

SYPHT API LICENSE AGREEMENT

Background

- (a) Syphnt has developed and provides a number of APIs.
- (b) You wish to access and use the APIs for the Permitted Purpose.
- (c) These terms describe the basis on which we will make the APIs available to you.

Operative Provisions

1. Licence

- (a) Subject to the terms of this Agreement and your compliance with these terms, Syphnt grants you a non-transferable, non-sublicensable and non-exclusive license to use and permit your Authorised Users to use:
 - (i) the APIs;
 - (ii) any Outputs from the APIs; and
 - (iii) any Documentation for that API,in accordance with these terms solely for the Permitted Purpose. The rights granted under paragraph **Error! Reference source not found.** include the right for you to permit third parties to use that Output, but only to the extent contemplated by the Permitted Purpose.

2. Restrictions

- (a) You may only use the APIs as described in the Documentation, and you must not:
 - (i) use the APIs in any manner that adversely impacts the:
 - (A) stability or integrity of our systems; or
 - (B) the ability of others to use the APIs;
 - (ii) remove, alter or obscure any identification, copyright, trademark or other proprietary notices, labels or Marks (if any) on or in the Documentation;
 - (iii) use Our IPR for any purpose that is unlawful or that would give rise to any civil or criminal liability for yourself, us, or any third party;
 - (iv) send or store infringing or unlawful material using the APIs;
 - (v) attempt to gain unauthorised access to, or disrupt the integrity or performance of, the APIs or any data processed using the APIs;
 - (vi) propagate any virus, worms, Trojan horses, or other programming routine intended to damage any system or data;
 - (vii) use Our IPR, or permit them to be used, for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without our prior written consent;
 - (viii) use Our IPR for high risk activities where the use or failure of Our IPR could lead to death, personal injury or environment damage;
 - (ix) attempt to separately re-create our data through your use of the APIs; or
 - (x) use Our IPR as part of, or to create, a product competitive with the products offered by us.

3. Support

- (a) Subject to your compliance with these terms, we will provide you with reasonable support for issues associated with the APIs as further described in the Documentation. We will only provide such support to you, and not to any end-users of your Products.
- (b) You are responsible for:
 - (i) running such standard diagnostic tests as may be specified by us from time to time to confirm that the issue for which support is required is related to a defect in the APIs;
 - (ii) providing sufficient information and data to allow us to readily reproduce all reported issues; and
 - (iii) making available such reasonable remote access facilities as we require in order to provide the support services.
- (c) You must notify us of any changes to your contact details and acknowledge that we will not be required to provide you with support for issues associated with the APIs where we are unable to contact you.

4. Your obligations

5.1 Obligations relating to your use of the APIs

You must, when using the APIs:

- (a) maintain properly configured hardware, software and telecommunications equipment or devices which are necessary to use Our IPR;
- (b) implement appropriate security systems and protocols to prevent unauthorised access or use of Our IPR; and
- (c) comply with all applicable laws. Without limiting this paragraph (c), you must:
 - (i) obtain all necessary permissions and consents for us to use and disclose Your Data as contemplated by these terms; and
 - (ii) Your Data, and our use and disclosure of Your Data in accordance with these terms, does not infringe any rights (including intellectual property rights) of any third party.

5.2 Obligations relating to your use of Credentials

- (a) You must:
 - (i) keep your Credentials secure and confidential; and
 - (ii) where your Credentials are allocated on an individual basis, not allow them to be used other than by the person to whom they are allocated.
- (b) You are responsible for all activities that take place on or through the APIs using your Credentials.
- (c) If you suspect any unauthorised use of your Credentials, you must immediately notify us.

5.3 Obligations relating to your Authorised Users

You must ensure that your Authorised Users comply with all applicable provisions in these terms. You will be liable for the acts and omissions of your Authorised Users in connection with these terms as fully as if they were your acts or omissions.

5.4 Monitoring

We may monitor your use of the APIs to ensure quality, improve the APIs and verify your compliance with these terms. You must not interfere with such monitoring, and without limiting our other rights and remedies we may use technical measures to overcome any such interference.

5. Your Data

You grant us a non-exclusive, worldwide, perpetual, fully paid up licence to use, store, copy, modify, make available and communicate Your Data:

- (a) to provide you with the functions, capabilities and Output offered by the APIs;
- (b) for our own current and future internal research, analytical and product development purposes;
- (c) to conduct statistical analysis and identify trends and insights at an industry level on an anonymised and aggregated basis;
- (d) to train, develop and improve our products and services, including the APIs; and
- (e) for our internal business purposes,

and we may also provide Your Data to our related companies, our contractors and third parties for:

- (f) these purposes; and
- (g) other purposes in an aggregated and de-identified form such that no details regarding you or any individual can reasonably be derived from the information.

6. Output

- (a) You acknowledge that the Output is generated using Your Data. Your Data will have varying levels of quality which may result in inaccuracies in the Output. You are responsible for the completeness and accuracy of Your Data and the Output.
- (b) You acknowledge that once the Output has been delivered to you, we will not be able to redeliver that Output or provide a copy of that Output to you. Accordingly, we recommend that you separately save and retain copies of any such Output that you require for record keeping or other purposes.

7. Warranties and liability

- (a) You are solely responsible for:
 - (i) determining how you will use any Output; and
 - (ii) developing and managing your systems and Products (including providing end-user customer support and warranties in respect of your Products) and for modifying your systems and Products if we make any changes to these terms or the APIs.
- (b) Subject to paragraph (d), all express or implied guarantees, warranties, representations, statements, terms and conditions which are not expressly set out in these terms are excluded.
- (c) In particular, and without limiting paragraph (b):
 - (i) while we endeavour to provide convenient and functional APIs, we do not guarantee that your use of the APIs will be uninterrupted, error free or that the APIs are free of viruses or other harmful components;
 - (ii) the APIs may, from time to time, be unavailable due to scheduled maintenance, system or software updates, upgrades, or changes and operational procedures; and
 - (iii) we cannot be responsible for any loss, corruption or interception of data sent to or from our APIs (such as those which occur while being sent over the internet), and you are responsible to making appropriate backups of Your Data.
- (d) Nothing in these terms excludes, restricts or modifies any guarantee, term, condition, warranty, or any right or remedy, implied or imposed by any law or legislation which cannot lawfully be excluded or limited, including the Australian Consumer Law which contains guarantees that protect the purchasers of goods and services in certain circumstances.
- (e) If any guarantee, term, condition or warranty is implied or imposed in relation to these terms under the Australian Consumer Law or any other applicable legislation (a **Non-Excludable Provision**) and we are able to limit your remedy for a breach of the Non-Excludable Provision, then our liability for breach of the Non-Excludable Provision is limited to one or more of the following at our option:
 - (i) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; or
 - (ii) in the case of services, the supplying of the services again, or the payment of the cost of having the services supplied again.
- (f) Subject to paragraph (d) and our obligations under the Non-Excludable Provisions, and to the maximum extent permitted by law:
 - (i) where a third party helps us to provide the APIs, our liability to you for any default caused by that third party will not exceed the amount that we are able to recover from that third party in relation to that default; and

- (ii) in any event, our maximum aggregate liability for all claims arising under or relating to these terms or in relation to your use of Our IPR in each calendar year, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis is limited to:
 - (A) the Charges paid by you for the use of the relevant API during that calendar year, where we charge you for the use of that API; or
 - (B) AUD \$100 where we do not charge you for the use of the relevant API.
- (g) To the maximum extent permitted by law, we are not liable for any indirect or consequential loss, or loss of business, goodwill, reputation or for business interruption.
- (h) A party's liability to the other is diminished to the extent that the acts or omissions (or those of a third party) contribute to or cause the loss or liability.
- (i) You must indemnify us against any claim, proceedings, loss, damage, fine, penalty, interest and expense arising out of or in connection with your breach of clauses 3(a)(iii) or 5.1(c).

8. Intellectual Property Rights

- (a) The APIs, Documentation, Output and all associated intellectual property rights (Our IPR) are and will at all times remain the sole and exclusive property of us or our licensors.
- (b) All intellectual property rights and other proprietary rights in or related to Your Data or your Products are and remain your exclusive property.

9. Confidentiality

- (a) Each party may only use the Confidential Information of the other party for the purposes of performing their obligations, and exercising their rights, under these terms, and subject to the following must keep such Confidential Information confidential.
- (b) Each party may disclose the Confidential Information of the other party:
 - (i) to the extent required by law;
 - (ii) in accordance with any licence rights granted under these terms, in which case the disclosing party must ensure that any such recipient keeps such information confidential on the same basis as required by this clause **Error! Reference source not found.**; or
 - (iii) with the prior written consent of the other party.
- (c) Upon termination or expiration of these terms, each party must use commercially reasonable efforts to return to the other party or destroy all Confidential Information of the other party in its possession or control.
- (d) Nothing in paragraph (c) requires a party to return or destroy any Confidential Information of the other party to the extent that such Confidential Information:
 - (i) needs to be retained for the purpose of actual or potential litigation or other record-keeping purposes; or
 - (ii) is on back-up, archival storage tapes or the like and it is not practical to do so.

10. Privacy

- (a) In using the APIs, you may give us personal information or you may grant us authorisation to access personal information through third parties. We understand that your personal information is important, and we take your privacy very seriously. Our privacy policy (<https://www.syph.com/privacy-policy>) contains further details about our privacy handling practices.
- (b) You must only disclose to us personal information where you are permitted to do so by law.

11. Suspension and termination

- (a) You may cease using the APIs at any time.
- (b) We may:
 - (i) remove Your Data from our systems and those of any third party helping us; and/or
 - (ii) vary, suspend or cancel your access or use of the APIs, either temporarily or permanently, if:
 - (iii) we form the reasonable view that you no longer meet the applicable requirements for the APIs, you breach any of these terms and:
 - (A) such breach is not capable of remedy or is not remedied within 7 days after we notify you of that breach; or
 - (B) such breach is causing us to breach an obligation owed by us to a third party, you have not accessed or used the APIs over the last 12 months.
- (c) If we suspend or cancel your access to or use of the APIs, you must immediately cease using Our IPR and, in the case of cancellation, these terms will be terminated, including the licence granted to you in clause 1.
- (d) Termination does not affect any accrued rights of either party, including your obligation to pay the Charges (if any) for your use of the APIs up to the effective date of such termination.

12. Publicity

- (a) Each party may make and authorise media releases and other public announcements relating to or referring to the matters dealt with in this Agreement, including announcing that it has entered into this Agreement with the prior written consent of the other party (such consent not to be unreasonably or arbitrarily withheld).
- (b) We may use your logo and brand on our website, reference sites and customer case studies and in our marketing materials for the purpose of identifying you as our customer.

13. Variations

- (a) We may from time to time:

- (i) amend these terms, the Documentation or any other requirements relating to the APIs, or
- (ii) modify, suspend or discontinue, temporarily or permanently, any APIs, including to modify the manner of use of the APIs.
- (b) We will provide you with 30 days' notice of any of the actions under paragraph **Error! Reference source not found.**, if we determine in our reasonable discretion that any such action will be detrimental to you.
- (c) Your continued use of the APIs following any amendment or modification referred to in paragraph **Error! Reference source not found.** will constitute your acceptance of the amendment or modification.

14. General

- (a) If there is any inconsistency between:
 - (i) these terms; and
 - (ii) any other documents incorporated into them by reference,
 priority will be given in the order set out above (with an item higher in the list having priority over a lower item).
- (b) If any part of these terms is held to be unenforceable, the unenforceable part is to be given effect to the greatest extent possible and the remainder will remain in full force and effect.
- (c) You agree to provide us with feedback relating to the APIs upon request. We may freely use any such feedback (including suggestions or ideas), including in future modifications of the APIs and to develop and market new products and services.
- (d) Neither party will be liable for any failure or delay in performing any of its obligations under these terms if such delay is caused by circumstances beyond that party's reasonable control.
- (e) We are an independent contractor of yours, and no other relationship (e.g. joint venture, agency, trust or partnership) exists under this Agreement.
- (f) Neither party will assign or transfer this Agreement or the rights under it without the prior written consent of the other party, provided that such consent shall not be arbitrarily withheld.
- (g) Clauses 6, 9, 10, 11 and 14 together with any other provision which by its nature survives termination or expiry of this Agreement, survives termination or expiry of this Agreement.
- (h) These terms are governed by the laws of New South Wales, Australia, and each party submits to the non-exclusive jurisdiction of the courts that exercise jurisdiction in New South Wales, Australia.
- (i) These terms constitute the entire agreement between us and you in relation to your use of the APIs and supersede all other communications or displays whether electronic, oral, or written, between us and you in relation to such Use.
- (j) Your use of the APIs is conducted electronically and you agree that we may communicate with you electronically for all aspects of such use, including sending you electronic notices. We may send any notice given under these terms to the primary contact email address you have registered with us, or if you have notified us of any changes to your primary contact email address, to that changed address.
- (k) The provisions of these terms which by their nature survive termination or expiry of these terms will survive termination or expiry of these terms.
- (l) No waiver, delay or failure by a party to take any action will constitute or be construed as a waiver of that or any other term, condition, option, privilege or right.
- (m) The word "including" when used in these terms is not a term of limitation.
- (n) A reference to these terms includes any schedules and documents incorporated by reference.

15. Definition and Interpretations

- (a) In this Agreement unless the context otherwise requires, the following words will bear the meaning set out below:

Agreement means this Agreement.

API means the application programme interface we have developed and refers to a set of web service calls that can be used to extract data.

Authorised User means those of your officers, employees and contractors that use the APIs on your behalf or using any Credentials issued at your request to them.

Confidential Information means all confidential, non-public or proprietary information, regardless of how the information is stored, which is made available to the User before, on or after the date of this Agreement, and includes this Agreement and Our IPR.

Credentials means a username, password, API key or other credential required to access an API.

Documentation means any user guides, specifications, policies, guidelines and other documentation provided to you in connection with the APIs.

Effective Date means the date on which this Agreement commences as set out on Page 1 of this Agreement.

Non-Excludable Provision has the meaning given to that term in clause 9(d) of these terms.

Our IPR has the meaning given in clause 10(a) of these terms.

Output means any output that you generate using the APIs such as lookup and validation results, files, documentation and reports.

Permitted Purpose is for your own internal business and individual purposes, and as part of other Products that you develop and offer to third.

Products means applications, websites, products and services which you develop and offer to others.

You or Your means anyone who uses or accesses the SyphT APIs.

Your Data means any data that you provide to us, and that you input via the APIs.