



Call-off Contract
Information Sharing Agreement
Between
ACRO Criminal Records Office
As hosted by Hampshire Constabulary
And
ITAL Group Limited



ACRO Criminal Records Office



Summary Sheet

| Freedom of Information Act Publication Scheme | |
|--|--|
| Security Classification (GSC) | OFFICIAL |
| Publication Scheme Y/N | Yes |
| Title | A purpose specific Information Sharing Agreement between ACRO Criminal Records Office (ACRO) as hosted by Hampshire Constabulary, acting on behalf of UK police forces that are subject to the ACRO collaboration agreement, and ITAL Group Limited (ITAL) acting on behalf of Chiltern Railway, Anglia and West Midlands Trains. |
| Version | 0.3 |
| Summary | <p>This Information Sharing Agreement (hereafter referred to as the Agreement) formalises the arrangements for the ACRO Criminal Records Office (ACRO) as hosted by Hampshire Constabulary, acting on behalf of UK police forces that are subject to the ACRO collaboration agreement, to provide ITAL, with access to relevant information held on the Police National Computer (PNC), specifically convictions, cautions, reprimands and final warnings for prosecution purposes where court results are required for recordable and non-recordable offences.</p> <p>Furthermore, this Agreement allows for the recording of details of individuals prosecuted by ITAL, under the Railways Act 1993, for offences detailed in the Regulation of Railways Act 1889, the Railways (Penalty Fares) Regulations 2018, Railways Act 1993, the Fraud Act 2003, and other recordable offences where ITAL may act as the Prosecuting Agent on to PNC for the purposes of investigations into offences committed in connection with train fare evasion and fraud.</p> |
| Author | ACRO Senior Development Officer |
| Renewal date | 14/03/2023 |
| Date Issued | 14/09/2022 |
| ISA Reference | ACRO/142 |
| Location of Agreement | ACRO ISA Library |
| ACRO DPIA Reference | DPIA 142 |

[Contents](#)

| | |
|---|----|
| Summary Sheet | 3 |
| 1 Participants to the Agreement | 6 |
| 2 Agreed Terms | 6 |
| 3 Purpose and background of the Agreement | 9 |
| 4 Powers..... | 11 |
| 5 Process..... | 14 |
| 6 Submission..... | 16 |
| 7 Provision of Information..... | 16 |
| 8 Recording Convictions on the PNC..... | 17 |
| 9 Information Security..... | 19 |
| 10 Information Management | 21 |
| 11 Complaints and Breaches | 22 |
| 12 Information Rights | 23 |
| 13 Reuse of Personal Data Disclosed under this Agreement..... | 24 |
| 14 Roles and responsibilities | 24 |
| 15 Charges..... | 25 |
| 16 Termination..... | 26 |
| 17 Dispute resolution..... | 26 |
| 18 Warranties and Indemnities..... | 27 |
| 19 Force Majeure..... | 29 |
| 20 Variation..... | 29 |
| 21 Waiver | 29 |
| 22 Severance | 29 |
| 23 Changes to the applicable law | 29 |
| 24 No partnership or agency | 29 |

| | | |
|----|-------------------------------------|----|
| 25 | Rights and remedies | 30 |
| 26 | Notice | 30 |
| 27 | Governing law and Jurisdiction..... | 30 |
| 28 | Signature..... | 31 |

1 Participants to the Agreement

1.1 ACRO Criminal Records Office (ACRO) as hosted by Hampshire Constabulary
PO Box 481
Fareham
PO14 9FS

1.2 ITAL Group Limited (**Prosecuting Agent**)
Unit 44-47 Ground Floor
Building 1000 Lakeside North Harbour
Western Road
Portsmouth
PO6 3EZ

2 Agreed Terms

2.1 Interpretation

In addition to the definitions listed in the Framework Agreement which shall have the meanings given to them in the Framework Agreement for the purposes of this Call-Off Contract, the following definitions and rules of interpretation apply in this Call-Off Contract.

2.1.1 Definitions:

Agreed Purpose: has the meaning given to it in clause 3.2 of this Agreement.

ACRO: ACRO Criminal Records Office as hosted by Hampshire Constabulary

ATOC: Association of Train Operating Companies

Criminal Offence Data is personal data relating to criminal convictions and offences or related security measures and includes personal data relating to the alleged commission of offences by the data subject, or proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings, including sentencing. (DPA 2018 S11 (2)).

Data Protection Legislation: the General Data Protection Regulation as enacted into English law (**GDPR**) as revised and superseded from time to time; the Data Protection Act 2018; and any other laws and regulations relating to the processing of personal data and privacy which apply to a party and, if applicable, the guidance and codes of practice issued by the relevant data protection or supervisory authority.

Framework Agreement: the framework agreement between ATOC Limited and ACRO dated 14th June 2021

Franchise: the rail franchise which the Train Operator operates under an agreement with the Secretary of State for Transport

ITAL: ITAL Group Limited – ITAL is used to refer to them in this document

NPA: Non Police Agency

NPCC: National Police Chiefs' Council

NPPA: Non Police Prosecuting Agency

Personal Data means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person (GDPR 2018 Article 4).

Personal Data Breach: a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data.

Shared Personal Data: the personal data to be shared between the parties under clause 5.1.2 and 5.2.2 of this Agreement.

Special categories of personal data is data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited (GDPR 2018 Article 9).

Subject Information Rights: means the exercise by a data subject of his or her rights under Articles 13-22 of the GDPR.

Supervisory Authority: the Information Commissioner or country equivalent.

Ticketless Travel: Includes fare evasion as defined by the Department of Transport

- 2.1.2 **Controller, Processor, Data Subject and Personal Data, Special Categories of Personal Data, Processing** and "appropriate technical and organisational measures" shall have the meanings given to them in the Data Protection Legislation.
- 2.1.3 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 2.1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 2.1.5 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 2.1.6 Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.
- 2.1.7 A reference to **writing** or **written** includes email.
- 2.1.8 Unless the context otherwise requires the reference to one gender shall include a reference to the other genders.

3 Purpose and background of the Agreement

3.1 Background

- 3.1.1 ACRO is a national police unit under the NPCC working for safer communities. ACRO is the national police unit responsible for exchanging criminal conviction information between the UK and other countries. ACRO provides access to information held on the PNC to support the criminal justice work of some non-police prosecuting agencies; and assist safeguarding processes conducted by relevant agencies.
- 3.1.2 The Train Operator provides passenger services for the rail network on behalf of the Secretary of State for Department for Transport through Franchise or Concession Agreements. Part of their role as a Train Operator is to ensure fares are applied consistently and fairly and that passengers pay the relevant fare to travel with a valid ticket. Where passengers do not purchase a valid ticket, Train Operators are able to issue penalty fares under relevant Penalty Fare schemes. ITAL are an authorised prosecuting agency providing revenue protection services for several Train Operators, namely Chiltern Railways, Greater Anglia and West Midlands Trains. Where penalty fares are not paid, ITAL (acting on behalf of the Train Operators they represent) are able to prosecute passengers for fare evasion and fraud offences.
- 3.1.3 The Association of Train Operating Companies (ATOC) brings together all passenger and freight operators with Network Rail and HS2 (new high speed railway linking London, the Midlands and the North), providing services and support to enable them to succeed by delivering better services for their customers and to transform and deliver a successful railway, benefiting customers, taxpayers and the economy. ATOC ensures a coherent national approach is reflected across their member Train Operators and facilitates wider industry change.
- 3.1.4 ACRO and ITAL entered into the Framework Agreement to agree the basis on which Train Operators/Prosecuting Agents (including the Prosecuting Agent) share information with and drawdown services from ACRO in particular to ensure that the Charges are consistent across all Call-off Contracts.

3.2 Purpose

- 3.2.1 This Call-off Contract sets out the framework for the sharing of Personal Data when one Controller discloses Personal Data to another Controller. It defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to each other.
- 3.2.2 The purpose of this Agreement is to formalise the arrangements for the ACRO Criminal Records Office (ACRO) as hosted by Hampshire Constabulary, acting on behalf of UK police forces that are subject to the ACRO collaboration agreement, to provide the Prosecuting Agent with access to relevant information held on the Police National Computer (PNC), specifically convictions, cautions, reprimands and final warnings. It is necessary for the Prosecuting Agent to have access to such information for prosecution purposes. The nature of the information needed by the Prosecuting Agent includes for both recordable and non-recordable offences.

- 3.2.3 Under this Call-off Contract, the Prosecuting Agent can request that ACRO create records on the PNC for the purpose of prosecuting individuals for offences under The Regulation of Railways Act 1889, the Railways (Penalty Fares) Regulations 2018, the Fraud Act 2003, Railways Act 1993 and other recordable offences where the ITAL acts as the Prosecuting Agent, on to the PNC for the purposes of investigations into offences committed in connection with train fare evasion and fraud.
- 3.2.4 The aim of the data sharing initiative is to enable ITAL to act on behalf of the Train Operator to prosecute fraud and fare evasion offences by creating Arrest Summons Numbers for court purposes required for recordable and non-recordable offences. It will serve to benefit society by providing value for money for customers using the railways through identifying and prosecuting fare evaders and ticketless travel ensuring everyone pays the correct train fare for their journey.
- 3.2.5 This Agreement will be used to assist in ensuring that:
- a) Personal Data is shared in a secure, confidential manner with designated points of contact;
 - b) Personal Data is shared only on a 'need to know' basis;
 - c) Shared Personal Data will not be irrelevant or excessive with regards to the Agreed Purpose;
 - d) There are clear procedures to be followed with regard to Shared Personal Data;
 - e) Personal Data will only be used for the reason(s) it has been obtained;
 - f) Data quality is maintained and errors are rectified without undue delay;
 - g) Lawful and necessary reuse of Personal Data is done in accordance with Data Protection Legislation, and
 - h) Subject information rights are observed without undue prejudice to the lawful purpose of either party.
- 3.2.6 The parties agree to only process Shared Personal Data, (i) in the case of the Prosecuting Agent/Train Operator discharge of its statutory functions, and (ii) in the case of ACRO, for maintenance of centralised records on the police national computer. The parties shall not process Shared Personal Data in a way that is incompatible with the purposes described in this clause ("**Agreed Purpose**").

4 Powers

4.1 The Prosecuting Agent's Legal Basis - ITAL

4.1.1 The Prosecuting Agent requires data collected for a law enforcement purpose for the general purpose of monitoring, investigating, enforcing and authorising prosecution in relation to train fare evasion and fraud offences. This processing of law enforcement data is authorised by law under the Railways Act 1993 (sections 23(1), which sets up the Franchise Agreements and 130 (1) & (2)) which creates penalty fares, as authorised by the Secretary of State for Transport and contracts between ITAL and the relevant Train Operators, which are set out below, and the Prosecutions of Offences Act 1985 (section 6):

- Term Agreement for the Purchase of Services between The Chiltern Railways Company Ltd and ITAL
- Agreement for the Provision of Revenue Protection Services between ITAL and Abellio East Anglia Limited
- Terms and Conditions for the Provision of Services Penalty Fares Processing between West Midlands Trains Limited and ITAL Group Ltd

4.1.2 The Prosecuting Agent prosecute offences under the Regulation of Railways Act 1889 (section 5(1) & 5(3)), the Railways (Penalty Fares) Regulations 2018 – Part 2 – Penalty Fares and the Fraud Act 2003 – Sections 2, 3, 4, 6, 7, & 11.

4.1.3 The processing of these data meets a condition of Article 6(1) of GDPR. Conditions under 6(1)(e) are further described at section 8 of the Data Protection Act (DPA) 2018. The conditions met are:

- Performance of a public task in the public interest or official authority

4.1.4 The processing of these data meets a condition of Article 9(2) of GDPR and Section 10 of the DPA 2018, the processing of special categories of personal data. The conditions met are:

- Legal Claims
- Substantial Public Interest

4.1.5 The processing of these data meets a condition under schedule 1 of DPA 2018 (special categories of personal data and criminal convictions). The conditions met are:

- Statutory etc. and Government purposes
- Preventing of detecting unlawful acts
- Legal claims

4.2 ACRO Legal Basis

- 4.2.1 Section 22a of the Police Act 1996 enables police forces to discharge functions of officers and staff where it is in the interests of efficiency or effectiveness of their own and other police force areas. Schedule 7 paragraph 17 of the DPA 2018 establishes bodies created under section 22a of the Police Act 1996 as Competent Authorities.
- 4.2.2 ACRO is established through the National Police Collaboration Agreement relating to the ACRO Criminal Records Office (ACRO) under section 22a of the Police Act 1996. This agreement gives ACRO the authority to act on behalf of the chief constables to provide PNC enquiry, update and disclosure services to non-police agencies and non-police prosecuting agencies.
- 4.2.3 ACRO is a competent authority, by virtue of the s22a agreement, processing data for a law enforcement purpose.
- 4.2.4 Under the first data protection principle, processing of personal data for any of the law enforcement purposes is lawful only if and to the extent that it is based on law. Under section 35 (2) of the Data Protection Act 2018 (DPA) the following applies;
- The processing is necessary for the performance of a task
- 4.2.5 Under section 35(3-5) and schedule 8 of the DPA ACRO meets the conditions for sensitive processing as follows;
- Administration of Justice

4.3 Code of Practice for the Management of Police Information

- 4.3.1 This Call-off Contract outlines the need for the Police and Partners to work together to share information in line with the Policing Purposes as set out in the Management of Police Information Code of Practice. In line with section 39A of the Police Act 1996, Chief Officers are required to give “due regard” to this statutory code. The Policing Purposes summarise the statutory and common law duties of the police service for which personal data may be processed and are described as:
- Protecting life and property;
 - Preserving order;
 - Preventing the commission of offences;
 - Bringing offender to justice, and
 - Any duty or responsibility arising from common or statute law.

4.4 Human Rights Act 1998

4.4.1 Under Article 8 of the Human Rights Act 1998, all data subjects have a right to respect for their private and family life, home and correspondence.

4.4.2 Interference with this right may be justified when lawful and necessary in a democratic society in the interests:

- Discharging the common law police duties
- Preventing/detecting unlawful acts
- Protecting public against dishonesty, etc.
- Preventing fraud
- Terrorist finance / money laundering
- Safeguarding children and adults at risk

4.5 Common law duty of confidence

4.5.1 Whereby a legislation provides the organisation with a power to process for their specific purpose, but there is no explicit gateway for disclosure into the purpose disclosure may be carried out on the grounds of Common Law police Disclosure, i.e only where there is a pressing social need.

4.5.2 Purpose disclosure may be carried out on the grounds of Common Law police Disclosure, i.e only where there is a pressing social need.

4.6 Crime and Disorder Act 1998

4.6.1 Under Section 17 the Relevant Authority has the duty to consider crime and disorder implications and the need to do all that it reasonably can to prevent:

- crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and
- the misuse of drugs, alcohol and other substances in its area; and
- re-offending in its area

4.6.2 Under Section 115(1) - Any person who would not have power to disclose information to a relevant authority or to a person acting on behalf of such an authority shall have power to do so in any case where the disclosure is necessary or expedient for the purposes of any provision of this Act.

4.7 The Policing Protocol Order 2011

4.7.1 The Chief Constable is responsible for maintaining the King's Peace and is accountable to the law for the exercising of police powers and to the PCC for delivering of efficient and effective policing, management of resourcing and expenditure by the police force.

5 Process

5.1 Overview

5.1.1 ACRO, in response to requests made by the Prosecuting Agent, will create an Arrest Summons Number (ASN) on the PNC in relation to the impending prosecution, will conduct PNC searches and provide a PNC print to meet their information needs. The Prosecuting Agent is required to provide this Arrest Summons Number to the Court prior to the hearing date. This is to ensure accurate and timely resulting of cases at the correct point.

5.1.2 The PNC data will comprise of:

- a) A Disclosure PNC print. The personal data disclosed under this print includes (if available): name, date of birth, birth place, sex (not colour), address, occupation, aliases (including DVLA name) and alias date of births. The home address that is printed in the ID part of the print is decided by the following rules:
 - If there is more than one home address on the record, the most recent address is used,
 - If there is no home address present, the most recent 'no fixed abode' address type will be used,
 - If neither of the above address types are present, the most recent 'Other' address is printed.

- b) A Prosecutors and Court Multiple print. The personal data disclosed under this print includes (if available): name, date of birth, birth place, address, driver number, aliases (including DVLA name) and alias date of births. The home address that is printed in the ID part of the print is decided by the following rules:
 - If there is more than one home address on the record, the most recent address is used,
 - If there is no home address present, the most recent 'no fixed abode' address type will be used,
 - If neither of the above address types are present, the most recent 'Other' address is printed.

- 5.1.3 If relevant, ACRO shall provide the Prosecuting Agent for onward provision to the court a PNC Prosecutor's Multi Print showing the subject's previous convictions, warnings and reprimands, if any exist. This information shall only be provided as part of the ASN creation process in relation to a current prosecution.
- 5.1.4 The Prosecuting Agent's caseworker will review all referred information and may ask for additional information to aid decision making.
- 5.1.5 Where an offence has been committed resulting in a conviction in court, ACRO will record this information on the PNC as required by The National Police Records (Recordable Offences) Regulations 2000 (SI 2000/1139), on behalf of the Prosecuting Agent.

5.2 PNC Searches

- 5.2.1 Requests for a PNC search are to be made by the Prosecuting Agent on a 'Names Enquiry' form, which will be supplied by ACRO separately.
- 5.2.2 The following Personal Data is to be provided in support of each request (where known):
- First name
 - Any middle names
 - Surname /family name
 - Date of Birth (dd/mm/yyyy)
 - Any alias details (names, DoB)
 - Place of birth (where known)
 - Address
 - Prosecuting Agent case reference
- 5.2.3 In the event that no convictions are found on the PNC or the subject of the enquiry is 'No Trace', a response stating 'no relevant information held on PNC in relation to the subject of your enquiry' will be sent to the Prosecuting Agent. This response will also indicate that in the absence of fingerprints the identity of the subject cannot be verified. Similar wording will apply to 'Trace' returns i.e. when a record is found and a PNC print provided.

5.3 Additional Information Requirements

- 5.3.1 Other personal data which the Prosecuting Agent caseworker may be aware of e.g. National Insurance Number, passport or driving licence number etc. can be provided to aid identification. This additional information will be used to confirm identity and is of particular value where the name or other personal details are identical on the PNC.
- 5.3.2 It is not necessary to obtain the additional information as a matter of course particularly if it is not currently recorded as part of the Prosecuting Agent/Train Operator's normal administrative procedures.
- If required, ACRO may seek additional information from the Prosecuting Agent to verify the identity of the subject of the request.

5.3.3 All email communication containing personal and conviction data will be exchanged using password protected WinZip files if a secure email is not available.

5.3.4 No other mailbox is to be used unless this Agreement is updated to reflect a change of 'nominated' point of contact for the Prosecuting Agent.

5.3.5 Where appropriate, the Prosecuting Agent/Train Operator will make contact with the subject of the enquiry to seek the additional information required by ACRO.

5.4 Contingency Backup

5.4.1 In an event where the Prosecuting Agent requires ACRO to provide a contingency service for PNC requirements a discussion would be needed, prior to any checks, in order to establish volumes and expected turnaround times. This is necessary in order to ensure ACRO can cope with the demand.

6 Submission

6.1 Names Enquiry Forms

6.1.1 Completed 'Names Enquiry' forms are to be sent via secure email to the following email address: ****@acro.police.uk

6.1.2 Erroneous/incomplete 'Names Enquiry' forms will not be processed. They will be returned to the Prosecuting Agent as invalid and a reason provided.

6.2 Telephone Requests

6.2.1 Requests may be made by telephone in cases of emergency and 'Names Enquiry' form submitted retrospectively. Such requests can only be made by a limited number of the Prosecuting Agent's staff. As at the date of this Agreement, the Prosecuting Agent's staff who will have the ability to make telephone requests shall be ****. The Prosecuting Agent may update this list by notice to ACRO from time to time.

7 Provision of Information

7.1 Response to a PNC Names Enquiry Search

7.1.1 In response to a formal application, written or verbal, ACRO will provide a Disclosure Print to the Prosecuting Agent with the following information derived from the PNC in response to applications made in accordance with this Agreement:

- All convictions, cautions, warnings and reprimands.
- Additional information as deemed relevant by ACRO where there is a pressing social need to do so (via a Force Disclosure Unit as appropriate).

- 7.1.2 It should be noted that the service provided under this Agreement only covers the provision of certain PNC prints depending on the request submitted by the Prosecuting Agent.
- 7.1.3 If the Prosecuting Agent has a secondary query or wish to follow-up on the PNC information provided, a formal request is to be made through the nominated ACRO mailbox: ****@acro.police.uk
- 7.1.4 The Prosecuting Agent will need to liaise directly with forces to obtain further explanation of specific information regarding the offending revealed in the prints provided under this Call-off Contract or to gain access to statements, interviews under caution etc. relating to any previous offending. Forces may apply their own charges in respect of any information they disclose.

8 Recording Convictions on the PNC

8.1 Creating Records on the PNC

- 8.1.1 The process for creating records and assigning Arrest Summons Numbers (ASN) to prosecutions brought by Non Police Prosecuting Agencies (NPPA) is contained in the 'National Standard for Recording NPPA Prosecutions on the Police National Computer' (the 'National Standard').
- 8.1.2 The Prosecuting Agent undertakes to adhere to the requirements of the National Standard including the requirement to complete and submit the required NPA form in the agreed format (bulk data supplied in a bespoke NPA01 spreadsheet created for each individual Prosecuting Agent/Train Operator) together with a copy of the relevant information to the court in order for a record to be created on the PNC. Court dates are to be provided if known at the time of submission.
- 8.1.3 The Prosecuting Agent will supply a duly completed NPA form (bulk data supplied in a bespoke NPA01 spreadsheet created for each individual Prosecuting Agent/Train Operator) in respect of every person for whom a PNC record is to be created. An ASN will be provided by ACRO in return. A delay in the process is likely to occur if the information provided on the NPA form by the Prosecuting Agent is incomplete or inaccurate.
- 8.1.4 As part of the record creation service provided by ACRO, the Prosecuting Agent will be sent a PNC multi print for each ASN created. The multi prints consist of a Prosecutor's Print plus a Court/Defence/Probation Print. The content of each type of print is defined in the list of PNC Printer Transactions which will be supplied by ACRO separately.
- 8.1.5 When a PNC print is provided to the Prosecuting Agent, it is accepted in the absence of fingerprints the subject's identity cannot be verified.
- 8.1.6 When a prosecution by the Prosecuting Agent leads to a court appearance, ACRO will update the PNC with the required details of any adjournment or disposal. These details are provided to ACRO through automated processes when the prosecution occurs at a Magistrates Court. However, these processes do not extend to prosecutions through the Crown Court and therefore the Prosecuting Agent are to advise ACRO of any adjournments or disposal handed down by the court using the form which will be supplied by ACRO separately.

8.1.7 If, once a PNC record has been created by ACRO and an ASN issued to the Prosecuting Agent, a decision is taken to deal with the offender by way of an ‘Out of Court disposal’ or proceedings are otherwise concluded by way of a discontinuance or ‘No Further Action’ (NFA) disposal, for instance on the advice of the CPS, the Prosecuting Agent will inform ACRO as soon as reasonably practical in order that the PNC record can be updated. The Prosecuting Agent will still be subject to payment in these instances.

8.2 ASN Lite creations

8.2.1 ASN Lite is a reduced PNC record creation service and does not include provisions detailed in section 8.1.6. Exceptional circumstances may be considered.

8.2.2 ASN Lite creations are only relevant for alike offences which have been pre agreed between ACRO and the Prosecuting Agent/Train Operator as detailed in section 8.2.3. All other offences updated on the PNC are subject to ‘PNC record creation’ charges. (ACRO letter of Charges refers).

8.2.3

| The Regulation of Railways Act 1889 | |
|-------------------------------------|---|
| Section 5(3)(a) | Travels or attempts to travel on a railway without having previously paid his fare and with intent to avoid payment thereof |
| Section 5(3)(b) | Travelling on a train and remaining beyond a point having paid the fare only up to that point wilfully and with intent to avoid payment thereof |
| Section 5(3)(c) | Giving a false name or address to any officer on request after having failed to pay the fare |

8.2.4 The ASN references for court purposes will be provided to the Prosecuting Agent by way of returning the NPA01 bulk data spreadsheet used to submit ASN requests to ACRO.

9 Information Security

9.1 Government Security Classification Policy

9.1.1 Parties to this Call-off Contract are to ensure that personal data is handled, stored and processed at OFFICIAL level as defined by the Government Security Classification Policy (GSCP) and may carry the security marking OFFICIAL – SENSITIVE, in which case specific handling conditions will be provided.

9.1.2 Documents marked using GSCP will describe specific handling conditions to mitigate the risks necessitating such marking. These may include:

- a) Any specific limitations on dissemination, circulation or intended audience
- b) Any expectation to consult should reuse be anticipated
- c) Additional secure handling and disposal requirements

9.2 Security Standards

9.2.1 Parties of this Call-off Contract will have in place baseline security measures compliant with or be equivalent to BS17799: 2005 and ISO/IEC 27001:2013 and HMG standards in relation to information security. Partners are at liberty to request copies of each other's:

- a) Information Security Policy
- b) Records Management Policy
- c) Data Protection Policy

9.2.2 Each party will implement and maintain appropriate technical and organisational measures to:

- Prevent:
 - i. unauthorised or unlawful processing of the Personal Data; and
 - ii. the accidental loss or destruction of, or damage to, the Shared Personal Data; and
- ensure a level of security appropriate to:
 - i. the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
 - ii. the nature of the Shared Personal Data to be protected.

9.2.3 Any further specific security measures sought by one party shall be notified to the other party from time to time, which shall implement them where reasonably practicable. The parties shall keep such security measures under review and shall carry out updates as they agree are appropriate throughout the Term.

9.2.4 It is the responsibility of each party to ensure that its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with the technical and organisational security measures together with any other applicable data protection laws and guidance, and have entered into confidentiality agreements relating to the processing of personal data.

9.2.5 Each party will ensure that employees or agents who have access to personal data have undergone appropriate data protection training to be competent to comply with the terms of this agreement.

9.3 Volumes

9.3.1 It is estimated that for the year 2022-23, the Prosecuting Agent will request up to 15 PNC checks and require up to 1500 PNC records to be created under the ASN Lite process. There may be times when ASN creation is requested outside of the ASN Lite process (where a different offence is required) and this will be up to a volume of [5].

9.3.2 The Prosecuting Agent will advise ACRO if the number of PNC checks and/or PNC updates is likely to be exceeded.

9.3.3 ACRO will audit requests against the lawful basis and these volumes to ensure that personal data is not being disclosed contrary to the lawful basis and that the agreement is fit to meet any increase in lawful demand

9.4 Transmission

9.4.1 With the exception of telephone requests in cases of emergency, contact between ACRO and the Prosecuting Agent should only be made over a secure communication network – CJSM email - on the part of the Prosecuting Agent and an equivalent method on the part of ACRO, and care must be taken where personal information is shared or discussed.

9.4.2 Emails must not otherwise be password protected, contain personal data or contain the descriptor 'Private and Confidential' in subject field, or be over 6MB in file size.

9.4.3 The Prosecuting Agent's reference number must be included in the subject field of every email sent to ACRO. For bulk submissions this will be the first and last reference numbers on the NPA01 spreadsheet.

9.4.4 Where email transmission is unavailable, records may be transferred by post via encrypted media only, where encryption meets current industry standards

9.5 Retention and disposal

9.5.1 Information shared under this Call-off Contract will be securely stored and disposed by secure means when no longer required for the purpose for which it is provided as per each parties' Information Security Policy, unless otherwise agreed in a specific case, and legally permitted. Each party will determine and maintain their own retention schedule.

10 Information Management

10.1 Accuracy of Personal Data

- 10.1.1 The parties will take every reasonable step to ensure that personal data that is inaccurate, having regard to the purpose for which it is processed, is erased or rectified without delay and will notify the parties to this agreement of the erasure or rectification.
- 10.1.2 Where a party rectifies personal data, it must notify any competent authority from which the inaccurate personal data originated, and should notify any other data controller of the correction, unless a compelling reason for not doing so exists.
- 10.1.3 It is the responsibility of all parties to ensure that the information is of sufficient quality for its intended purpose, bearing in mind accuracy, validity, reliability, timeliness, relevance and completeness.

10.2 Accuracy Disputes

- 10.2.1 Should the validity of the information disclosed be disputed by the Prosecuting Agent or a third party, the Prosecuting Agent will contact ACRO to determine a suitable method to resolve the dispute.

10.3 Turnaround

- 10.3.1 This Call-off Contract requires the Prosecuting Agent to send all ASN requests to ACRO no later than eight weeks prior to court date (not including day of receipt or response).
 - 10.3.1.1 ACRO will complete/update a record on the PNC no later than three weeks prior to court date (not including day of receipt or response) in respect of every person for whom a PNC record is to be created.
- 10.3.2 Any requests sent outside of the prescribed timeframe, may not be returned in the agreed timeframe.
- 10.3.3 This Call-off Contract requires a seven Business Day turnaround (not including day of receipt or response) on all Names Enquiry cases submitted to ACRO.
- 10.3.4 Where ACRO requires further information from the Prosecuting Agent to make a positive match, ACRO will process the enquiry when the required information has been supplied by the Prosecuting Agent.
- 10.3.5 Responses to requests for additional information must be made by the Prosecuting Agent within ten working days (not including day of receipt or response). If ACRO do not receive the information, the request will be closed.
- 10.3.6 Information will be exchanged without undue delay. In the event of a delay outside of either party's control, this will be informed to the other party as soon as practical.
- 10.3.7 An exception to the turnaround times are those occasions where the conviction data is held on microfiche in the national police microfiche library at Hendon. In these cases, ACRO will provide a response when the required information has been supplied by the custodians of the microfiche.

10.3.8 In some circumstances the Prosecuting Agent may require information urgently, for example, due to ongoing court proceedings. In these circumstances ACRO will endeavour to complete the check more quickly as agreed with the Prosecuting Agent. Such requests will be treated as an exception, and will be considered on a case by case basis.

10.4 Quality Assurance and Control

10.4.1 ACRO employ strict quality control procedures and staff undertaking this work are all appropriately trained.

10.4.2 On a monthly basis ACRO can, if required, provide regular management information to the Prosecuting Agent including:

- Number of PNC 'Names Enquiry' forms received
- Number of PNC Disclosure Prints provided
- Details of any cases that fall outside agreed 'Service Levels
- Number of issues and/or disputes

11 Complaints and Breaches

11.1 Complaints

11.1.1 Complaints from data subjects, or their representatives, regarding information held by any of the parties to this agreement will be investigated first by the organisation receiving the complaint. Each data controller will consult with the other party where appropriate.

11.2 Breaches

11.2.1 Each party shall comply with its obligation to report a Personal Data Breach to the appropriate Supervisory Authority and (where applicable) data subjects under Articles 33 and 34 of the GDPR and shall inform the other party of any Personal Data Breach irrespective of whether there is any requirement to notify any Supervisory Authority or data subject(s).

11.2.2 The parties agree to provide reasonable assistance as is necessary to each other to facilitate handling of any Personal Data Breach in any expeditious and compliant manner.

11.2.3 In the event of a dispute or claim brought by a data subject or the Supervisory Authority concerning the processing of Shared Personal Data against either or both parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.

11.2.4 The parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the Supervisory Authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

11.2.5 All security incidents and breaches involving police data shared under this agreement must be reported immediately to the SPOCs designated in this agreement.

12 Information Rights

12.1 Freedom of Information Act 2000

12.1.1 Where a party to this agreement is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) all parties shall assist and co-operate with the other to enable the other party to comply with its obligations under FOIA and the EIR. This is in line with the requirements laid out in the Lord Chancellor's Code of Practice issued under section 45 of FOIA.

12.1.2 Where a party receives a request for information in relation to information which it received from another partner, it shall (and shall procure that its sub-contractors shall):

- Contact the other party within two Business Days after receipt and in any event within two Business Days of receiving a Request for Information;
- The originating authority will provide all necessary assistance as reasonably requested by the party to enable the other party to respond to a request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the EIR.

12.1.3 On receipt of a request made under the provisions of the FOIA in respect of information provided by or relating to the information provided by ACRO, the Prosecuting Agent's representative is to ascertain whether the NPCC wishes to propose the engagement of any exemptions via the NPCC FOI mailbox: npcc.foi.request@cru.police.uk

12.1.4 The decision as to whether to disclose the information remains with the Prosecuting Agent, but will be made with reference to any proposals made by the NPCC.

12.2 Data Subject Information Rights

12.2.1 For the purpose of either party handling information rights under Chapter III of both the DPA 2018 and GDPR, it is necessary to ensure neither party causes prejudice to the lawful activity of the other by releasing personal data disclosed by one party to the other, or indicating by the method or content of their response that such data exists. The parties agree that consultation between the parties is necessary to identify relevant prejudice and ensure it is both substantial and proportionate to the exemption which is to be applied.

12.2.2 A relevant request requiring consultation includes those requests exercised under the rights to access, erasure, rectification, restriction or objection which requires consideration of data provide to one party by the other.

12.2.3 Consultation will occur without undue delay and no later than 72 hours after identification of the relevant request.

12.2.4 Where the Prosecuting Agent receives a relevant request, the Prosecuting Agent's representative is to contact the ACRO Data Protection Officer at: dataprotectionofficer@acro.police.uk to ascertain whether ACRO wishes to propose to the Prosecuting Agent that they apply any relevant exemptions when responding to the applicant.

12.2.5 Where ACRO receives a relevant request, the ACRO Data Protection Officer is to contact the Prosecuting Agent's representatives to ascertain whether the Prosecuting Agent wishes to propose to ACRO that they apply any relevant exemptions prior to responding to the applicant.

12.2.6 Both parties will otherwise handle such requests in accordance with the Data Protection Legislation.

12.3 Fair processing and privacy notices

12.3.1 Each party will take all reasonable steps to comply with the obligation to notify the data subject of the processing activity, unless an exemption applies.

12.3.2 ACRO will maintain a general notice, describing the mandatory privacy information at Articles 13 and 14 of GDPR and s44(1) and (2) DPA 2018. ACRO will not contact the data subjects directly with this privacy information on the basis that the Prosecuting Agent has already taken steps to inform the individual, or has exercised an appropriate exemption to article 13 or 14, or exercised an exemption at s44(4) DPA 2018.

12.3.3 The Prosecuting Agent will take all reasonable steps to inform the data subject that checks will be conducted through ACRO, except where doing so would prejudice the purpose of the check in a way which would allow use of an exemption to this obligation. Where the Prosecuting Agent does not provide this information to the data subject, ACRO agrees to rely upon the correct use of an exemption by the Prosecuting Agent and will not contact the data subject to avoid the same prejudice.

13 Reuse of Personal Data Disclosed under this Agreement

13.1 Personal data shall be collected for the specified, explicit and legitimate purposes stated in this document and cannot be further processed in a manner that is incompatible with those purposes without the written consent of the data subject that provided the information in the first instance, unless required to by law.

14 Roles and responsibilities

14.1 Single point of contact

14.1.1 ACRO and the Prosecuting Agent will designate Single Points of Contact (SPOC) who will work together to jointly solve problems relating to the sharing of information under this Agreement and act as point of first contact in the event of a suspected breach by either party.

- ACRO (UK PNC enquiries and updates):
ACRO PNC Services Head of Section
****@acro.police.uk

- ITAL - ****
****@ital-uk.com

14.1.2 Initial contact should be made by email with the subject heading: FAO ACRO/ITALISA SPOC
Ref no: XXXX

14.1.3 The above designated SPOCs will have joint responsibility of resolving all day to day operating issues and initiating the escalation process set out if/when necessary.

14.2 Escalation

14.2.1 In the event that the nominated SPOC cannot agree on a course of action or either party appears not to have met the terms and conditions of this Call-off Contract, the matter should initially be referred jointly to the following SPOCs:

- ACRO (UK PNC enquiries and updates):
ACRO PNC Services Deputy Manager
****@acro.police.uk

- ITAL - ****
****@ital-uk.com

14.2.2 Both ACRO and the Prosecuting Agent SPOCs have a responsibility to create a file in which relevant information and decisions can be recorded. The file should include details of the data accessed and notes of any correspondence, meeting attended, or phone calls made or received relating to this Call-off Contract.

15 Charges

15.1 Prices and rates

15.1.1 The Prosecuting Agent shall pay ACRO for the provision of services set out in this Agreement as follows:

15.1.1.1 In respect of the ASN Lite Charges in line with the ASN Lite Charges agreed in accordance with the Framework Agreement;

15.1.1.2 All other charges as set out in the "Letter of Charges" provided to ITAL separately. These are reviewed annually.

15.2 Invoices

15.2.1 Invoices shall contain the following information:

- Purchase Order Number
- The Agreement Reference Number
- The period the service charge refers to
- All applicable service charges
- The name and address of both Parties (ACRO and the Prosecuting Agent)

- 15.2.2 The Purchase Order Number is to be provided by the Prosecuting Agent for the appropriate financial year to ensure payment of invoices can be made. If a Purchase Order Number is not in hand prior to receiving enquiries ACRO reserves the right to suspend the processing of services covered under this Call-off Contract until one has been provided.
- 15.2.3 The Prosecuting Agent shall pay all monies owed to ACRO within a period of [30] days from receipt of the original invoice unless the amount shown on the invoice is disputed by the Prosecuting Agent.
- 15.2.4 If the Prosecuting Agent is in default of this condition, ACRO reserves the right to withdraw the service by advising in writing.

16 Termination

- 16.1 This Call-off Contract shall commence on the Effective Date and continue for [1] year, unless terminated earlier in accordance with clause **16.2**.
- 16.2 The Call-off Contract may be terminated:
- 16.2.1 by either party on providing 3 months' written notice to the other; or
- 16.2.2 if the Prosecuting Agent does not agree to an increase in the charges under clause **15.1.1.2**, on written notice to take effect on the day before which such revised charges are due to take effect; or
- 16.2.3 if elected in writing by the Prosecuting Agent, on termination of the Framework Agreement.
- 16.3 This call off contract ISA will be reviewed six months after implementation and annually thereafter.

17 Dispute resolution

- 17.1 Any dispute arising between the parties out of or in connection with this Call-off Contract shall be dealt with in accordance with the provisions of this clause **17**.
- 17.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 17.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 17.3.1 within 7 days of service of the notice, the tier 1 representatives of the parties below shall meet to discuss the dispute and attempt to resolve it; and
- 17.3.2 if the dispute has not been resolved within 7 days of the first meeting of the tier 1 representatives below, then the matter shall be referred to the tier 2 representatives (or persons of equivalent seniority) of the parties below. The tier 2 representatives (or equivalent) shall meet within 7 days to discuss the dispute and attempt to resolve it.

| | | |
|------------------------|---|---|
| | ACRO | Prosecuting Agent |
| Tier 1 Representatives | ACRO PNC Services Deputy Manager ****@acro.police.uk | Head of Operations ****@ital-uk.com |
| Tier 2 Representatives | ACRO PNC Services SMT | Chief Operating Officer ****@ital-uk.com |

- 17.4 The specific format for the resolution of the dispute under clause **17.3.1** and, if necessary, clause **17.3.2** shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 17.5 If the dispute has not been resolved within 14 days of the first meeting of tier 2 representatives (or equivalent) under clause **17.3.2** then the matter may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 17.6 Until the parties have completed the steps referred to in clauses **17.3** and **17.5**, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

18 Warranties and Indemnities

18.1 Warranties

18.1.1 Each party warrants and undertakes that it will:

- Process the Shared Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments that apply to its personal data processing operations;
- In particular, use all reasonable efforts to ensure the accuracy of any Personal Data shared;
- Publish or otherwise make available on request a copy of this, unless the Clause contains confidentiality information;
- Respond within a reasonable time and as far as reasonably possible to enquiries from the relevant Supervisory Authority in relation to the Shared Personal Data;
- Respond to Subject Access Requests in accordance with the Data Protection Legislation;
- Where applicable, pay their own appropriate fees with all relevant Supervisory Authorities to process all Shared Personal Data for the Agreed Purpose; and
- Take all appropriate steps to ensure compliance with the security measures set out in Clause **9.2.2** above.

18.2 Indemnity

18.2.1 Subject to clause **18.3.4**, the parties undertake to indemnify each other and hold each other harmless from any cost, charge, damages, expense or loss which they cause each other as a result of their breach of any of the provisions of this Call-off Contract.

18.2.2 Indemnification hereunder is contingent upon:

- The party to be indemnified (the **indemnified party**) promptly notifying the other party (the **indemnifying party**) of a claim,
- The indemnifying party having sole control of the defence and settlement of any such claim, and
- The indemnified party providing reasonable co-operation and assistance to the indemnifying party in defence of such claim.

18.3 Limitation of liability

18.3.1 Neither party excludes or limits liability to the other party for:

- Fraud or fraudulent misrepresentation;
- Death or personal injury caused by negligence;
- A breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- Any matter for which it would be unlawful for the parties to exclude liability.

18.3.2 Subject to clause **18.3.1**, neither party shall in any circumstances be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

- Any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
- Loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
- Any loss or liability (whether direct or indirect) under or in relation to any contract.

18.3.3 Clause **18.3.2** shall not prevent claims, for:

- Direct financial loss that are not excluded under any of the categories set out in clause **18.3.2** or;
- Tangible property or physical damage

18.3.4 Subject to clause **18.3.1** and **18.3.2** the total liability of either party to the other howsoever arising under or in connection with this Call-off Contract, shall not exceed the sum of [£50,000].

19 Force Majeure

19.1 A party shall not be liable if delayed in or prevented from performing its obligations under this Agreement due to Force Majeure, provided that it:

19.1.1 promptly notifies the other of the Force Majeure event and its expected duration; and

19.1.2 uses reasonable endeavours to minimise the effects of that event.

19.2 If, due to Force Majeure, a party:

19.2.1 is unable to perform a material obligation; or

19.2.2 is delayed in or prevented from performing its obligations for a continuous period of more than 30 Business Days, the other party may terminate this Agreement on not less than 4 weeks' written notice.

20 Variation

20.1 No variation of this Call-off Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

21 Waiver

21.1 No failure or delay by a party to exercise any right or remedy provided under this Call-off Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22 Severance

22.1 If any provision or part-provision of this Call-off Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Call-off Contract.

22.2 If any provision or part-provision of this Call-off Contract is deemed deleted under clause 19.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23 Changes to the applicable law

23.1 If during the Term the Data Protection Legislation change in a way that this Call-off Contract is no longer adequate for the purpose of governing lawful data sharing exercises, the Parties agree that the SPOCs will negotiate in good faith to review the Call-off Contract in the light of the new legislation.

24 No partnership or agency

24.1 Nothing in this Call-off Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25 Rights and remedies

25.1 The rights and remedies provided under this Call-off Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

26 Notice

26.1 Any notice given to a party under or in connection with this Call-off Contract shall be in writing, addressed to the SPOC and shall be:

- Delivered by hand or by pre-paid first-class post or other next working day delivery service at its principal place of business; or
- Sent by email to the SPOC.

26.2 Any notice shall be deemed to have been received:

- If delivered by hand, on signature of a delivery receipt; and
- If sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
- If sent by fax or email, at the time of transmission, or if this time falls outside business hours in the place of receipt, when business hours resume.

26.2.1 In this clause, 24 business hours means 8:30 am to 4:30 pm on a Business Day.

26.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27 Governing law and Jurisdiction

27.1.1 This Call-off Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales, and subject to the jurisdiction of the courts of England and Wales.

28 Signature

28.1 Undertaking

28.1.1 By signing this Call-off Contract, all signatories accept responsibility for its execution and agree to ensure that staff for whom they are responsible are trained so that requests for information and the process of sharing is sufficient to meet the purpose of this Call-off Contract.

28.1.2 Signatories must ensure compliance with all relevant legislation.

| | |
|--------------------------|---|
| Signed on behalf of ACRO | Signed on behalf of the Prosecuting Agent |
| Date: 14/09/2022 | Date: 07/09/2022 |