 When an investigation into any actual or suspected loss, unauthorised access to, modification, use or disclosure of the Information (**Incident**) is undertaken by the Agency (whether as a result of a notification under clause 19.1, or of assurance or audit measures under clause 21, or otherwise), the Third Party must cooperate with and provide reasonable assistance to the Agency in connection with the Agency’s investigation, including by promptly providing such information as the Third Party is reasonably able to provide, to:

* + 1. facilitate the Agency’s assessment of whether the Incident is a notifiable privacy breach (as defined in Part 6 of the Privacy Act 2020) or security breach;
    2. if so, facilitate the Agency’s assessment of:

(i) which party is responsible for notifying the Privacy Commissioner as soon as practicable as required by section 114 of the Privacy Act 2020 and affected individuals or give public notice as required by section 115 of the Privacy Act 2020 of the notifiable privacy breach;

(ii) whether that party may withhold or delay the notification of a notifiable privacy breach to any affected individual or give public notice as required by section 116 of the Privacy Act 2020; and

(iii) which party is responsible for notifying the Cyber Emergency Response Team NZ and/or National Cyber Security Centre, and the affected individuals of the security breach.

(c) facilitate notification to the Privacy Commissioner as soon as practicable as required by section 114 of the Privacy Act 2020, and the Cyber Emergency Response Team NZ and/or the National Cyber Security Centre as appropriate, and affected individuals if required to do so by privacy law and on the advice of the Government Chief Information Security Officer; and

(d) assist the Agency to conduct an investigation on the causes of the Incident.

19.3 Where an investigation is commenced (by the Parties or by a regulator), to the extent permitted by law, the Parties will:

1. provide each other with reasonable assistance;

(b) keep each other informed on the progress and outcome of that investigation; and

* + 1. where necessary, amend this Agreement to reflect any new security controls.

19.4 Where the breach, or suspected breach, has caused or has the potential to cause serious harm to the affected individuals, the Parties will ensure that they comply with the notifiable breach provisions of the Privacy Act 2020.

19.5 One Party will notify the other Party as soon as practicable if it receives a complaint or request relating to that Party's obligations under the Privacy Act 2020 or other relevant legislation.

19.6 The Agency will provide reasonable assistance and information to assist the Third Party to comply with its obligations under this clause.

19.7 The Agency may suspend one or more supplies of Information to the Third Party until such time as the Agency is satisfied that the Information is secure.

# 20. Reviews and reporting

20.1 The Parties will review this Agreement every [\*insert agreed review period], or at any other time by mutual agreement.

20.2 The form and content of the review process will be determined by the Agency and may include one or more of the following steps:

1. written certification or attestation of the Third Party’s ongoing compliance with the terms of this Agreement, including any specified terms;
2. attending meetings between the Relationship Managers or other representatives of the Parties; and/or
3. a formal written report on the Third Party’s compliance with the terms of this Agreement, including any matters raised by the Agency.

20.3 Without limiting its other obligations under this Agreement or at law, the Third Party must create and maintain, and must ensure that each subcontractor creates and maintains, full, accurate and accessible Records relating to the provision of the Information, to the standards required under the Public Records Act 2005, as notified by the Agency from time to time.

* 1. Without limiting clause 20.3:
  2. the Records created and maintained under clause 20.3 must, at a minimum, describe or specify (as applicable):
     + 1. the nature and scope of the Information sharing activities provided under this Agreement;
       2. any activities that took place in accordance with the Sharing Activity Schedules; and
       3. any other information reasonably required by the Agency from time to time.
  3. the Third Party must ensure the Records created and maintained under clause 20.3 are:

1. maintained in an accessible form;
2. retained for the Term;
3. only destroyed upon request of the Agency under approved authorities; and
4. provided to the Agency in an accessible form on termination or expiry of this Agreement and at any other time on the Agency’s reasonable request.

# 21. Assurance and audit

* 1. The Third Party will allow the Agency the right of access to all relevant information and its facilities at all reasonable times, in order to perform assurance activities in relation to the Information shared pursuant to this Agreement, including any quality assurance or audit process to which the Agency itself is subject.

21.2 The Third Party will provide the Agency with assistance and access to the Third Party’s systems in order to comply with its obligations under clause 21.1.

21.3 The Agency may at any time notify the Third Party that the Agency wishes to audit the Third Party’s compliance with the terms of this Agreement, provided that the Agency may only conduct an audit once in any 12-month period and at any other time where the Agency has reasonable grounds to suspect the Third Party has not complied with the terms of this Agreement.

21.4 The Third Party will assist with the audit, including the provision of information.

21.5 Without limiting any of the Agency’s other rights or remedies, if any audit conducted under clause 21.3 discloses any failure to comply with this Agreement by the Third Party, the Third Party will promptly remedy the non-compliance.

21.6 Any failure by the Third Party to promptly remedy the non-compliance will constitute a breach of this Agreement and the Agency may issue a default Notice under clause 23.3 in relation to that breach.

# 22. Dispute resolution

* 1. The Parties will attempt, in the first instance, to resolve all issues, disputes or differences (**Dispute**) concerning the interpretation or performance of this Agreement in writing at the earliest opportunity and in good faith.
  2. If a Dispute arises in relation to this Agreement, each Party will use all reasonable efforts to notify the other Party’s Relationship Manager as soon as practicable.
  3. The Parties’ Relationship Manager will meet promptly and use all reasonable endeavours to resolve the Dispute as soon as possible and agree, in writing, any changes to this Agreement that may be required.
  4. If Relationship Managers are unable to resolve the Dispute within [\*20] Business Days, the Dispute is to be referred in writing to the signatories to this Agreement (or to their successors).
  5. If the signatories (or their successors) are unable to resolve the Dispute, this Agreement may be terminated in accordance with clause 23 (termination).

22.6 Despite the existence of a Dispute, the Parties are to continue complying with this Agreement (as far as reasonably possible).

# 23. Termination

23.1 The Agency may terminate this Agreement or any Sharing Activity Schedule at any time by giving the Third Party at least [\*20] Business Days’ Notice.

23.2 The Agency may terminate this Agreement immediately, by giving Notice to the Third Party, if the Third Party:

1. ceases for any reason to continue in business;
2. does something or fails to do something that, in the Agency’s opinion, results in damage to the Agency’s reputation or business;
3. does something or fails to do something that, in the Agency’s opinion, resulted in a notifiable privacy breach (as defined in Part 6 of the Privacy Act 2020) or security breach;
4. has breached the provisions in clause 13 (subcontractors) or 14 (conflicts of interest); or
5. provides information to the Agency that is misleading or inaccurate in any material respect.
6. [\*insert any further subclauses regarding any other kinds of breaches in the context of the agreement are most suitable for immediate termination]

23.3 If the Third Party breaches this Agreement, the Agency may give a default Notice to the Third Party.

23.4 A default Notice must state:

* + 1. the nature of the breach; and
    2. the time and date by which it must be remedied.

23.5 The period allowed to remedy the breach must be reasonable given the nature of the breach. Where permitted by law, the Agency will provide reasonable assistance and information to assist the Third Party to comply with its obligations to remedy the breach.

23.6 The Agency may terminate this Agreement immediately by giving a further Notice to the Third Party if the Third Party does not remedy the breach as required by the default Notice.

23.7 The clauses that by their nature should remain in force on expiry or termination of this Agreement include clauses 3 (definitions and interpretation, 8 (use, disclosure and Purposes), 9 (access to Information), 14 (conflicts of interest), 15 (confidentiality), 16 (Privacy Act 2020), 17 (Public Records Act 2005), 18 (intellectual property), 19 (breach and incident management), 22 (dispute resolution), and 30 (remedies).

# 24. Relationship management and oversight

24.1 Each Party will nominate a Relationship Manager and a Technical Contact to facilitate and support the relationship between the Parties to provide operational oversight of the Information sharing and be the first point of contact for resolving Disputes.

24.2 The Relationship Managers will have oversight of the operation of this Agreement and be the first point of contact for each Party with regards to the operation of this Agreement.

24.3 The Technical Contacts are responsible for any issues relating to the Information that is shared, the mechanisms for Information supply, and the effectiveness of the technical controls to protect the Information.

24.4 Parties may nominate additional people to perform tasks under this Agreement as required.

24.5 Details for each of these contacts are recorded in [Schedule 1: Relationship Managers and Technical Contacts](#_Schedule_2:_Relationship).

24.6 Each Party must give the other Party written notice of any changes to the nominated persons as soon as practicable.

# 25. External communications

25.1 The Third Party must not make any announcement regarding this Agreement to any person without the Agency’s prior written consent.

25.2 The Third Party acknowledges that the Agency is subject to the Official Information Act 1982. The Third Party agrees to cooperate fully in providing the Agency with any documents or other information that the Agency is required to provide pursuant to a request made under the Official Information Act 1982.

25.3 The Third Party agrees to cooperate fully in providing the Agency with any documents or other information that the Agency is required to provide pursuant to questions raised in Parliament or in any Select Committee concerning this Agreement.

# 26. Tikanga Māori considerations [\*insert section for use where appropriate]

26.1 The Parties agree that the Information contains Māori data and that all Information classified as Māori Data in the Sharing Activity Schedule(s) may be subject to additional restrictions and conditions based on agreed Tikanga.

26.2 [\*insert where the Agreement is for a single type of share or a one-off share] The Parties agree that following Tikanga will be applied to the Māori data shared under this Agreement:

1. [\*insert Tikanga with an explanation of how it will be applied to the supply and use of the Information]

**[\*or]**

26.2 [\*insert where the Agreement is for multiple types of information shares for different purposes intended over time] The Parties agree that Tikanga will be agreed and documented in the relevant Sharing Activity Schedule(s).

# 27. Sharing Activity Schedules

27.1 Sharing Activity Schedules will be mutually agreed and may be added to this Agreement at any time in accordance with clause 5.2.

* 1. Sharing Activity Schedules may include a description of the following:

1. governance arrangements, including of Information, roles and responsibilities of individuals in each Party [\*examples include, who is responsible for assurance, and who is responsible for the request and security of the Information]; and
2. Information and data to be shared [\*for example, where it is practical to do so, glossaries, dictionaries, metadata, information standards, standardised vocabularies, information formats, etc, to ensure that information sharing is meaningful and useful].

# 28. Notices

28.1 All Notices must be:

(a) in writing and delivered by hand or sent by post, courier, or email to the recipient Party's address for Notices stated in the Sharing Activity Schedule; and

(b) signed or, in the case of email, sent by the appropriate manager or person having authority to do so.

* 1. A Notice will be considered to be received:
     1. if delivered by hand or sent by courier, on the date it is delivered;
     2. if sent by post within New Zealand, on the fifth Business Day after the date it was sent;
     3. if sent by post internationally, on the ninth Business Day after the date it was sent; or
     4. if sent by email, at the time the email enters the recipient’s information system and it is not returned undelivered or as an error,

but a Notice received after 5pm on a Business Day, or on a day that is not a Business Day, will be considered to be received on the next Business Day.

# 29. Costs

29.1 Unless otherwise agreed in writing, each Party will bear its own legal costs and expenses incurred in connection with the preparation, negotiation and execution of this Agreement.

29.2 If this Agreement is to be read in conjunction with an associated contract for services, all costs for the relevant services (if any) are to be documented in that contract for services.

# 30. Remedies

30.1 Without limiting any of the Agency’s other rights or remedies in this Agreement or otherwise at law, the Third Party acknowledges that damages may be an inadequate remedy for any breach or threatened breach of this Agreement and that (in addition to any other remedies available at law or in equity) the Agency may seek and obtain specific performance or injunctive relief in respect of any actual or threatened breach of this Agreement.

# 31. Waiver

31.1 If a Party does not immediately enforce its rights under this Agreement that does not:

(a) mean that the other Party is released or excused from any obligation to perform at the time or in the future; and

(b) prevent that Party from exercising its rights at a later time.

# Schedule 1: Relationship Managers and Technical Contacts

|  |  |
| --- | --- |
| **[\*insert Agency name]** | **[\*insert Third Party name]** |
| **Relationship Manager** | **Relationship Manager** |
| \*Name | \*Name |
| \*Role | \*Role |
| \*Business group | \*Business group |
| \*Email | \*Email |
| \*Phone | \*Phone |
|  |  |
| **Technical Contact** | **Technical Contact** |
| \*Name | \*Name |
| \*Role | \*Role |
| \*Business group | \*Business group |
| \*Email | \*Email |
| \*Phone | \*Phone |

**[\*delete guidance note from final version: where there are more than two parties to this Agreement, add additional columns to the table].**

**[\*delete guidance note from final version: if there are different Relationship Managers or Technical Contacts for particular Information shares, note this in the table].**

# Schedule 2: List of Sharing Activity Schedules

This Schedule contains all the Sharing Activity Schedules that form part of this Agreement.

**Index of Sharing Activity Schedules**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Schedule Number | Information Share Name | Approval Date | Amendment Date | End Date |
| Schedule 2.1 |  |  |  |  |
| Schedule 2.2 (etc) |  |  |  |  |

**Schedule** [\*insert schedule number] for **Sharing Activity** [\*insert name of share]

The purpose of this Sharing Activity Schedule is to record the details of the particular Information share that the Parties have agreed.

**Purpose of Information share/supply**

[\*insert purpose from clause 8]

[\*delete guidance note from final version: document which Party is sharing the Information and which party is receiving the Information]

**Legal authority for Information share**

[\*insert legal authority for Information share]

**Method, format and frequency of supply**

[\*insert method of supply from clause 10, and add alternative method under clause 10 if desired]

[\*insert frequency of supply from clause 10 or specify alternative supply frequency]

**Tikanga**

[\*insert any agreed tikanga to be applied to the sharing/supply of the Information]

**Agreed conditions on use**

[\*insert any agreed conditions on secondary use]

**Agreed secondary use [\*delete if not agreed]**

[\*insert any agreed conditions on secondary use]

**Retention and disposal requirements**

[\*insert destruction/retention requirements from clause 17]

**Table of Information to be shared**

| Field Name | Description | Type / Length | Format | (\*delete if not required)  Māori Information [Y/N] | Notes | Review date |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

**Amendments**

|  |  |  |
| --- | --- | --- |
| Amendment Date | Amendment Description | Amendment Approval |
|  |  |  |
|  |  |  |

**Expiry [delete this section if no end date for the share]**

This Sharing Activity will expire on [\*insert expiry date].