



GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1. **"Terms and Conditions"** means these terms and conditions applying to Customer/Client and the use of Website and the Key Background Checks Products, as amended and/or published by KEY BACKGROUND CHECKS from time to time and when used in the context of this document shall also refer to the Agreement;
- 1.2. **"www.keybackgroundchecks.co.za"** means Key Background Checks (Proprietary) Limited, a company with limited liability duly registered and incorporated in accordance with the laws of the Republic of South Africa with registration number 2017/519271/07, having its main place of business at 43 Montrose Str, Vorna Valley, Midrand, 1686
- 1.3. **"Parties"** means, collectively, KEY BACKGROUND CHECKS and the Customer/Client and **"Party"** means any one of them.
- 1.4. **"Access Codes"** means all usernames, passwords, access codes or other devices issued by KEY BACKGROUND CHECKS.
- 1.5. **"Agreement"** means these Terms and Conditions read with the Pricing & SLA ("Key Background Checks SLA Reporting Response Time & Pricing").
- 1.6. **"Customer/Client"** means any person, whether a natural or juristic person, who procures Search Data from KEY BACKGROUND CHECKS by means of the Website and/or any of the Key Background Checks Products or otherwise, whether directly through KEY BACKGROUND CHECKS and/or through a Reseller;
- 1.7. **"Effective Date"** means the effective date of this Agreement, being the Customer/Client register.
- 1.8. **"Data Enquiry"** means a request for the supply of Search Data relating to a Data Subject submitted by a Customer/Client to KEY BACKGROUND CHECKS by means of the Website, a Key Background Checks Product or otherwise.
- 1.9. **"Data Subject"** means a person, whether a natural or juristic person, forming the subject matter of a Data Enquiry.

2. GENERAL TERMS AND CONDITIONS

- 2.1. These Terms and Conditions:
 - 2.1.1. Are valid from the Effective Date; except where otherwise indicated replace any previous terms and conditions, if any, relating to the subject matter hereof and shall prevail notwithstanding any publicity material published by KEY BACKGROUND CHECKS are binding on all Customer/Client/s and will at all times govern the relationship between KEY BACKGROUND CHECKS and the Customer/Client/s.
- 2.2. KEY BACKGROUND CHECKS shall be entitled to amend these Terms and Conditions, upon written notice of no less than 60 (sixty) days of the revised terms and conditions to the Customer/Client.

2.3. All Customer/Client s shall be deemed to have read and unconditionally accepted the Terms and Conditions.

3. **TERM**

3.1. The Agreement may be terminated at any time by either Party provided that:

3.1.1.the terminating Party supplies the other Party with written notice of its intention to terminate the Agreement.

4. **KEY BACKGROUND CHECKS PRODUCTS**

4.1. KEY BACKGROUND CHECKS hereby grants to the Customer/Client, subject to the terms and conditions contained herein, the non-transferable, non-exclusive use and/or access to the Website and the Key Background Checks Products.

4.2. KEY BACKGROUND CHECKS shall provide the Search Data to the Customer/Client as and when requested by the Customer/Client with service levels measured against the time periods stipulated in the **Pricing & SLA**.

4.3. The Customer/Client shall not alter, modify, transmit or reproduce the Website and/or the Key Background Checks Products, except insofar as such alternation, modification, transmission or reproduction has been agreed to by KEY BACKGROUND CHECKS, in writing.

4.4. The Customer/Client acknowledges that the Search Data shall be selected by KEY BACKGROUND CHECKS in its sole discretion and that the Search Data may be obtained from third parties ("Content Providers").

4.5. The Customer/Client undertakes to provide the appropriate technical infrastructure to users of the Website to enable such Customer/Client users to access the Website via the Internet, in an effective and efficient manner.

4.6. KEY BACKGROUND CHECKS undertakes to provide the personnel appointed by the Customer/Client as Customer/Client administrators, with adequate training on the KEY BACKGROUND CHECKS system to enable such users to be able to use the system efficiently and effectively. The training shall be at cost as agreed between the Parties.

4.7. The Customer/Client acknowledges that, where the Search Data includes fingerprint data, there are additional risks if it relies on fingerprints not captured by the Customer/Client itself (or its duly appointed agents or staff). For the avoidance of doubt, the Customer/Client will be solely liable for obtaining the necessary consent of the Data Subject prior to submission or use of fingerprint Search Data.

5. **FEES AND CHARGES**

5.1. The Customer/Client shall pay KEY BACKGROUND CHECKS a fee for every Personal Credential that Key Background Checks verifies on behalf of the Customer/Client.

5.1.1.Individuals – Payment is required in advance & results may not be released without payment reflecting in our bank account:

5.1.2.Key Background Checks shall invoice the Client/Customer in accordance with the fees and charges set out in Pricing & SLA website.

5.1.3.Client/Customer shall pay the Company in accordance with the invoices by no later than 30 (thirty) days from the date of the invoice, free of exchange and without deduction or set-off of any nature whatsoever

- 5.1.4. Invoices will be sent to the Customer/Client designated official for process of payment;
- 5.1.5. Pricing will be renegotiated on an annual basis during the first quarter of each calendar year. Notwithstanding annual prices increases, if any fees and charges are based on any tariff or amount prescribed in terms of any Regulatory Provision or price increase implemented by Recruitment Partner, then

5.2. KEY BACKGROUND CHECKS also reserves the right to renegotiate such fees.

6. **Credit Card Payment and Refund Policy**

- 6.1. Credit Card Payment is immediately authorized by an online payment gateway, provided that all details are correctly captured. Key Background Checks takes no responsibility for the fraudulent use of credit cards. Payment by credit card attracts a surcharge, levied by the payment bureau, which will increase the cost of your inquiry.
- 6.2. Note that once a Background Screening order has been captured, it is considered to be an authorization to start the verification process by Key Background Checks. As such, no refunds or adjustments to orders will be contemplated once the order has been paid for.

7. **USE AND RETENTION OF SEARCH DATA AND ACCESS TO THE KEY BACKGROUND CHECKS PRODUCTS**

- 7.1. The Customer/Client agrees that the Website www.keybackgroundchecks.co.za & it's Products and Search Data will be used solely by the Customer/Client.
- 7.2. It is recorded that the Customer/Client shall not be entitled to alter, amend, sell, let, license, transfer, transmit or otherwise distribute:
 - 7.2.1. Search Data; or
 - 7.2.2. any of the Key Background Checks Products;
 - 7.2.3. its access to the Website and/or the Key Background Checks Products; or any part thereof, to any third party without the express prior written approval of KEY BACKGROUND CHECKS. Where the consent of KEY BACKGROUND CHECKS has been validly obtained, the Customer/Client must accredit the Key Background Checks Products, or any data or information comprising the Search Data, to KEY BACKGROUND CHECKS, in the manner specified by KEY BACKGROUND CHECKS in writing.
- 7.3. The Parties shall comply with all Regulatory Provisions relating to the Key Background Checks Products, the Website and Search Data (including without limitation the use, storage and maintenance of Search Data) and shall dispose of Search Data in the manner and when required in terms of any Regulatory Provisions.
- 7.4. All Access Codes issued to the Customer/Client shall be for the sole and exclusive use of the Customer/Client. The Customer/Client shall at all times take such reasonable measures as may be required in order secure the Access Codes and shall not release or in any way disclose or release the Access Codes to any third party.
- 7.5. KEY BACKGROUND CHECKS shall store a record of all Data Enquiries conducted by the Customer/Client and all Search Data provided to the Customer/Client pursuant to such Data Enquiries. Such data shall however be deleted by KEY BACKGROUND CHECKS when required in terms of any Regulatory Provision or by any Competent Authority.
- 7.6. It is recorded that the Customer/Client shall be required to accept the relevant Credit Bureaus terms and conditions available on our website each time a credit search is conducted.

8. **INTELLECTUAL PROPERTY**

- 8.1. The Customer/Client acknowledges that any and all intellectual property rights in, relating to, used or embodied in, or in connection with the Key Background Checks Products or the Website are not acquired by the Customer/Client but remain the property of KEY BACKGROUND CHECKS or its Content Providers, as the case may be. The Customer/Client shall at no time in any way question or dispute the ownership by KEY BACKGROUND CHECKS or its Content Providers, as the case may be, of any such rights.
- 8.2. The Customer/Client shall not modify, alter or combine any of the Key Background Checks Products delivered in terms of these Terms and Conditions if any such modification, alteration or combination would constitute an infringement of the intellectual property rights of KEY BACKGROUND CHECKS, its Content Provider or any third party.
- 8.3. KEY BACKGROUND CHECKS shall have no liability to the Customer/Client if any intellectual property infringement and resultant claim is based upon the use of the Key Background Checks Products in a manner not expressly authorized by these Terms and Conditions.
- 8.4. The Customer/Client hereby indemnifies and holds KEY BACKGROUND CHECKS harmless from any loss, costs or expense suffered or incurred in connection with any claim, suit or proceeding brought against KEY BACKGROUND CHECKS insofar as it is based on a claim that the unlawful supply, unlawful or unauthorized access, unlawful or unauthorized use or unauthorized sub-licensing of any of the Key Background Checks Products delivered in terms of these Terms and Conditions, and modified, or altered or combined with other information, data or Key Background Checks Products by the Customer/Client, constitutes an infringement because of such modification, alteration or combination.

9. REPRESENTATIONS AND WARRANTIES OF THE CUSTOMER/CLIENT

- 9.1. The Customer/Client represents and warrants that:
 - 9.1.1. it has the right, power and authority to enter into these Terms and Conditions and to fully perform its obligations under these Terms and Conditions;
 - 9.1.2. it has and shall at all times continue to comply with all Regulatory Provisions, as well as the conditions, standards and requirements prescribed by any Regulatory Provision or any Competent Authority which may be applicable from time to time in respect of the Key Background Checks Products, the Website and/or the Search Data.
 - 9.1.3. it shall not do or omit to do anything which may cause KEY BACKGROUND CHECKS any harm or loss, including but not limited to any injury to the reputation of or goodwill attaching to KEY BACKGROUND CHECKS;
 - 9.1.4. it shall immediately notify KEY BACKGROUND CHECKS if there is any reason to believe that the Key Background Checks Products, the Website and/or Search Data has become compromised or is likely to become known or used by someone not authorised to use it or is being or is likely to be used in an unauthorised way;
 - 9.1.5. it shall use its reasonable endeavours to provide any assistance as may be requested by KEY BACKGROUND CHECKS upon the happening of any event.
 - 9.1.6. it shall procure Search Data from KEY BACKGROUND CHECKS and use such Search Data only, for a legitimate purpose and to the extent permitted or required by the National Credit Act or other applicable Regulatory Provision; or as directed by:
 - 9.1.7. it shall obtain the consent of the Data Subject, prior to submitting a Data Enquiry, where such consent is required in terms of the National Credit Act or other applicable Regulatory Provision. time.

10. REPRESENTATIONS AND WARRANTIES OF KEY BACKGROUND CHECKS

KEY BACKGROUND CHECKS has not made and does not make any representations nor gives any warranties or guarantees of any nature whatsoever which are not specifically set forth in or contemplated by these Terms and Conditions, including, without limitation in relation to the accuracy, efficacy or completeness of the Key Background Checks Products, the Website or any Search Data.

11. INDEMNIFICATION BY THE CUSTOMER/CLIENT

- 11.1. The Customer/Client agrees to, and shall, indemnify, defend and hold harmless KEY BACKGROUND CHECKS, its Affiliates and their respective directors, shareholders, officers, agents, employees, successors and assigns from and against any and all claims, demands, suits, actions, judgements, damages, costs, losses, expenses (including attorney's fees and expenses) and other liabilities arising from and in connection with or related in any way, whether directly or indirectly, to:
- 11.1.1. the Customer/Client 's performance of its obligations, in terms of these Terms and Conditions; or
 - 11.1.2. any breach or alleged breach of any of the representations, warranties, undertakings or agreements made by the Customer/Client under these Terms and Conditions; or
 - 11.1.3. any claim by a third Party arising from any claim, injury, loss or damage for which KEY BACKGROUND CHECKS
 - 11.1.4. the exercise by KEY BACKGROUND CHECKS of any of its rights in terms of these Terms and Conditions;
 - 11.1.5. any breach, wrongful act or omission of KEY BACKGROUND CHECKS or any of KEY BACKGROUND CHECKS's Affiliates and their respective directors, shareholders, officers, agents, employees, successors and assigns in connection with these Terms and Conditions, any Search Data, the Website or any Key Background Checks Product; and/or
 - 11.1.6. any third party claim which arises out of or in connection with the Customer/Client or its representatives collecting fingerprint Search Data other than as set out or provided for in this Agreement, whether such third party claim comes from a Data Subject, an alternative individual or from another user of Search Data.
 - 11.1.7. any third party claim which arises out of or in connection with your use of Search Data (including fingerprint data) other than as strictly permitted by this Agreement, whether such third party claim comes from a Data Subject, an alternative individual or from another user of Search Data.
- 11.2. The Customer/Client shall promptly notify KEY BACKGROUND CHECKS of any such claim against it. The Customer/Client shall bear full responsibility for the defence (including any settlements), provided, however,
- 11.2.1. the Customer/Client shall keep KEY BACKGROUND CHECKS informed of and consult KEY BACKGROUND CHECKS in connection with the progress of such litigation or settlement; and
 - 11.2.2. the Customer/Client shall not have any right, without notice to the KEY BACKGROUND CHECKS, to settle any such claim if such settlement arises from or is part of any criminal action, suit or proceeding or contains a stipulation or admission or acknowledgement of, any liability or wrongdoing (whether in contract, delict or otherwise) on the part of KEY BACKGROUND CHECKS and/or any of KEY BACKGROUND CHECKS's Affiliates.

12. EXCLUSION OF LIABILITY

- 12.1. The Customer/Client agrees that KEY BACKGROUND CHECKS, its Affiliates and their respective directors, shareholders, officers, agents, employees, successors and assigns shall not be responsible and the Customer/Client hereby absolves and holds KEY BACKGROUND CHECKS harmless for any loss of whatever nature, howsoever arising or caused, including but not limited to as a result of:
- 12.1.1. the Customer/Client using the Website or any Key Background Checks Product contrary to these Terms and Conditions;
 - 12.1.2. the submission of any Data Enquiry;
 - 12.1.3. the use of any Search Data by the Customer/Client or any other person whatsoever in terms of these Terms and Conditions.
 - 12.1.4. KEY BACKGROUND CHECKS shall not under any circumstances whatsoever be liable for any consequential damages suffered by the Customer/Client, including but not limited to loss of property, profit, business, revenue, goodwill or anticipated savings.

13. BOOKS, RECORDS AND AUDITS

- 13.1. The Customer/Client shall, in respect of each Data Enquiry, maintain the Prescribed Records in respect of such Data Enquiry for a period of 12 (Twelve) months following the date upon which each such Data Enquiry is made.
- 13.2. Upon no less than 10 (ten) days' written notice to the Customer/Client, KEY BACKGROUND CHECKS or its authorised agent may audit the Prescribed Records to ensure compliance with these Terms and Conditions.
- 13.3. All costs incurred by either of the Parties in respect of any audit conducted pursuant to clause 13.2 shall be borne by KEY BACKGROUND CHECKS, save where such audit reveals a breach of these Terms and Conditions by the Customer/Client or a material defect in the Prescribed Records not caused by the
- 13.4. Notwithstanding any clause KEY BACKGROUND CHECKS shall at any time be entitled, but not obliged, to require the Customer/Client to provide KEY BACKGROUND CHECKS with written proof of any consent required to be procured from a Data Subject pursuant to the National Credit Act or any applicable Regulatory Provision, prior to releasing Search Data to the Customer/Client .

14. ENTITLEMENT OF KEY BACKGROUND CHECKS

- 14.1. KEY BACKGROUND CHECKS shall be entitled to,:
- 14.1.1. change the make-up or the technical specification of the Website or any Key Background Checks Product;
 - 14.1.2. suspend the Customer/Client 's access to the Website for operational reasons such as repair, maintenance or improvement or because of an emergency on reasonable written notice at the least possible inconvenience to the Customer/Client; or
 - 14.1.3. suspend the Customer/Client 's access to the Website and/or any Key Background Checks Product if the Customer/Client has breached these Terms and Conditions.
 - 14.1.4. KEY BACKGROUND CHECKS reserves the right to revoke the Customer/Client 's access to the Website and/or the Key Background Checks Products at any time if there is a serious risk of compromise to the integrity of the Website, any Key Background Checks Product, the Search Data or otherwise.
 - 14.1.5. The Customer/Client shall use its best endeavours to grant KEY BACKGROUND CHECKS such access and provide any assistance as may be requested by KEY BACKGROUND CHECKS.

15. PRIVACY POLICY

15.1. The Customer/Client acknowledges and accepts KEY BACKGROUND CHECKS's privacy policy as published on the Website from time to time.

16. ASSIGNMENT, CESSION AND DELEGATION

16.1. Neither Party shall be entitled to assign, cede, delegate nor transfer any rights or obligations acquired in terms of these Terms and Conditions, in whole or in part, to any other party or person without the prior written consent of the other Party.

17. CONFLICTS AND AMBIGUITIES

17.1. If there is any conflict between these Terms and Conditions and any other terms, rules or regulations of the Key Background Checks Products, these Terms and Conditions shall prevail.

17.2. If there is any conflict between these Terms and Conditions and any agreement between a Reseller and the Customer/Client, these Terms and Conditions shall prevail.

18. STATUS OF THE RELATIONSHIP BETWEEN THE PARTIES

18.1. These Terms and Conditions shall not operate to constitute the Customer/Client as a partner, employee and/or agent of KEY BACKGROUND CHECKS and the Customer/Client shall not represent itself as such.

18.2. Nothing contained in the Terms and Conditions shall authorize or empower one Party to enter into any contracts or other commitments on behalf of the other Party.

19. NOTICES AND LEGAL PROCESS

19.1. Each Party chooses as its address for all purposes under these Terms and Conditions ("chosen address"), whether for serving any court process or documents, giving any notice, or making any other communications of whatsoever nature and for any other purpose arising from these Terms and Conditions ("notice"), the address specified by the Customer/Client and KEY BACKGROUND CHECKS on the cover page of this Agreement.

19.2. Any notice required or permitted under these Terms and Conditions shall be valid and effective only if in writing.

19.3. Any Party may by notice to the other Party change its chosen address to another physical address in the Republic of South Africa and such change shall take effect on the seventh day after the date of receipt by

19.4. Any notice to a Party contained in a correctly addressed envelope and delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received on the date of delivery.

19.5. Notwithstanding anything to the contrary herein, a written notice actually received by a Party, including a notice sent by telefax, shall be an adequate notice to it.

20. GENERAL AND MISCELLANEOUS

20.1. These Terms and Conditions constitutes the sole record of the agreement between the Parties with regard to the subject matter hereof. Neither Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein.

20.2. No relaxation or indulgence by either Party may constitute a waiver of the rights of such Party and shall not preclude such Party from exercising any rights which may have arisen in the past or which might arise in future.

- 20.3. Any provision of these Terms and Conditions which contemplates performance or observance subsequent to any termination or expiration of these Terms and Conditions shall survive any termination
- 20.4. No addition to, variation of, or agreed cancellation of, these Terms and Conditions shall be of any force or effect unless in writing and signed by or on behalf of both the Parties.