



UK Umbrella Service Limited

Terms of Business

These Terms of Business contain all the terms that will govern the relationship of the parties and the provision of Services.

1. Definitions

In this Agreement, the following definitions shall apply:

Agreement	Together the Terms of Business and the Online Registration Form
Assignment	The Services provided in respect of each individual Application for DBS Disclosure
Business Day	a day other than a Saturday, Sunday or bank or public holiday in England (or other jurisdiction in which Services are being provided)
Applicant	A person in respect of whom the Client seeks the Services
Client	The client named in the Online Registration Form
DBS	Disclosure and Barring Service
DS	Disclosure Scotland
Data Providers	Clients, Applicants and other third parties
Data Protection Laws	The Data Protection Act 1998 (DPA); the General Data Protection Regulation (EU) 2016/679 (GDPR), and/or any corresponding or equivalent national laws or regulations
UKUS	UK Umbrella Service Limited
Personal data; processing; controller; processor	Shall have the meanings assigned to them in the Directive and “process” and “processed” shall be construed accordingly
Screening Form	A form by which the Client requests the Services in respect of a particular Applicant or Applicants
Services	The services set out in the Online Registration Form
Online Registration Form	Completed by the client to register for the services of UK Umbrella Service Limited
Terms of Business	The terms contained herein

2. The Services

UKUS will provide the Services as set out in the Online Registration Form document in a competent and professional manner and using reasonable skill and care.

UKUS will provide the Services to the Client for the sole purpose of facilitating DBS Disclosure for an Applicant as part of the Client’s own background screening procedures.

UKUS will only commence the provision of the Services in respect of a particular Applicant upon receipt of a DBS Disclosure Application Form signed by that Applicant.

Any estimated time period quoted for completion of the Services shall be calculated from the date of receipt by UKUS of the Disclosure Application Form from the Client.

While UKUS will make all reasonable efforts to effect performance of the Services in accordance with any timeframes stipulated in this Agreement or otherwise agreed in writing, UKUS gives no condition or warranty as to when the Services will be provided.

UKUS may sub-contract elements of the Services to certain suppliers with whom UKUS has a relationship.

The Client acknowledges and agrees that the Data Provider(s) are under no obligation to supply the information



required and therefore any failure on the part of the Data Provider(s) in this regard shall not be deemed as UKUS's breach of this Agreement, provided that UKUS has taken all reasonable steps to procure such information. The Client understands and agrees that UKUS does not warrant, vouch for, or authenticate the reliability of and shall have no liability for the information provided by Data Providers and sub-contractors except that UKUS will use all reasonable endeavours to ensure that the information provided has been accurately reported from source.

3. Client Obligations

The Client is responsible for requesting and, where consent is given by the Applicant, delivering a completed Disclosure Application Form to UKUS.

The Client shall at its own expense provide UKUS with all other information or materials requested by UKUS to enable them to perform the Services in accordance with the Agreement.

4. Data Protection

For the purposes of the Agreement, UKUS shall act as Data Processor and the Client shall act as Data Controller. The Client warrants that it is currently in compliance with and will continue to comply with the Data Protection Laws. In particular, the Client warrants that it will not request information within the scope of the Services where either such request or the procurement or provision of such information is unlawful (in the relevant jurisdiction(s)), unfair, irrelevant or excessive.

UKUS warrants that it is currently in compliance with and will continue to comply with the Act, in particular, UKUS warrants that:

- (a) it shall only process personal data in accordance with the Data Protection Laws;
- (b) it shall only process data in accordance with the Client's specific instructions;
- (c) it has appropriate technical and organisation measures in place to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction or damage. Hard copies of Disclosure information are kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties; UK Umbrella Service Limited utilises a system developed by Kent County Council for processing e-DBS applications and all information is therefore stored on their servers. These servers containing sensitive information are stored in accordance within ISO27001 standards, they are in secure, locked areas to prevent unauthorised access;
- (d) it shall not transfer an Applicant's personal data to a country or territory outside the European Economic Area, unless that country or territory has data protection obligations equivalent to those set out in the Data Protection Laws or the Applicant has otherwise consented.

In addition, UKUS warrants that it shall promptly notify the Client of:

- (a) any legally binding request for disclosure of an Applicant's personal data by a law enforcement authority or regulatory body unless otherwise prohibited;
- (b) any accidental or unauthorised processing of or access to an Applicant's personal data; and
- (c) any request for access to personal data received directly from an Applicant, without responding to that request, unless it has been otherwise authorised to do so.

UKUS shall under normal circumstances destroy all Applicants' personal data in a suitably confidential manner not later than six months for electronically stored data or 12 months for paper records from the date the particular Assignment was completed except to the extent that UKUS is permitted or required to retain copies of such personal data pursuant to any relevant legislation, whether existing at the time of the termination of the Agreement, or arising thereafter.

Where the Agreement expires or is earlier terminated pursuant to Clause 9, UKUS will either return all Applicants' personal data to the Client or destroy the same in accordance with clause 4.4 above. UKUS will also cease any further processing of personal data on behalf of the Client pursuant to this Agreement.

The Client understands and accepts that it is solely responsible for any and all actions, omissions and decisions made in respect of an Applicant based on the results of an Assignment and agrees that UKUS shall have no liability in this regard.

5. Fees and Payment

In consideration of the performance of the Services and grant of the licences under clause 6.1, the Client shall pay to UKUS compensation in accordance with the pricing schedule contained in the Online Registration Form.

The Client agrees to pay the fees immediately (with applications) or shall pay as invoiced, including any VAT due thereon within 14 days of receipt. Should an invoice not be paid within this timescale, UKUS is entitled (but not obliged) to charge the Client interest on the overdue amount, payable by the Client immediately upon demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 8% per annum above the base rate for the time being of Royal Bank of Scotland. Such interest shall accrue on a daily basis and be compounded quarterly.



If the Client notifies UKUS within seven days after receipt of an invoice that the Client in good faith reasonably disputes any or all of the amount billed on the invoice, the Client shall pay all charges that are not in dispute within 14 days of receipt of the invoice, whilst the items under dispute shall be paid immediately upon resolution of the dispute. UKUS shall not charge interest on any amounts disputed pursuant to this clause.

Payment shall be in £GBP and shall be paid in cleared funds into a bank account nominated by UKUS from time to time in writing.

The Client shall reimburse UKUS for all reasonable out-of-pocket expenses incurred by UKUS in connection with the performance of the Services (“reimbursable expenses”). Such expenses shall be payable only against itemised reports thereof (accompanied by supporting documentation) prepared consistent with good business practices.

6. Intellectual Property Rights

UKUS grants to the Client for the duration of this Agreement a non-exclusive, non-transferable, royalty-free licence in the jurisdiction in which Services are being performed to request Services and updates on the progress and results of each Assignment. Unless specified otherwise in this Agreement, no other intellectual property rights are granted to the Client.

7. Limitation of Liability and Indemnities

Nothing in this Agreement shall exclude or in any way limit either party’s liability for fraud, or for death or personal injury caused by its negligence. Subject to the above:

- (a) UKUS’s maximum aggregate liability under or in connection with this Agreement, whether in contract, tort (including negligence) or otherwise, will in no circumstances exceed the higher of (i) the total fees payable to UKUS hereunder during the preceding 12 months; and (ii) £25,000.
- (b) UKUS will not be liable under this Agreement for any loss of actual or anticipated income or profits, loss of contracts or for any special, indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.

The parties agree that any condition, warranty representation or other term concerning the performance of the Services which might otherwise be implied into or incorporated in this Agreement, whether by statute, common law or otherwise, is excluded to the maximum extent permitted by law.

The Client shall indemnify UKUS, any Associated Company (as defined in Clause 10.10), its and their officers, directors, employees and agents from and against any and all costs, claims, demands, liabilities, damages, expenses and losses (including without limitation indirect and consequential losses, loss of profit, loss of revenue and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) incurred or suffered by UKUS as a result of:

- (a) the Client’s breach of Clause 3.1 and/or 4.2;
- (b) the investigation of, preparation for or defence of, any pending or threatened litigation or claim by any third party in connection with this Agreement, the Services or the relationship between the parties; and
- (c) the Client’s negligence, recklessness or fraud (or that of any of its officers, employees, sub-contractors or agents).

8. Authority and Relationship of the Parties

Nothing in this agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power.

9. Termination of Agreement

This Agreement may be terminated as follows:

- (a) Immediately upon completion of the services specified in the Online Registration Form;
- (b) Immediately by either party upon serving written notice of termination to the other if that other is in material breach of any of its obligations under this Agreement and (in the case of a breach capable of remedy) fails to remedy that breach within a reasonable period of time (taking account of the nature of the breach and all surrounding circumstances) after receiving notice specifying the breach and requiring its remedy;
- (c) Immediately by either party in the event that an order is made or a resolution is passed for the winding up of the other party or circumstance arise which entitle a court of competent jurisdiction to make a winding-up order of the other party;
- (d) immediately by either party in the event that an order is made for the appointment of an administrator to manage the affairs, business and property of the other party or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the insolvency Act 1986);



- (e) immediately by either party in the event that a receiver is appointed of any of the other party's assets or undertaking or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party or if any other person takes possession of or sells the other party's assets;
- (f) immediately by either party in the event that the other party makes any arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for the protection of its creditors in any way or ceases to trade;
- (g) immediately by either party in the event that the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt;

Clauses 1, 4.2, 4.3, 4.6, 4.7, 5, 7, 9.2 and 10 shall survive the expiry or termination of this agreement.

10. General

If any provision of the Agreement is held to be unenforceable or invalid, only so much of that provision as may be unenforceable or invalid will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.

This Agreement shall be governed by the laws of England and the parties submit to the exclusive jurisdiction of the Courts of England in respect of any disputes, actions or other proceedings arising under or relating to it.

This Agreement is personal between the Client and UKUS and, save as set out in this Agreement, neither party shall assign, transfer or in any other manner make over to any third party the benefit and/or burden of this Agreement without the prior written consent to the other.

This Agreement sets out the entire agreement and understanding between the parties in respect of its subject matter and the Client acknowledges that it has entered into the Agreement in reliance only upon the representations, warranties and promises specifically contained or incorporated in the Agreement and save as expressly set out therein, UKUS shall have no liability in respect of any other representation, warranty or promise made prior to the date of the Agreement unless it was made fraudulently.

No purported variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each of the parties.

Neither party shall be in breach, or shall have any liability to the other in the event that such party is unable to perform its obligations under this Agreement as a result of war, acts of terrorism, strikes, labour disturbances, lockout, riot, fire, flood, outside electrical failure, computer virus, outside telecommunications failure, or other cause that is similarly beyond their reasonable control, except with regard to a failure or delay in the performance of payment obligations hereunder, which shall not be excused by this Clause.

Any notice to be given under this Agreement shall be in writing and shall be delivered by pre-paid recorded delivery or registered post, by hand or sent by facsimile to the address and for the attention of the relevant party set out in the Online Registration Form (or as otherwise notified by that party hereunder). Any such notice shall be deemed to have been received;

- (a) is delivered by pre-paid recorded delivery of registered post, 48 hours from the date of posting;
- (b) if delivered personally, at the time of delivery; and
- (c) in the case of facsimile, at the time of transmission.

This Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the Parties hereto.

The invalidity or unenforceability of any particular provision of this Agreement in any jurisdiction shall not affect the other provisions hereof or such provision in other jurisdictions, and this Agreement shall be construed in such jurisdiction in all respects as if such invalid or unenforceable provisions were omitted. Furthermore, in lieu of such illegal, invalid, or unenforceable provision in such jurisdiction there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid, or unenforceable provisions as may be possible and be legal, valid and enforceable.

In this Agreement "Associated Company" shall mean any holding company (as defined in Sections 736 and 736A of the Companies Act 1985) and any subsidiary (as defined in Sections 736 and 736A of the Companies Act of 1985) of UKUS, and any subsidiary of such holding company. This definition shall also include any holding company or subsidiary incorporated under the laws of another country.

The headings to the clauses in this are for ease of reference only and shall not form any part of this Agreement for the purposes of construction.