

Recital

- A. UKCRB Limited is a company registered in Level 12, The Shard, 32 London Bridge Street, London, SE1 9SG with registered number 03656962 (“Supplier”) and is a provider of a service which supports its Client to process Disclosure and Barring Service (DBS) and Disclosure Scotland (DS) applications in respect of their [employees or potential employees] (“the Services”) [via a web-hosted portal].
- B. The Client wishes to access and use such Services for the purposes of processing DBS and DS applications.

1 Term

- 1.1 This Agreement shall commence once the Client account has been created by the Supplier and provided login and access details to the Client to enable it to access the Services (“Commencement Date”) and shall continue unless terminated in accordance with the following provisions.
- 1.2 Either party may terminate this Agreement without liability, save for payment of any outstanding Charges upon providing 30 days prior written notice to the other party.
- 1.3 In addition to any other rights available, the Supplier may suspend the Services and/or revoke any licence granted under this Agreement (at its sole discretion) in the event that the Customer does not pay the charges or comply with its obligations in accordance with the terms of this Agreement.

2. Services

- 2.1 The Supplier will:
- 2.2 provide the Services to the Client subject to the terms of this Agreement, during the Term
- 2.2.1 provide the Client with access to the website: www.ukcrbs.co.uk and provide help desk Services during working hours Monday-Friday 9am-5pm (except in any extraordinary conditions);
- 2.2.2 on receiving a valid electronic disclosure application the Supplier will confirm and submit the disclosure application electronically to either the DBS or DS (as applicable) for processing;
- 2.2.3 provide access to the Client a secure online account to access electronic results;
- 2.2.4 send paper disclosure certificates from DS with content (where applicable) to the Client using Royal Mail postal services.
- 2.3 The Supplier shall review, amend, discontinue or revise any or all aspects of the Service upon providing reasonable notice to the Client.
- 2.4 Except as set out in this Agreement, all express or implied representations and warranties, including any implied warranty of satisfactory quality, fitness for a particular purpose or non-infringement, are hereby excluded to the fullest extent permitted by law.
- 2.5 UKCRBs grants to the Customer a personal, non-exclusive, non-transferable licence to use the Services for the sole purpose of processing DBS or DS Applications for its internal business purposes in accordance with the terms of this Agreement.

3. Customer obligations

- 3.1 The Customer undertakes and agrees that it shall:
 - 3.1.1 be responsible for nominating persons (“Authorised Users”) to use the Supplier’s portal and to provide them with the relevant access credentials (including username and password);
 - 3.1.2 ensure that authorised users use the Services in accordance with all Law, this Agreement and any instructions, manuals and security measures (including passwords) provided by the Supplier from time to time;
 - 3.1.3 will not allow an authorised user to undertake any DBS or identity check in relation to themselves;
 - 3.1.4 only use the service for the purpose of carrying out DBS and DS disclosure applications and in accordance with both the DBS and DS Code of Practice and associated Legislation. (Copies are available from the DBS website: <https://www.gov.uk/government/publications/dbs-code-of-practice>; and <http://www.disclosurescotland.co.uk/ensure>). Disclosure application forms are completed fully and proof of the applicants’ identity has been provided as per DBS and/or DS guidelines and DBS/DS Code of Practice. Failure to do so will void the application. The Supplier shall not be held responsible for any errors or omissions made by the applicant or the Customer.
- 3.2 For the avoidance of doubt Customers will:
 - 3.2.1 Where submitting a request ensure they have seen a copy of the applicant’s Passport or photo style Driving License or applicable documentation as per the requirements of either the DBS or DS (as applicable) and that in addition to having seen either a Passport or photo style Driving License for each Applicant you hold certified copies of the required documents referred to in the Evidence of Identity Section referred to in the Application Forms and have seen the originals;
 - 3.2.2 where undertaking checks through DBS to ensure that the position of the applicant entitles them for the DBS check as per the requirements of the Disclosure and Barring Service. By requesting the Supplier to perform the DBS check on the applicant, the Customer agrees that the job position of the applicant meets the DBS eligibility requirements (these are available from the DBS website: <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance>;
 - 3.2.3 where undertaking volunteer checks ensure that all applications submitted meet the DBS requirements for a volunteer (these are available from the DBS website: <https://www.gov.uk/government/publications/disclosure-application-process-for-volunteers>); where an applicant later has volunteer status denied or amended we will charge the full DBS fee;
 - 3.2.4 ensure that the applicant’s full consent to undergo a DBS or DS check has been obtained;
 - 3.2.5 keep all information supplied to you permanently confidential;
 - 3.2.6 use and apply the information solely for the purpose of submitting the electronic disclosure applications and receiving the results of such disclosures;
 - 3.2.7 not at any time disclose or otherwise make available to any third party any information other than to those members of your organisation’s associates, colleagues or employees who are required by you in the course of their duties (and solely for the purpose submitting electronic disclosure applications and obtaining the results of such disclosures) to receive and consider the information and you agree that any such disclosure is on the basis that any such person is made aware and accepts the strict provisions of this undertaking;
- 3.3 Customer’s obligations under the paragraphs 3.2.5-3.2.8 shall not apply to any information:

- 3.3.1 which is public knowledge at the date of disclosure to you by us or subsequently becomes public knowledge through no act or failure on your part;
- 3.3.2 which is known to you at the date of disclosure by us and is not the subject of any restriction or disclosure imposed by that third party;
- 3.3.3 which is disclosed to you by a third party after the date of disclosure by us and is not the subject of any restriction or disclosure imposed by that third party;
- 3.3.4 which is required to be disclosed by you by law or any regulatory or government authority;
- 3.3.5 which was developed independently by employees or agents of you who have not had access to the information.

3.4 The Customer shall not and will not permit any person to:

- 3.4.1 use the Services unless they are an Authorised User;
- 3.4.2 use the Services in any configuration or for any purpose other than as set out in this Agreement;
- 3.4.3 resell, sub-licence, copy, alter, adapt, merge, modify, reverse engineer, decompile, disassemble, create derivative works of the whole or any part of software comprised within the Services except with the Supplier's prior written consent or as permitted by law;
- 3.4.4 use the Services in connection with the operation of a service bureau arrangement or outsourced service offering to any third party without the Supplier's prior written consent; or remove any proprietary notices, labels or marks associated with the Services.

3.5 Where undertaking a standard or enhanced check through the DBS, ukCRBS reserves the right to carry out compliance checks on received applications. Applications will be selected at random. The customer will be required to provide to ukCRBS a job description/role profile for the employee or alternatively a business contract which provides detail of the requirement for the DBS check requested. Confirmation of the types of identity documents seen will be required to ensure compliance with the DBS ID checking guidelines and to enable verification of the applicants details as input on the application form. Confirmation of the applicants consent will also be required where the application is completed by the customer.

4. Charges and payment

- 4.1 In consideration of the provision of the Services, the Customer shall pay the Supplier the Charges as agreed prior to the Commencement Date of the service.
- 4.2 Payment of all charges is due immediately, without deduction or set-off; unless otherwise agreed.
- 4.3 Customers will either pay by credit card in advance or via a direct debit agreement with invoices paid 14 days from date of invoice, unless otherwise agreed. Fees will be charged upon each submission of your application whether or not it proceeds. Each application will incur a charge and we are not responsible for any errors that are made in completing the Application Form whether it be completed manually or online. Due to the nature of the service we provide no refunds will be provided upon cancellation.
- 4.4 Should a credit account be authorised, payment terms will be seven days, unless otherwise agreed and the Supplier reserves the right to charge interest on overdue accounts, such interest to be calculated daily on the amount outstanding at the rate of five per cent above the published

base rate of Barclays Bank PLC.

- 4.5 The Supplier reserves the right to amend the Charges twice per annum on or around 1 April and 1 October. In addition, if there is an increase in costs to the Supplier in providing the Services then the Supplier may vary the Charges or any part of it to include such increase by giving not less than twenty-eight (28) days' notice to the Customer of such increase.
- 4.6 The Supplier reserves the right to decline any refund of the online account balance or the value of the un-submitted disclosure applications forms and no refund or compensation shall be provided for the subscription fees paid prior to termination of this agreement.

5. Warranties

- 5.1 The Customer hereby warrants that it:
- 5.1.1 shall comply with the DBS and DS Codes of Practice;
- 5.1.2 shall promptly notify the Supplier of any complaint against it in respect of an alleged breach of the DBS or DS Code of Practice (other than complaints made spuriously or vexatiously) and any investigation into its affairs by either the DBS or DS;
- 5.1.3 will not supply or otherwise transmit any information, data or content in connection with the Services that is or may contain software viruses or any other computer code, files or programmes designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; or be in breach of any third party rights (including any Intellectual Property Rights) or in violation of any applicable local or national or international law, and any regulations having the force of law.

6. Limitation of liability

- 6.1 Nothing in the Agreement shall be taken to exclude either party's liability for death or personal injury caused by the negligence of such party, its employees or other representatives or for fraud or fraudulent misrepresentation.
- 6.2 The Supplier shall have no liability to the Client for any damage or loss arising out of any performance or non-performance by it of any of its obligations under the Agreement (whether by virtue of negligence or otherwise) which falls within any of the following categories: indirect, consequential or special loss or damage of any nature any loss.
- 6.3 Subject to clause 6.1, the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the Agreement shall, unless stated otherwise in the Contract Form, be limited to the Administration Charges (excluding VAT) actually paid by the Client to the Supplier under this Agreement.

7. Data protection

- 7.1 The Client and the Supplier acknowledge for the purposes of the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 and from 25 May 2018 the General Data Protection Regulation and any legislation implemented in connection with the General Data Protection Regulation and any replacement legislation coming into effect from time to time) "**Data Protection Legislation**" the Company and DBS and DS are the Data Controllers and the Supplier is the Data Processor in respect of any Client Personal Data.

7.2 The Personal Data that may be processed by the Supplier in connection with the provision of the Services and the nature of the processing activities are as follows:

Categories of Data	Names of individuals, company names, emails, telephone numbers, addresses, passwords, references, results of criminal records checks, details of qualifications and training and results of other vetting checks.
Categories of Data Subject	Applicants applying for jobs with the Company [and current employees of the Company]
Processing Operations	Obtaining, storing and transmitting data to the Company
Location of Processing Operations	United Kingdom – operations and iDash – Data Hosting India – Genpact – Accounts Payable processing
Purposes	Data will be processed to carry out criminal record checks on behalf of the Company
Duration	Personal Data relating to an Applicant is retained in the live environment for 6 months from the date when the checks are completed and then retained for a further 18 months in an encrypted archive. At the end of this period Personal Data relating to the Applicant is deleted.

7.3 The Supplier shall process the Personal Data only in accordance with the Client's instructions as set out in this Contract.

7.4 The Client acknowledges that the Supplier is reliant on the Client for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. The Client shall ensure that appropriate privacy notices are provided to Applicants in accordance with the requirements of the Data Protection Legislation to explain the nature of the checks that might be carried out as part of the Services. In particular the Client shall notify each individual Applicant for the checks that will be carried out on that Applicant and shall be responsible for ensuring that there is a legal basis for carrying out such checks under the Data Protection Legislation. The Client shall ensure that where necessary, valid consent is obtained from Applicants to pass Personal Data to the Supplier to enable it to perform the Services.

7.5 The Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Client's instructions.

7.6 The Client shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses and all other professional costs and expenses suffered or incurred by the Supplier arising out of or in connection with any claims made against arising as a result of the Supplier processing the Personal Data in accordance with the Client's instructions.

7.7 The Client authorizes the Supplier to transfer Personal Data outside the European Economic Area

where such transfers are necessary in order to perform the Services provided that the Supplier ensures that there is a valid transfer mechanism in place in relation to such transfer. For the purposes of this clause a valid transfer mechanism shall include any mechanism approved by the European Commission as ensuring adequate protection for Personal Data that is transferred outside the European Economic Area. The Client shall be responsible for informing Applicants that Personal Data may be transferred outside of the European Economic Area in connection with the performance of checks carried out as part of the Service.

- 7.8 Taking into account the nature of the data processing activities undertaken by the Supplier, the Supplier shall provide all possible assistance and co-operation (including without limitation putting in place appropriate technical and organizational measures to enable the Client to fulfill its obligations to respond to requests from individuals exercising their rights under the Data Protection Legislation.
- 7.9 The Supplier shall ensure that any persons used by the Supplier to process Personal Data are subject to legally binding obligations of confidentiality in relation to the Personal Data.
- 7.10 The Supplier warrants that, having regard to the state of technological development and the costs of implementing any measure, it will:
 - 7.10.1 Take appropriate technical and organizational measures against the unauthorized or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to
 - 7.10.1.1 the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - 7.10.1.2 the nature of the data to be protected; and
 - 7.10.1.3 take reasonable steps to ensure compliance with those measures.
 - 7.10.2 Taking into account the nature of the processing carried out by the Supplier, the Supplier shall assist the Client in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the General Data Protection Regulation. The Client shall pay the Supplier' reasonable costs incurred in providing such assistance.
 - 7.10.3 The Supplier shall make available to the Client all information necessary to demonstrate compliance with the obligations set out in this clause 7 and allow for and contribute to audits, including inspections, conducted by or on behalf of the Client, provided that:
 - 7.10.3.1 the Client shall provide not less than 7 days' written notice prior to carrying out an audit or inspection;
 - 7.10.3.2 the scope of the audit or inspection shall be agreed by the parties;
 - 7.10.3.3 the Client shall use all reasonable endeavours to minimise disruption to the Supplier when conducting an audit or inspection; and
 - 7.10.3.4 audits shall not be undertaken more than once in any calendar year.
 - 7.10.3.5 The Supplier shall upon termination of the Contract, at the choice of the Client, delete securely or return all Personal Data to the Client and delete all existing copies of the Personal Data unless and to the extent that the Supplier is required to retain copies of the Personal Data in accordance with applicable laws;
 - 7.10.3.6 The Supplier may authorise a third party (subcontractor) to process the Personal Data

provided that the subcontractor's contract:

- 7.10.3.7 is on terms which are substantially the same as those set out in these Conditions; and
- 7.10.3.8 terminates automatically on termination of the Contract for any reason
- 7.10.3.9 [The Client acknowledges that in connection with the provision of the Services the Supplier may engage a number of third parties to carry out checks on behalf of the Client, including Route 2 external identification checks and criminal records bureaux. The Client further acknowledges that the Supplier has notified the Client of the third parties that may be used by the Supplier for such checks and hereby instructs the Supplier to use such third parties as may be required to perform the Services. For the avoidance of doubt, such third parties are not sub-contractors for the purposes of clause 7.

8. Force majeure

- 8.1 the Supplier shall have no liability to the Client, nor be deemed to be in breach of the Agreement if there is any failure or delay in performing the services, as a consequence of any event outside of the Supplier's reasonable control (including without limitation severe weather conditions or natural events, terrorism, hostilities or civil disorder, industrial action, equipment breakdown or malfunction, power failures or third party default or insolvency) ("Force Majeure"). The Supplier shall not be liable to the Client for any Losses caused to or suffered by the Client as a direct or indirect result of a Force Majeure event under Clause 8.1 or the supply of the Services being suspended pursuant to Clause 8.2.

9. Notices

- 9.1 All notices which are required to be given under the Agreement shall be in writing and shall be sent to the address of the recipient set out in the Contract Form.
- 9.2 Notices may be delivered personally or by first class pre-paid letter and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting.

10. Miscellaneous

- 10.1 All rights, title and interest in and to the Intellectual Property Rights which are used or developed in the performance of the services shall remain vested in the Supplier or its licensors.
- 10.2 The Agreement and all the documents referred to in it constitute the entire understanding between the Supplier and the Client relating to the subject matter and no representation or statement not contained in the Agreement shall be binding on either party. None of the parties has relied on or is relying on any representation in entering into and completing the transaction contemplated. The Supplier has not authorised its employees or agents to make representations or give undertakings relating to the Services or the meaning of these Terms and Conditions other than in writing.
- 10.3 This Agreement shall expressly override all or any terms or conditions sought to be imposed by the Client however communicated to the Supplier and whether before or after the date of the Agreement unless and until such variations to the Agreement are agreed to by the Supplier in writing by an authorised representative of the respective company. All conditions and warranties

which would otherwise be implied by statute or under common law are hereby excluded to the fullest extent permitted by law.

- 10.4 Each party agrees and undertakes that it will hold any Confidential Information disclosed to it (whether directly or indirectly and by whatever means) in complete confidence, and will not disclose it in whole or in part at any time to any third party, nor use Confidential Information for any purpose other than the performance of its obligations under this Agreement. Both parties shall destroy in a secure manner all Confidential Information and any documents, manuals, instructions and data relating to the Service or this Agreement.
- 10.5 The Customer may not assign, transfer or purport to assign or transfer a right or obligation under this Agreement without the prior written consent of the Supplier. The Supplier reserves the right to assign any or all of its rights under this Agreement as part of a bona fide merger, reorganisation or sale of its business.
- 10.6 Nothing in this Agreement shall be construed as creating a partnership, joint venture or agency relationship between the parties or give either party the power to bind the other.
- 10.7 No failure or delay by any party to exercise any right or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right or remedy. All such rights and remedies are several and cumulative and not exclusive of each other.
- 10.8 For the purposes of Section 1(2) of the Contracts (Rights of third Parties) Act 1999 the parties state that they do not intend any term of the Agreement to be enforced by third parties.
- 10.9 This Agreement shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts. Each party shall comply with all relevant laws relating to the subject matter of this agreement.

I have read and agree to the terms and conditions:

Organisation name:	Signatory name:
Date:.....	Signed:.....