

DNA Data Bank Sample Tracking System

Acceptable Use Agreement

By accessing and using the DNA Data Bank Sample Tracking System (“DBSATS”), you are agreeing to comply with the following Acceptable Use Agreement (“Agreement”).

This is a legal agreement between the Virginia Department of Forensic Science (“DFS” or “Owner”) and you as the authorized user of DBSATS (“User”), and no other third party or its subsidiaries are a party to this Agreement. This Agreement governs your access to and use of DBSATS.

1. Representation and Warranties

If you do not accept this Agreement in its entirety, then you may not access or use DBSATS, and any use of DBSATS by you will be considered an unauthorized access of DBSATS, potentially subjecting you to civil or criminal penalties.

2. Modification of Terms

DFS may unilaterally modify this Agreement. DFS reserves the right to, at any time and without prior notice, suspend access to DBSATS, change the content or formatting of DBSATS, or terminate access to and any specific use of DBSATS. DFS shall not be liable to you or to any third party for taking any of these actions and will not be limited to the remedies below if you violate this Agreement. By accessing and using DBSATS you are accepting and agreeing to the Acceptable Use Agreement then in effect; it is your responsibility to check for updates to this Agreement before use.

3. General Terms

3.1. Proprietary Rights

DBSATS has been developed by DFS. You agree to comply with all ownership information or restrictions contained in DBSATS. You further acknowledge that all rights, titles, and interests in DBSATS shall remain with DFS or its contractors, subcontractors, or agents and agree that you will not violate such proprietary rights. Any violation may result in legal action or other legal remedies.

3.2. Software and Hardware Requirements

You are responsible for ensuring that your equipment is suitable for connecting to DBSATS and that it has the minimum system and software requirements to use and operate DBSATS. In addition, you are responsible for access and connectivity to the Internet, your relationship with your Internet Service Provider and any connection or service fees associated with such access.

3.3. No Warranty by DFS

The information displayed is current only to the extent that the respective users have entered the correct information into DBSATS. Every effort is made to provide accurate and current information through DBSATS. However, you may encounter some inaccurate or outdated information. DFS disclaims any responsibility or liability for any errors, omissions, or inaccurate information. The User has the responsibility to verify the accuracy, timeliness, and completeness of the information. For any inaccurate information noted, the User is responsible for submitting a DNA Data Bank Sample Correction through DBSATS to the DFS Data Bank Staff who will review and/or correct the information provided.

Due to the complex nature of the Internet, DFS does not warrant that access to DBSATS or the operation or performance of the system will be uninterrupted or error-free. DBSATS IS SUBJECT TO LIMITATIONS, DELAYS, AND PROBLEMS INHERENT WITH THE INTERNET. DFS shall use reasonable efforts to correct or cure any such reproducible and documented material defects.

You expressly understand and agree that, to the maximum extent permitted by applicable law, the site, services, and materials are provided by DFS on an "as is" basis without warranty of any kind, including express, implied, statutory, or fitness for a particular purpose. By accessing and using the system you accept all risks of loss or damage resulting from your access and use of the system.

No advice or information, whether oral or written, obtained by you from DFS or through or from use of the services shall create any warranty not expressly stated in this Agreement.

3.4. Limitation of Liability

The use of DBSATS, as with all Internet usage, may pose a risk of damage to user computer systems because of the presence of computer viruses, software and hardware incompatibility or defects, and other factors associated with use of the Internet. Users of this system assume all risks associated with its use, including the risk that damage may occur to user computer systems, software or data stored on or contained in user computer systems.

You acknowledge that in no event shall DFS, its agents, directors, employees, partners, or suppliers be liable to you or any third party for any direct, special, incidental, indirect, consequential, or punitive damages, including those resulting from loss of use, data or profits, whether or not foreseeable, or if DFS has been advised of the possibility of such damages, or based on any theory of liability, including breach of contract or warranty, negligence or other tortious action, or any other claim arising out of or in connection with your use of or access to the site, services or materials.

3.5. License for Use

DFS developed DBSATS as a system for individuals to view DNA Data Bank sample information, which can be accessed by performing searches within the system. A User may access this information and use DBSATS subject to this Agreement.

3.6. User Conduct

By using DBSATS, the User represents and warrants that they subject themselves to the laws and jurisdiction of the Commonwealth of Virginia.

DBSATS is a web-based system that allows the User to conduct an online search of the DNA Data Bank and to enter of DNA Sample submission information before a Buccal DNA Collection Kit is submitted to DFS. Users are able to search via name, social security number, state identification number (SID), and/or Department of Corrections VACORIS Database Number (if the agency has access to the VACORIS database) to determine if an individual has a DNA sample already in the Data Bank. A User will only be able to determine if a sample already exists in the Data Bank or not. No genetic profile information can be accessed through or is provided by DBSATS.

Pursuant to Virginia Code §§ 19.2-310.2 and 19.2-310.3:1 and other applicable Code provisions, a submitting agency is required to verify that no DNA sample currently exists for a qualifying offender or arrestee in the Data Bank prior to the collection and submission of a DNA buccal sample. The User will utilize DBSATS to comply with that statutory requirement. If DBSATS indicates that a DNA sample for that individual already exists in the Data Bank, no additional sample should be taken. If no DNA sample exists in the Data Bank for that qualifying offender or arrestee, DBSATS allows the User to submit a

Pre-Log Entry for the collection of the DNA Data Bank Sample prior to its submission. The User agrees to make every effort to ensure that the information provided in a Pre-Log Entry is accurate, complete and reliable. Should a User subsequently determine that incorrect information has been provided, the User shall submit a DNA Data Bank Sample Correction utilizing DBSATS. The submitted Sample Correction will be reviewed and/or corrected by the DFS Data Bank staff. Should a User determine that information provided by another agency and contained in DBSATS is incorrect, the User shall submit a DNA Data Bank Sample Correction utilizing DBSATS for review and/or correction by the DFS Data Bank staff.

Only authorized personnel from collection sites (law enforcement, correctional facilities, probation and parole offices, court staff etc.) and the Department of Forensic Science (DFS) may access the system. Authorized personnel may obtain their credentials from their Agency Site Administrator. Agencies can establish a new Site Administrator account by contacting the DFS DNA Data Bank.

In order to access DBSATS, the User must be assigned a user ID and password by their Agency Site Administrator. Only business email-IDs may be utilized to receive credentials and access DBSATS. THE USER AGREES THAT THEIR ASSIGNED USER ID AND PASSWORD IS THEIR RESPONSIBILITY TO MAINTAIN AND MUST NOT BE SHARED. Upon termination of employment with that agency, the User shall notify the Agency Site Administrator so that their user credentials may be terminated. If a User is on leave from their agency for more than 30 days, the User shall notify the Agency Site Administrator so that their credentials may be disabled during their leave period.

The User agrees NOT to use DBSATS to:

- make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software, hardware or telecommunications equipment;
- damage, disable, overburden or impair any DFS server or the networks connected to any provider server;
- interfere with or disrupt DBSATS or violate any applicable laws related to the access to or use of DBSATS, violate any requirements, procedures, policies or regulations of networks connected to DBSATS, or engage in any activity prohibited by this Agreement;
- access or attempt to access the system in an excessive manner;
- misuse search criteria in a manner that may be construed as attempting to gather information for purposes other than which the system was designed;
- execute any form or automated scripting against the system; or
- gather or mine data using robots or similar data-gathering or extraction methods in connection with DBSATS or its contents.

The data contained in and accessed from DBSATS is the property of DFS. It will not be disclosed, in whole or in part, made available, or provided to other employees or consultants to whom disclosure is not authorized.

A User may wish to print and retain information from DBSATS to document for their records if no additional DNA sample was required or the details of their Pre-Log Submission if a DNA sample was taken. A user shall not print any of the confidential information except as necessary. While Users may utilize that function within DBSATS for that limited purpose, no records from DBSATS should be photocopied or duplicated in any manner. Printed information must not be output to printers in non-secured areas, and must be retrieved immediately. Any printed copies that are made shall be marked "confidential." No records from DBSATS should be retained electronically under any

circumstances. The User acknowledges that records contained in DBSATS are confidential records. If a paper record from DBSATS is obtained and/or retained by the agency, at the conclusion of the applicable record retention period or if the record is deemed no longer necessary by the User, that record should be destroyed by pulping or shredding. Simple deletion of an electronic record is deemed insufficient by the Library of Virginia for the destruction of confidential or privacy-protected information. Any electronic record from DBSATS must be "wiped clean" or the storage media physically destroyed by the User at the end of the record retention period or if the electronic record is deemed no longer necessary.

A User is not permitted to view, print, or distribute records in DBSATS that do not pertain to their agency. The User agrees that, should they leave employment with their agency, any attempts to access DBSATS thereafter would constitute a violation of these Terms and may subject them to civil or criminal penalties.

DBSATS shall not be used in a manner contrary to or in violation of any applicable federal, state, or local law, rule, or regulation. Under Virginia Code § 19.2-310.6, "[a]ny person who, without authority, disseminates information contained in the data bank shall be guilty of a Class 3 misdemeanor. Any person who disseminates, receives, or otherwise uses or attempts to so use information in the data bank, knowing that such dissemination, receipt, or use is for a purpose other than as authorized by law, shall be guilty of a Class 1 misdemeanor." The User agrees to report any unauthorized use of DBSATS to their Agency Site Administrator and the DFS Data Bank staff.

No portion of DBSATS source code, layout, or structure may be reproduced, transmitted, or shared in any way without express written permission from DFS.

DFS reserves the right to monitor access to DBSATS for suspicious behavior.

DFS retains the right to immediately terminate a User's access to DBSATS for any violation of this Agreement without further notice. If a User's access is terminated by DFS, approval must be granted by DFS before access to DBSATS will be restored by the Agency Site Administrator.

3.7. System Availability

DBSATS is expected to be available approximately 24 hours a day. There may be brief periods of downtime to allow for data backups. There will also be planned downtime to allow for scheduled system maintenance.

Unexpected issues may occur and the system may be unavailable without notice. Every effort will be made to minimize any unplanned downtime.

4. Disclaimer

DFS shall not be liable for any injury or damage resulting from the use of the information, content, or material accessed using DBSATS or its contents, nor shall DFS be liable for any delays in the receipt of any messages as delivery is subject to effective transmission from your service provider network. To the fullest extent allowed by law, DFS disclaims all warranties with regard to DBSATS.

BY USING DBSATS, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ, UNDERSTAND AND ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.