

Terms of Use

Last updated on 19 April 2023

This Terms of Use applies solely to the national Cardiovascular Disease Risk Assessment (CVDRA) Service, API, software, application, product, or website (collectively “CVDRA Service” or “Service”).

Definitions:

“**Te Whatu Ora**” also referred to as Health New Zealand, is the new Public Health Agency established in June 2022 and is where the CVDRA service is now located (previously Ministry of Health).

“**CVDRA Service**” or “**CVDRA API**” or “**Service**” is the national Cardiovascular Disease Risk Assessment Service which calculates 5-year cardiovascular disease risk using New Zealand specific equations. When an individual’s data is supplied to the CVDRA Service, the CVDRA Service returns a risk score, expressed as a percentage which is a person’s chance of having a cardiovascular disease event in the next five years. The return can include but is not limited to heart-age, risk trajectories and decision-support or clinical advice.

“**Purpose**” means to use the CVDRA Service to make calculations of 5-year cardiovascular disease risk.

“**you**” or “**your**” or “**integrator**” or “**user**” is the user of the CVDRA Service. You own and operate the system(s) integrating with our CVDRA API. If you enter this Agreement on behalf of a company or entity, you represent and warrant that you have the legal authority to bind that company or entity to this Agreement, and all references to “you” and “your” in this Agreement are referring to that company or entity.

“**we**” or “**our**” refers to Te Whatu Ora.

“**Agreement**” is this Terms of Use.

“**End User**” means business or individual who makes use of this CVDRA Service through a user interface which is provided by you and through your use of our CVDRA API.

“**Customer**” means a business or individual that schedules or purchases products or services from you through this CVDRA Service that you market to, communicate with, or that interacts with you through the Service. Customer can be the end user of this CVDRA Service as defined above or can be a business or individual who schedules or purchase products or services from you or interacts with you to facilitate and provide the Service to the end users of this CVDRA Service.

By signing this Terms of Use, you agree to use and are licensed by Te Whatu Ora to use the Service in accordance with the terms herein.

The terms of this Agreement (the “Terms”) start on the earlier of the date you sign this Agreement or the date you first commence using the Service and end when the Agreement is terminated.

Signing Provisions

On behalf of Te Whatu Ora, Health New Zealand

Name - Job Title:

Signature:

Dated:

On behalf of

Name – Job title:

Signature:

Dated:

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Applicable provisions of the Terms of Use

1. Your use of the Service

- 1.1. You confirm that you will only use the Service for a lawful purpose in accordance with New Zealand legislation and as authorised for the Purpose set out in this Terms of Use. You won't use the Service to do anything unlawful, fraudulent, discriminatory or for any unauthorised purpose. You won't do anything to interfere with or impair the intended operation of the Service. You must only integrate with our Service in accordance with our established API authentication and certification requirements. You will integrate with our Service in accordance with our API Compliance document(s) which describes how the CVDRA API Service should be used.
- 1.2. You are responsible for keeping your API keys, integration certificate and other security features confidential and secure. Each integrator consuming the Service is issued with API keys that uniquely identify that integrator and grant them access to the Service. These API keys must be protected appropriately and must not be stored in software code or stored in an unsecured digital form or employed in a way they could be discoverable by an unauthorised third party. You must immediately notify us of any unauthorised access or use of your API keys.
- 1.3. You must meet best industry practice to avoid introducing malwares, viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful.
- 1.4. You must not attempt to gain unauthorised access to the Service, the server on which the Service is stored, or any server, computer or database connected to the Service. You must not attack our website via a denial-of-service attack or a distributed denial-of service attack.
- 1.5. You agree to comply with the Privacy Act 2020 and the Health Information Privacy Code 2020 (HIPC) when using the CVDRA Service, as they relate to health consumers (patients and the public).
- 1.6. You will take all reasonable steps to ensure that each Customer and/or its End Users, that you deliver the Services to have processes in place to meet the obligations set out in clause 1.7 below so that health consumers (patients, the public) are aware of the collection, use, storage, and disclosure of information about them which you supply to us through your access and/or use of the Service. We will provide you with a short CVDRA specific privacy statement that can be used as part of fulfilling these HIPC obligations. We will also publish a longer Privacy Statement on Te Whatu Ora's official website which will be accessible to the public.
- 1.7. You agree to take all reasonable steps to ensure that the Customers and/or End Users you make the Services available to comply with Principle 3 of the Privacy Act and the Rule 3 of the Health Information Privacy Code, to inform health consumers (patients or the public) whose data is collected by or on behalf of those Customers and/or End Users for this CVDRA Service that:
 - a. Their personal information will be collected and stored by Te Whatu Ora and used for the purpose of research, statistical, healthcare service planning as well as for the purpose of operating, supporting, and providing this CVDRA Service.
 - b. It is not mandatory for anyone to participate in the CVDRA Service.
 - c. A Privacy Statement for the CVDRA Service is published on Te Whatu Ora's official website.

2. Liability

- 2.1. **Your risk:** To the maximum extent permitted by law, you assume full responsibility for any loss that results from your use of the Service or any access to the Service that you or your systems facilitate. You are responsible for determining whether the Service is suitable for your requirements (including your obligations under applicable laws). We won't be liable if the Service does not meet your requirements.
- 2.2. **Your Customers:** You have the contractual relationship with your Customers not us. You are responsible for your Customers' actions not us. You will ensure that your Customers comply with any applicable obligation under this Agreement and that any agreements you have with your customers are not inconsistent with this Agreement. We do not provide customer support to your customers. You are responsible for providing customer support (if any) to your Customers.
- 2.3. **Your responsibilities:** You are responsible for all activities occurring under or relating to your use of this CVDRA Service, including, but not limited to, your staff, employees, consultants, advisors, independent contractors, suppliers/service providers and your Customers. If you engage a third party in your use of this CVDRA Service, you will ensure that the third party complies with any applicable obligation under this Agreement and that any agreements you have with them are not inconsistent with this Agreement.
- 2.4. **Limitations and exclusions:** Te Whatu Ora accepts no liability to you arising out of or in connection with your use of the CVDRA Service. Our responsibility for the Service is limited as much as the law allows. This means that, except as expressly stated in this Agreement, we don't provide warranties, conditions, or undertakings of any kind in relation to the Service, either express or implied. You agree that we won't be responsible for any: (A) indirect, punitive, special, or consequential damages under any circumstances, even if we've been negligent or we knew this loss was possible; (B) loss of profits, revenue, customers, opportunities, or goodwill; (C) unavailability of the Service; or (D) accidental or unauthorised access to the information we collect through providing the Service.
- 2.5. **Virus Protection:** While Te Whatu Ora makes every effort to check and test material at all stages of production, Te Whatu Ora is unable to guarantee that the Service will never be faulty, free of viruses and/or errors, nor that it will work continuously, nor that it will be maintained in a fully operational condition. Te Whatu Ora cannot accept any liability for any loss, disruption or damage to your data or your computer system, which may occur whilst you are using the Service or material derived from the Service.
- 2.6. **Indemnity:** You will, at all times, indemnify Te Whatu Ora against any and all liability, losses, damages, costs, and expenses (of any nature whatsoever), which are awarded against, incurred, or suffered by Te Whatu Ora which arise out of, or result from, your breach of any of the Terms including without limitation, breach of any applicable law.

4. Availability, Termination and Suspension of the Service

- 4.1. **Availability:** Te Whatu Ora makes reasonable endeavors to ensure that the Service is generally available but neither makes any representation or guarantee, express or implied, as to such availability and the continuity of the Service. Te Whatu Ora shall take no responsibility for and will not be liable for the Service or any interfaces with other systems being temporarily unavailable or resulting in loss or corruption of data due to technical issues beyond the reasonable control of Te Whatu Ora.
- 4.2. **Termination:** Either party (you or us) can terminate this Agreement any time by giving the other party 60 days' prior notice (Termination for Convenience). We can terminate the Agreement and your use of the Service immediately if we believe on reasonable grounds that you have or are likely to breach this Agreement.
- 4.3. **Suspension:** If we reasonably believe you have or are likely to breach this Agreement or that the security of our Service has, can or is likely to be breached by you or others, we can immediately and without notice suspend your use of the Service (or any part of it) until we resolve the issue. In practice, we will try to provide you with reasonable notice in advance.

5. Copyright and intellectual property

- 5.1. **Our IP:** You acknowledge that all rights in copyright, software, patents, design rights, trademarks, service marks, trade secrets, knowhow, and other intellectual property rights (whether registered, capable of registration or otherwise) in the Service (including all content) are owned by Te Whatu Ora. Except for your use of the Service in accordance with this Agreement, you are granted no intellectual property rights in respect of the Service or its content.
- 5.2. You shall respect our intellectual property in the Service. You won't do anything inconsistent with our intellectual property rights, including: (A) disassembling, reverse engineering, decompiling, copying, modifying, or otherwise interfering with our software; (B) creating new software partly or wholly based on our software; or (C) transferring, assigning or sub-licensing any right to use our software or Services (or trying to do this).
- 5.3. **Licence:** We grant you a limited, non-exclusive, non-transferable, and revocable licence to use our Service. You can't provide the licence to anyone else or allow anyone else to use the Service.
- 5.4. **Confidentiality:** Any information, document, software, hardware, or any material we provide or share with you is confidential. You can't use it for any purpose other than the reason we gave it to you, i.e., your use of the Service. You need to look after it and you can't share it with other third parties unless you're required to by law. When this Agreement terminates, you must delete or securely dispose within 15 days wherever it might be stored, unless you're required by law to keep it, in which case you must continue to keep it confidential in accordance with this clause.

6. Changes to the Service

6.1. We can change the Service or discontinue the Service (in part or in full) without notice at any time. In practice we will try to give as much notice as possible of changes that may have a material effect on you. However, we note that sometimes we may require changes to take effect more quickly. If we make material changes to the Service that affect you, you can terminate immediately on notice to us anytime in the 30 days following the change.

7. Changes to the API Compliance document

7.1. We can change the API Compliance document(s) mentioned in Clause 1.1. When we do, we will revise the “last updated” date at the top of the API Compliance document(s) and notify you by sending an email to the last email address you gave to us. The revised rules and requirements will take effect immediately, unless we specify a longer notice period. In practice we will try to give as much notice as possible of changes that may have a material effect on you. You will integrate with our Service in accordance with the latest API Compliance document(s).

8. Changes to this Terms of Use

8.1. We can change the terms of this Agreement. When we do, we will revise the “last updated” date at the top of this Terms of Use and notify you by sending an email to the last email address you gave to us. The revised terms will take effect immediately, unless we specify a longer notice period. In practice we will try to give you as much notice as possible of changes that may have a material effect on you. However, sometimes we may require changes to take effect more quickly. If we make material changes to this Agreement that affect you, you can terminate immediately on notice to us anytime in the 30 days following the change.

9. Enforceability

9.1. If any provision of these Terms is held to be invalid, unlawful, or unenforceable to any extent, then such provision shall be amended to the full extent legally possible to ensure the intent of such clause(s) is enforceable and lawful. Where such amendment is not possible, then such clause(s) shall not affect the validity, legality, and enforceability of the other provisions of these Terms.

10. Governing Law

10.1. These Terms and Conditions and any dispute or claim arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed in accordance with the laws of New Zealand.