

CONTRACT BETWEEN [ACCREDITED USER] AND [CUSTOMER] FOR THE PROVISION OF NATIONAL CRIMINAL HISTORY RECORD CHECKING SERVICES

Parties

This Contract is made between and binds the following parties:

[Insert Name of Accredited User] (herein referred to as 'the Accredited User')

[Insert Name of Customer] (herein referred to as 'the Customer')

herein referred to as either the 'Party' or collectively as 'the Parties'.

Recitals

- A. CrimTrac, in cooperation with the Australian Police Services, uses a central index of information to provide National Criminal History Record Checking Services (NCHRC Services) to Accredited Users, principally for the purpose of ensuring that persons in positions of trust or specified fields of endeavour or who are required to meet mandated requirements are adequately screened for criminal records.
- B. The Accredited User has been approved by CrimTrac (on behalf of the Australian Police Services) to have access to NCHRC Services in order to provide them to its Customers.

The Parties agree as follows:

1. Definitions

- 1.1. Unless the contrary intention appears a term in bold type has the meaning shown opposite it:

Accredited User means an agency approved by CrimTrac and the Australian Police Services to access NCHRC Services through CrimTrac in accordance with the document *Accreditation Procedures to Access NCHRC Services*;

Applicant means an individual who provides Informed Consent to a NCHRC being conducted on him or her;

Authorised Officer means an officer of the Customer authorised to request, access or use information released under this Contract in accordance with clause 11;

Confidential Information means information that:
a. is by its nature confidential;
b. is designated by the Australian Police Services as confidential; or
c. Criminal History Information;

the Contract	means this agreement;
Copy	means any document, device, article or medium in which Criminal History Information of CrimTrac is embodied;
Criminal History Information (CHI)	means information relating to records of court convictions and findings of guilt, or other information regarding the Applicant obtained by a Police Service and included within a NCHRC. This information will be released subject to relevant spent convictions/ non-disclosure legislation and/or information release policies in individual jurisdictions;
CrimTrac	means the principal provider of CHI on behalf of Australian Police Services;
Customer	means a client of the Accredited User to whom the Accredited User provides NCHRC Services on behalf of CrimTrac;
Customer's Purpose	means the Customer's purpose for requesting NCHRC services as agreed between the Parties
Informed Consent	<p>means that the Applicant has signed a consent and acknowledgement form that sets out:</p> <ol style="list-style-type: none"> a. the nature of a NCHRC; b. the purpose(s) for which the information is being collected, being to authorise the Customer to obtain CHI (including explaining what CHI means in the same terms in which CHI is defined in this Contract); c. any person to whom, or agency to which, the information will be disclosed (CrimTrac, Federal, State or Territory Police); d. any law which requires that their personal information be collected and the consequences of not complying; <p>and requires the Applicant to acknowledge the fact that those persons to whom or agencies to which the information is disclosed may use the information for their own law enforcement purposes, including the investigation of any outstanding criminal offences;</p>
National Criminal History Record Check (NCHRC)	means a criminal history record check carried out by CrimTrac subject to clause 5;
Personnel	means Personnel of the Customer who are authorised by the Authorised Officer of the Customer to handle

CHI and other data relevant to Applicants;

Police Service

means the Police Service of any State or Territory of Australia and of the Commonwealth of Australia in respect of the Australian Federal Police;

Potential Match

means the result of an enquiry of the central index of names of persons of interest that has produced a name to be referred to Police Services.

2. Term of Contract

- 2.1. The term of this Contract is contingent upon the ability of the Accredited User to provide NCHRC Services through CrimTrac and is subject to termination for non-compliance by the Customer in accordance with clause 13.

3. Property In Criminal History Information

3.1 Property Ownership

- 3.1.1. Property in Criminal History Information provided to the Accredited User vests in CrimTrac.

3.2. Copies

- 3.2.1 Property in each Copy vests or will vest in CrimTrac.

4. Obligations of the Accredited User

- 4.1. The Accredited User will provide information concerning the results of the NCHRC to the Customer.

5. Limitations of NCHRC Services

- 5.1. A NCHRC does not purport to be a complete and comprehensive search of all Australian police records. Its accuracy and coverage are contingent upon accurate identification of the Applicant and the quality of police records.

6. Obligations of the Customer

- 6.1. In a request for a NCHRC, the Customer will provide to the Accredited User the personal details of the Applicant.
- 6.2. The Customer must establish the true identity of the Applicant prior to the check being conducted. The 100-point check described in the *Financial Transaction Reports Regulations 1990 (Cth)*, available from <http://www.austrac.gov.au/guidelines/forms/201.pdf>, is the minimum standard for determining identity.

- 6.3. The Customer may only request a NCHRC for the Customer's Purpose subject to having obtained the Informed Consent of the Applicant.

7. Informed Consent

- 7.1. The Customer must ensure that the Applicant provides Informed Consent to the NCHRC and to disclosure of any CHI to the Accredited User.
- 7.2. The Accredited User will retain a copy of the completed consent and acknowledgement form or ensure that the Customer has retained the original of the completed consent and acknowledgement form for audit and legal purposes.

8. Compliance with laws relating to privacy

- 8.1. In the event that a Party is not subject to the *Privacy Act 1988* (Cth), that Party shall be obliged to act in a manner consistent with the obligations of an organisation as defined in the Privacy Act and take all actions as if it were bound by that Act, including, in particular, the National Privacy Principles as defined by that Act.

9. Protection of Information

- 9.1. The Parties must ensure that the Criminal History Information is protected through the implementation of procedures which include the following:
- a. Only the Authorised Officer and Personnel have access to the CHI;
 - b. The CHI is only used by the Authorised Officer and Personnel for the purposes for which a NCHRC is requested;
 - c. The CHI is not disclosed to any other agency, entity or person not covered by this Contract without the prior written agreement of CrimTrac and, where disclosure is required by law, CrimTrac is to be informed; and
 - d. The Customer will comply with further security requirements in relation to the protection of CHI as advised by the Accredited User or CrimTrac from time to time.
- 9.2. The Parties will keep the CHI secure and protected by implementing safeguards to prevent loss, unauthorised access, use, modification, disclosure or other misuse, including unauthorised reproduction by any means within their respective agencies.
- 9.3. The Parties, in consultation with each other, will implement a system of tracking the despatch, receipt, handling, storage and disposal of the CHI and consent and acknowledgement forms.

10. Retention of Information

- 10.1. The Customer will manage the CHI at all times so as to protect the privacy of Applicants and the confidentiality of the CHI and will dispose of the CHI in accordance with the following requirements:
- 10.2.
- a. Retain as permanent records documents, including but not limited to, the original completed consent and acknowledgement forms, confirmation that a NCHRC has been conducted, and documentation on how the CHI affected any associated decision making processes within the Customer.
 - b. The Customer will not make CHI or Copies a permanent part of its records and will retain such CHI or Copies for a period not exceeding three months.
 - c. CHI will be destroyed by the Personnel authorised to have access to the information by any method that will prevent the identity of the Applicant being deduced from reconstitution of the residue.

11. Audit and Assurance Processes

- 11.1. The Customer must fully participate in external audits arranged by the Accredited User to assess compliance with this Contract. The requirements of the audit process are set out in the document *NCHRC Audit and Review Program*, as updated from time to time by CrimTrac.

12. Authorised Officer and Personnel

- 12.1. The Customer will identify an Authorised Officer, by written notice to the Accredited User, who will control access to, and the handling of, the CHI provided under this Contract.
- 12.2. The Authorised Officer may appoint Personnel to work under the authority or direction of the Authorised Officer, and will inform, and update as changes in Personnel occur, the Accredited User of the names of Personnel.
- 12.3. As conditions of acquiring and maintaining their status as an Authorised Officer or Personnel, the person nominated by the Customer will be subject to any security measures as deemed necessary by the Accredited User or CrimTrac.
- 12.4. The Authorised Officer and Customer will not at any time contact CrimTrac and will direct queries arising from this Contract to the Accredited User.

13. Termination or reduction in scope of the NCHRC services

13.1. The Accredited User may, by written notice, terminate this Contract or reduce the scope of the NCHRC services at any time for reason of the Customer's non-compliance with the Contract or for reason of CrimTrac's termination or reduction of NCHRC services, but without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either Party.

14. Confidential Information not to be disclosed

14.1. The Parties will not disclose, other than to each other, any Confidential Information relating to this contract or the NCHRC services without the prior written approval of the other Party.

15. Survival

15.1. Unless the contrary intention appears, the expiry or earlier termination of this Contract will not affect the continued operation of any provision relating to:

- a. Confidential Information;
- b. the protection of Criminal History Information;
- c. audit and assurance processes; or
- d. any other provision which expressly or by implication from its nature is intended to continue.

SIGNED for and on behalf of the Accredited User by:

SIGNED for and on behalf of the Customer by:

Name of signatory

Signature

Name of signatory

Signature