

# Application to subscribe to FRED (FishServe Register Extracts Database)



This information is required to initiate and maintain your subscription to FRED

### Are you an existing client of FishServe?

(Tick one)

- Yes** → Complete section **A** and section **C**
- No** → Complete section **B** and section **C**

### Section **A**

Client Number

Full Legal Name

  

E-mail address

### Section **B**

Full legal name

  

#### **Business Street Address**

Please specify your Business Street Address in full.

Business street address (number, street, suburb, city, country)

  
  

#### **Business Postal Address**

Complete this only if your Business Postal Address is different to your Business Street Address.

Business postal address

  
  

Specify either your date of birth if an individual, or the date of commencement if you are other than an individual. eg date company registered, date partnership formed.

Date of Birth Date or Commencement

Telephone Number

Fax Number

E-mail address

**Section C**

**I wish to purchase the FishServe Register Extract Database (FRED) and subscribe to data updates for 12 months on the following basis:**

- Daily**                      Data provided every business day (as defined in the terms and conditions)
- Weekly**                      Data provided every Monday that is a business day (as defined in the terms and conditions)
- Monthly**                      Data provided on the 1st business day of each month (as defined in the terms and conditions)

**I enclose a cheque for the following amount:**

- \$1,765.12 including GST                      FRED software plus **daily** data updates for 12 months
- \$1,117.12 including GST                      FRED software plus **weekly** data updates for 12 months
- \$793.12 including GST                      FRED software plus **monthly** data updates for 12 months

**I currently use the following operating system:**

- Windows 98
- Windows NT4
- Windows 2000
- Windows XP
- Other → Please specify

**Declaration**

*If there are more signatories than space provided make further declarations on a copy of this page.*

**I declare that:**

- I am authorised to purchase the 'FRED' software package and subscribe to data updates.
- I have read and accept the Terms and Conditions for the use of 'FRED' and the subscription of data updates.

Full Legal Name (Please PRINT)	Position	Signature	Date
			/ /
			/ /
			/ /
			/ /

**Privacy Act 1993**

The personal information you provide with your subscription will be used to provide updates to you and for billing and administrative purposes. It will be held by FishServe, Level 6, 135 Victoria Street, Wellington 6011. You have the right to request access to or correction of any personal information FishServe holds about you.

**FishServe Use Only**

Initials \_\_\_\_\_

Data Entry completed \_\_\_ / \_\_\_ / \_\_\_

Client number

OFFICE USE ONLY

DATE RECEIVED

# Terms and Conditions

## for subscription to the Fisheries Register Extracts Database (FRED)

### 1. Interpretation

1.1. "Licensee" or "you" is any individual, sole trader, partnership, company, body corporate, or organisation which has agreed to be bound by these terms and conditions in return for a licence to use FRED.

1.2. "Product" or "FRED" means the software and data comprising a copy of parts of the Annual Catch Entitlement (ACE) registers for the current and immediately preceding fishing years of a stock and the Quota registers, being registers maintained under the Fisheries Act 1996, together with the Total Allowable Catch (TAC), Total Allowable Commercial Catch (TACC) and stock codes and supplied in Microsoft Access runtime version format that is supplied by FishServe under this Agreement.

1.3. "Business Day" means any day not being a Saturday or Sunday or public holiday within the mean of section 7A(2) of the Holidays Act 1981 and the next two business days immediately following Boxing day;

### 2. Acceptance of Terms and Conditions

2.1. The Licensee agrees that submission of an application to subscribe to FRED is acceptance of these terms and conditions.

### 3. What the Licensee may or may not do with FRED

3.1. In consideration of the Licensee paying the associated subscription charge for access to FRED, FishServe grants to the Licensee a non-transferable, non-exclusive licence only to:

3.1.1. Use FRED for its legitimate fisheries business purposes in accordance with these terms and conditions;

3.1.2. Copy parts (but not all) of the FRED data for internal use within the Licensee's business in accordance with these terms and conditions; and

3.1.3. Permit any employee or contractor engaged by the Licensee to do any of the things specified in clause 3.1.1 or 3.1.2 in accordance with these terms and conditions.

3.2. The Licensee may not and may not permit others to:

3.2.1. Copy the whole of FRED or any associated software;

3.2.2. Lend, lease or rent access to FRED to others;

3.2.3. Create competitive products with a substantially similar "look and feel"

3.2.4. Use FRED for any purpose which includes the purpose of creating directly or indirectly any databases or parts of databases; or prepare derivative works from FRED, other than as a consequence of the ordinary operation of the FRED;

3.2.5. Use FRED in any manner that infringes the intellectual property rights or other rights, including privacy, of another party.

3.2.6. The Licensee may not assign or sub-license any of its rights under these terms and conditions unless FishServe first agrees in writing.

3.2.7. The Licensee must comply with all relevant laws in its use of FRED including, but not limited to, the information privacy principles of the Privacy Act 1993, and public register privacy principle 2 of that Act.

### 4. Services the Licensee must supply itself

4.1. The Licensee acknowledges that to use FRED fully the Licensee must supply its own computer hardware and software (except software installed with FRED), in accordance with minimum specifications as notified from time to time by FishServe and keep it in good working order.

### 5. FishServe is not responsible for Internet and Telecommunications services

5.1. The Licensee must arrange and pay for all telecommunication and internet services required to receive and use FRED.

5.2. FishServe is not responsible for claims, expenses, losses, damages or costs made against or incurred or suffered by the Licensee directly or indirectly (including without limitation, lost costs, profits and data) arising out of those telecommunication and internet services (including without limitation, use or misuse of them or any failure of them).

### 6. FishServe makes no warranties

6.1. FishServe makes no express warranties under this Agreement, including any warranty that:

6.1.1. FRED is or will be complete or free from all errors; or

6.1.2. That the data received on FRED is up-to-date, or is an accurate representation of any of the registers required to be kept under the Fisheries Act 1996.

6.2. The terms of this Agreement replace all other terms, representations or warranties and all such terms, representations and warranties (except any which may not lawfully be excluded) including, without limitation, the implied warranties of merchantability and fitness for any particular purpose. Where FRED is used for the purpose of business, you agree that the provisions of the Consumer Guarantees Act 1993 shall not apply.

### 7. FishServe excludes and limits liability

7.1. FishServe excludes, for itself and for any supplier of software or other materials incorporated into FRED, all liability for all claims, expenses, losses, damages and costs made against or incurred or suffered by you directly or indirectly (including, without limitation, loss costs, profits and data) arising out of:

5.1.1. Your use or misuse of FRED;

5.1.2. Your inability to use FRED;

5.1.3. Negligence of FishServe or its employees, contractors or agents, or of any supplier of software or other material incorporated into FRED in connection with this Agreement.

## **. FishServe Liability**

6.1. To the full extent permitted by law and other than as specifically set out in this Agreement, FishServe excludes all implied and express terms, conditions and warranties, including warranties as to the fitness of FRED for a particular purpose except to the extent of the payment of the cost of replacing FRED.

6.2. To the extent permitted by relevant New Zealand law, FishServe is not liable for:

6.2.1. Any failure to perform its obligations under this licence agreement where the failure results from act of God, act of any government or government authority, fire, explosion, accident, power failure, industrial dispute, inability to obtain materials or any other thing beyond the reasonable control of FishServe.

6.2.2. Any reliance by a third party on information which the Licensee gives derived in whole or in part from information which it has obtained through the use of the FRED.

6.2.3. Any breach by the Licensee of these terms and conditions.

6.3. The Licensee agrees to indemnify FishServe and its agents against all claims, actions or proceedings for loss or damages arising from the Licensee's use of FRED or of information derived from FRED.

## **7. Miscellaneous provisions**

7.1. The Licensee acknowledges that FRED at all times remains the property of FishServe and that its right to use FRED is limited to the rights set out in these terms and conditions.

7.2. The Licensee is put on notice that the raw data comprising the fisheries registers is reproduced by FishServe with the permission of the New Zealand Government; copyright in this material belongs to the New Zealand Government;

7.3. This material as reproduced by FishServe is not an official copy and the copyright in the format in which this material is owned by FishServe and no part may be reproduced by any process except in accordance with this agreement and the provisions of the Copyright Act 1994.

7.4. Reports derived from FRED are not certified copies of register information for the purpose expressed in section 166 of the Fisheries Act 1996. Certified copies of the register are available from FishServe on payment of a prescribed fee.

7.5. You agree that FishServe is entitled to recover from you all costs, commissions, legal fees or otherwise, incurred in the recovery of any monies, goods or services that may be outstanding from you from time to time.

## **8. Termination**

8.1. FishServe may terminate the Licensee's licence to use the Product if the Licensee is made bankrupt; or enters into a liquidation or any arrangement or composition with its creditors; or has a receiver appointed with respect to any of its assets; or becomes insolvent, or breaches any of these terms and conditions.

## **9. Applicable Law**

9.1. These terms and conditions shall be governed by and construed in accordance with the laws of New Zealand and the courts of New Zealand shall have non-exclusive jurisdiction to determine any disputes arising under these terms and conditions.

## **10. Complete Agreement**

10.1. No variation of these terms and conditions shall be binding on FishServe unless it is in writing and issued by a duly authorised officer of FishServe. These terms and conditions, constitute the complete agreement between the Licensee and FishServe with respect to the use by the Licensee of FRED.

## **11. Disclaimer**

11.1. The Licensee acknowledges that FishServe and/or the authors and/or the suppliers of the information contained in FRED disclaim any liability for the accuracy or completeness of the information contained in FRED.

## **12. Default**

12.1. If the Licensee fails to pay any money due under these terms and conditions, FishServe may terminate the Agreement after having given the Licensee not less than one week's written notice of the default. If the Licensee is in default in any way under these terms and conditions apart from default resulting from the non-payment of money due under them, FishServe may elect to terminate the Licensee's licence to use FRED provided FishServe has given the Licensee written notice of the default and it has not rectified the default within 30 days from the date of the notice.

## **13. Assignment**

13.1. Nothing in this Agreement shall prevent FishServe assigning its rights under this Agreement to any other party, and these terms and conditions shall remain binding on the Licensee in the event of any such assignment.