

# ADP Vantage HCM Additional Terms and Conditions

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## SECTION 1 THE SERVICES.

**1.1 Use of Services.** Client agrees to use the Services only for the internal business purposes of the Client and the Client Group and that it will be responsible for ensuring that each of the entities included in the Client Group comply with each of the provisions contained in this Agreement applicable to the Client. If interfaces to software being used by Client are to be delivered or maintained by ADP as part of the Services, then Client agrees to obtain and maintain appropriate licenses to such software and other works.

**1.2 Accuracy of Client Information, Review of Output.** Client is responsible for the accuracy and timely input of all information provided to ADP by Client or on Client's behalf. Client will promptly review documents and reports provided by ADP and notify ADP of any error or omission discovered by Client or any discrepancy between the information provided by ADP and Client's records, and ADP will correct such error, omission or discrepancy.

**1.3 Source Documents.** Except as otherwise set forth in this Agreement, Client will, to the extent it deems necessary, keep copies of all source documents of the information delivered to ADP or inputted by Client or on behalf of Client into the ADP system.

**1.4 Additional Services.** If Client requests additional services offered by ADP on a commercial basis not included in this Agreement, (i) those services will be included in an Amendment, (ii) any Services provided to Client but not included in an Amendment will be provided subject to the terms of this Agreement at ADP's then prevailing fees.

**1.5 Employee and Plan Participant Access.** ADP may suspend or discontinue access to the Services by any of Client's employees or plan participants ("Users") if ADP reasonably believes that such User is using the Services in an inappropriate or illegal manner and will promptly advise Client of same. Client shall take all commercially reasonable actions necessary to maintain the privacy of User names and passwords for the Services.

**1.6 Services and the Internet.** Data transmitted by ADP in connection with the Services through the Internet is encrypted for Client's protection. However, the security of transmissions over the Internet can never be guaranteed. ADP is not responsible for Client's access to the Internet, for any interception or interruption of any communications through the Internet, or for changes to or losses of data through the Internet. ADP may suspend Client's use of the Services via the Internet immediately, without notice, pending an investigation, if any breach of security is suspected. If Client elects ADP's "Federated Single Sign-On" service, additional mutually agreed upon terms and conditions will apply.

## SECTION 2 GENERAL PROVISIONS.

**2.1 No Solicitation of Employees.** Neither party will recruit or solicit (other than as part of a general solicitation in newspapers, websites or similar media) the other's personnel or employees that have become known to a party as a result of the Services performed until the earlier of one year after (i) the termination of this Agreement or (ii) that person is no longer employed by the other party. The provisions of this Section will survive the termination of this Agreement. In the event of an actual or impending breach of this Section, the non-breaching party, in addition to any remedy available at law, will be entitled to seek equitable relief, including injunction and specific performance.

**2.2 U.S. Government Restricted Rights.** ADP asserts that the Services, the ADP Products and the related materials are provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions in FAR §52.227-14, FAR §52.227-19, or DFARS §252.227-7013(c)(1)(ii), as applicable. Contractor is ADP, Inc., 5800 Windward Parkway, Alpharetta, GA 30005.

**2.3 Independent Contractors.** The performance by ADP of its duties and obligations under this Agreement will be that of an independent contractor and nothing contained in this Agreement will create or imply an agency, joint venture or partnership between ADP and Client. Neither the employees of ADP nor ADP's subcontractors will be considered employees or agents of Client. Unless expressly stated in this Agreement, none of ADP, its employees or its subcontractors may enter into contracts on behalf of, bind, or otherwise obligate Client in any manner whatsoever.

## SECTION 3 ADP VANTAGE HCM SERVICES

**3.1 "System"** means the Application Programs as run on the Hosted Environment.

**3.2 License.**

**3.2.1 Grant of License.** ADP grants to Client a personal, non-transferable, non-exclusive right and license to use solely for Client's internal business purposes the ADP Products listed in Annex Z.

**3.2.2 Type of License.** The license granted pursuant hereto is for production only and not development. Client may have as many users of the ADP Products as are specified in Annex Z.

**3.2.3 Limitation on Use of ADP Products.** Client will use the ADP Products only to process its own internal data. Client will not assign, loan, sub-license or otherwise transfer the ADP Products, or alter, modify or adapt (or cause to be altered, modified or adapted) the ADP Products. Client will not publish the results of benchmark tests run with the Application Programs. CLIENT WILL NOT COPY, RECOMPILE, DISASSEMBLE, REVERSE ENGINEER, OR MAKE OR DISTRIBUTE ANY OTHER FORM OF OR, EXCEPT AS PERMITTED BY THIS SECTION, ANY DERIVATIVE WORK FROM, THE ADP PRODUCTS. Client will not allow all or any part of the ADP Products to be used in any country not respecting the trade secret and copyright protection of the ADP Products.

**3.2.4 Documentation.** ADP will make available to Client and Documentation applicable to the Application Programs, Client will copy the Documentation only for its internal business use to satisfy its reasonable internal needs, *provided* that any such copies include all proprietary, copyright and other similar notices.

**3.2.5 Limited Warranty.** ADP does not warrant that the ADP Products will meet Client's requirements or that the operation of the ADP Products will be uninterrupted or error free. However, ADP warrants that the ADP Products will perform substantially in accordance with the Documentation.

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**3.2.6 Access.** Client shall (i) be responsible for all activities that occur under Client's user accounts; and (ii) prevent unauthorized access to, or use of, the ADP Products, by Client's employees and agents except as provided in this Agreement and shall notify ADP of any unauthorized use.

### **3.3 Implementation Services.**

**3.3.1 Implementation Services.** Client will cooperate with ADP and provide ADP with all necessary information and reasonable assistance required in order for ADP to successfully implement the ADP Vantage HCM Services.

**3.3.2 Delivery and Use of Client Content.** Client shall promptly deliver to ADP the Client Content as required by ADP in an electronic file format specified and accessible to ADP. "**Client Content**" means any materials provided by Client for incorporation in the Services, including, but not limited to, any images, photographs, illustrations, graphics, and text. Client hereby grants ADP a non-exclusive, non-transferable license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy (including back-up copies) and display the Client Content as reasonably necessary to perform the Services. Client is solely responsible for all Client Content and for obtaining all required rights and licenses to use and display such Client Content in connection with the ADP Products. Client shall provide to ADP Client Content that is virus free and does not contain any content or materials which are obscene, offensive, inappropriate, threatening, malicious, which violate any applicable law or regulation or any contract, privacy or other third party right or which otherwise exposes ADP to civil or criminal liability. ADP reserves the right to exclude or immediately remove from the System any Client Content which it determines in its sole discretion violates the previous sentence, provided that ADP has no obligation to review or monitor the Client Content.

### **3.4 Time and Labor Management Component of the ADP Vantage HCM Services.**

**3.4.1 Additional Grant of License.** If client is receiving the time and labor management component of the ADP Vantage HCM Services, additional license terms at [www.adp.com/tlmlicenseterms](http://www.adp.com/tlmlicenseterms) shall apply and are incorporated herein by this reference

**3.4.2 Installation of Hardware.** Client shall be responsible for (i) providing and maintaining a suitable installation environment as specified in the manufacturer's product literature and in accordance with ADP's then current environmental specifications and other written instructions, (ii) following manufacturer's instructions with respect to the Hardware, and (iii) providing and installing all power, wiring and cabling required for installation of the Hardware. The Business Day following the day on which (a) ADP, or its designee, determines that the Hardware has been placed in good working order in accordance with ADP's standard installation procedures, or (b) the Hardware is delivered and the Client fails to provide the required installation environment, is the "**Warranty Commencement Date**". No loss, theft or damage after delivery of the Hardware to the Client site shall relieve Client from any obligations under this Agreement, and Client shall be liable for any such loss, damage or destruction (regardless of cause).

**3.4.3 Alterations; Inspection.** This Section shall not apply to Hardware which is purchased and fully paid for by Client. Client shall not make any alterations or attach any device not provided by ADP to the Hardware whatsoever, nor shall Client remove the Hardware from the place of original installation without ADP's prior consent. ADP shall have the right upon prior written request, which request shall not be unreasonably denied, to enter Client's premises to inspect the Hardware during Client's normal business hours. Title to the Hardware shall remain in ADP. The Hardware is, and at all times shall remain, a separate item of personal property, notwithstanding its attachment to other equipment or real property. Client shall furnish any waivers or consents reasonably requested by ADP to give full effect to the intent of the preceding sentence.

**3.4.4 Third Parties.** With respect to the Hardware, ADP's suppliers, vendors and referral partners may enforce the same disclaimers and limitations against Client as ADP may under Sections 4 and 7 of Annex A.

**3.4.5 Hardware Limited Warranty.** ADP warrants to Client that the Hardware shall be free from defects in material and workmanship on the Warranty Commencement Date and for ninety days thereafter Hardware Maintenance as described in the Statement of Work shall commence upon expiration of the warranty. ADP's sole obligation in case of any breach of the foregoing warranty shall be to repair or replace, at ADP's option, any defective items. The foregoing warranty shall not apply in the following circumstances: (i) accident, neglect or misuse; (ii) alterations other than in accordance with ADP's standard installation procedures and (iii) failure to provide and maintain a suitable installation environment including but not limited to, failure to provide adequate electrical power, air conditioning or humidity control. Client will bear all risk of loss during shipment/delivery of Hardware relating to Maintenance.

**3.4.6 Conditions of Hardware Maintenance.** This Agreement is contingent upon proper use of the Hardware and does not cover Hardware which has been modified without ADP's approval, or which has been subjected to unusual physical or electrical stress, or in which the original identification marks have been removed or altered, or which has been removed from the place of original installation without ADP's prior consent. ADP shall not be responsible to Client for loss of use of the Hardware or for any other liabilities arising from alterations, additions, adjustments or repairs which have been made to the Hardware by other than authorized representatives of ADP. If, in the opinion of ADP, any such alterations, additions, adjustments or repairs adversely affect ADP's ability to render Maintenance to the Hardware, ADP reserves the right to immediately terminate the TLM Services.

### **3.4.7 Additional Termination Provisions.**

**3.4.7.1 Default by Client.** Upon the occurrence of any event set forth in Section 3.4.6, which is not cured as set forth therein, ADP may, at its option, whether or not the TLM Services are terminated, (i) take immediate possession of the Hardware (other than Hardware that has been purchased and fully paid for by Client), wherever situated, and for such purpose enter upon any premises without liability for so doing, (ii) sell, dispose of, hold, use or lease the Hardware, as ADP in its sole discretion may decide, and Client agrees to reimburse ADP for any and all expenses ADP may incur, including interest, costs and reasonable attorneys' fees, in taking any of the foregoing actions.

**3.4.7.2 Effect of Termination.** This Section 3.4.7.2 shall not apply to Hardware which is purchased and fully paid for by Client. In addition to the provisions of Section 3.4.7.1, immediately upon termination of the TLM Services, for any reason whatsoever, Client shall, at its expense, return any Hardware which is provided on a subscription basis to ADP in accordance with ADP's instructions in as good condition as received by Client, normal wear and tear excepted. If such Hardware is not returned, Client agrees to purchase such Hardware at fair market value.

## **3.5 ADP Vantage HCM Talent Management Services Component of the ADP Vantage HCM Services ("ADP TMS Services")**

### **3.5.1 Software License for ADP TMS Services.**

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**3.5.1.1 Grant of License.** ADP grants to Client a personal, non-transferable, non-exclusive right and license to use solely for Client's internal business purposes, and solely as a human capital management system as set forth in the Documentation, the Application Programs listed in Annex Z.

**3.5.1.2 Limitation on Use of Application Programs.** Client will use the Application Programs only to process its own internal data. Client will not assign, loan, sub-license or otherwise transfer the Application Programs, or alter, modify or adapt (or cause to be altered, modified or adapted) the Application Programs. Client will not allow all or any part of the Application Programs to be used in any country not respecting the trade secret and copyright protection of the Application Programs. In no event shall Client or its employees, contractors, agents, or affiliates use or deploy any of the ADP TMS Services: (i) in violation of applicable laws, rules or regulations; (ii) for commercial exploitation; or (iii) for any reason other than for the Application Programs' intended purpose as a talent management system. Further, Client shall not, and shall cause its employees, contractors, agents and affiliates not to: (i) copy all or any portion of the Application Programs; (ii) modify, translate or create any derivative works based upon any of the Application Programs; (iii) reverse engineer, reverse assemble, decompile or otherwise attempt to derive source code from any of the Application Programs or any part thereof; (iv) make any of the Application Programs available to any unauthorized third parties; (v) distribute, disclose, market, rent lease, assign, sublicense, pledge or otherwise transfer any of the Application Programs; (vi) perform, or release the results of, benchmark tests or other comparisons of any of the Application Programs with other software, services, or materials; (vii) permit any of the Application Programs to be used for or in connection with any facility management, service bureau or time-sharing purposes, services or arrangement, or otherwise used for processing data or other information on behalf of any third party; or (viii) use any of the Application Programs other than in accordance with the terms and conditions of this Agreement.

**3.5.1.3 Documentation.** ADP will make available to Client and Documentation applicable to the Application Programs, Client will copy the Documentation only for its internal business use to satisfy its reasonable internal needs, *provided* that any such copies include all proprietary, copyright and other similar notices.

**3.5.1.4 Limited Warranty.** When taken as a whole, the Application Programs provided with the ADP TMS Services shall substantially and materially conform to applicable documentation supplied by ADP. EXCEPT FOR THE FOREGOING WARRANTY, THE APPLICATION PROGRAMS PROVIDED WITH THE ADP TMS SERVICES ARE PROVIDED "AS IS," AND CLIENT'S USE OF SAME IS AT CLIENT'S OWN RISK. ADP DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL WARRANTIES, WHETHER IMPLIED OR EXPRESS, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. ADP DOES NOT WARRANT THAT THE APPLICATION PROGRAMS PROVIDED WITH THE ADP TMS SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE OR COMPLETELY SECURE. THE APPLICATION PROGRAMS PROVIDED WITH THE ADP TMS SERVICES ARE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS FOR WHICH ADP IS NOT RESPONSIBLE. EXCEPT FOR THE FAILURE TO MAINTAIN THE SERVICE LEVEL AGREEMENT FOR ADP TMS, ADP IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

**3.5.1.5 Access.** Client shall (i) be responsible for all activities that occur under Client's Active User accounts; and (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, ADP TMS, by Client's employees and agents except as provided in this Agreement and shall notify ADP of any unauthorized use. Client agrees that it and its Active Users shall not knowingly introduce into or transmit through ADP TMS any virus, worm, or trap door or fail to take reasonable steps to prevent the foregoing.

**3.5.2 Delivery and Use of ADP TMS Client Content.** Client shall promptly deliver to ADP the ADP TMS Client Content as required by ADP in an electronic file format specified and accessible to ADP or as otherwise set forth in Annex Z. "ADP TMS Client Content" means any materials provided by Client for incorporation in the Services, including, but not limited to, any images, photographs, illustrations, graphics, and text, to the extent applicable. Client hereby grants ADP a non-exclusive, non-transferable license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy (including back-up copies) and display the ADP TMS Client Content as reasonably necessary to perform the ADP TMS Services. Client is solely responsible for all Client Content and for obtaining all required rights and licenses to use and display such ADP TMS Client Content in connection with ADP TMS. Client shall provide to ADP such ADP TMS Client Content as is virus free and does not contain any content or materials which are obscene, offensive, inappropriate, threatening, malicious, which violate any applicable law or regulation or any contract, privacy or other third party right or which otherwise exposes ADP to civil or criminal liability. ADP reserves the right to exclude or immediately remove from the ADP TMS any ADP TMS Client Content which it determines in its sole discretion violates the previous sentence, provided that ADP has no obligation to review or monitor the ADP TMS Client Content.

### 3.6 ADP Vantage HCM Talent Management Services Powered by CSOD

#### 3.6.1 License.

**3.6.1.1 Grant of License.** ADP grants to Client a personal, non-transferable, non-exclusive right and license to use solely for Client's internal business purposes the ADP Products listed in Annex Z.

**3.6.1.2 Type of License.** The license granted pursuant hereto is for production only and not development. Client may use the ADP Products to conduct planning for as many employees as are specified in Annex Z.

**3.6.1.3 Limitation on Use of ADP Products.** Client will use the ADP Products only to process its own internal data. Client will not copy, assign, loan, sub-license or otherwise transfer the ADP Products, or alter, modify or adapt (or cause to be altered, modified or adapted) the ADP Products. CLIENT WILL NOT COPY, RECOMPILE, DISASSEMBLE, REVERSE ENGINEER, OR MAKE OR DISTRIBUTE ANY OTHER FORM OF OR, EXCEPT AS PERMITTED BY THIS SECTION, ANY DERIVATIVE WORK FROM, THE ADP PRODUCTS.

**3.6.1.4 Documentation.** ADP will deliver to Client one copy of any Documentation applicable to the ADP Products, all or a part of which may be in the form of computer media. Client will copy the Documentation only for its internal business use to satisfy its reasonable internal needs, *provided* that any such copies include all proprietary, copyright and other similar notices.

**3.6.1.5 Limited Warranty.** Neither ADP nor the third parties from whom ADP has obtained the right to use, or license to Client, the ADP Products warrants that the ADP Products will meet Client's requirements or that the operation of the ADP Products will be

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uninterrupted or error free. However, ADP warrants that the ADP Products will perform substantially in accordance with the Documentation.

**3.6.2 Delivery and Use of Client Content.** Client shall promptly deliver to ADP the ADP Talent Management Services Powered by CSOD Client Content as required by ADP in an electronic file format specified and accessible to ADP or as otherwise set forth in Annex Z. “ADP Talent Management Services Powered by CSOD Client Content” means any materials provided by Client for incorporation in the Services, including, but not limited to, any images, photographs, illustrations, graphics, and text. Client hereby grants ADP a non-exclusive, non-transferable license to use, edit, modify, adapt, translate, exhibit, publish, reproduce, copy (including back-up copies) and display the ADP Talent Management Services Powered by CSOD Client Content as reasonably necessary to perform the Services. Client is solely responsible for all ADP Talent Management Services Powered by CSOD Client Content and for obtaining all required rights and licenses to use and display such ADP Talent Management Services Powered by CSOD Client Content in connection with the ADP Products. Client shall provide to ADP, the ADP Talent Management Services Powered by CSOD Client Content that is virus free and does not contain any content or materials which are obscene, offensive, inappropriate, threatening, malicious, which violate any applicable law or regulation or any contract, privacy or other third party right or which otherwise exposes ADP to civil or criminal liability. ADP reserves the right to exclude or immediately remove from the System any ADP Talent Management Services Powered by CSOD Client Content which it determines in its sole discretion violates the previous sentence, provided that ADP has no obligation to review or monitor the ADP Talent Management Services Powered by CSOD Client Content.

### **3.7 ADP Vantage HCM Recruiting Management Services.**

#### **3.7.1 Software License.**

**3.7.2 Grant of License.** ADP grants to Client a personal, non-transferable, non-exclusive right and license to use solely for Client’s internal business purposes the Application Programs selected in the Statement of Work.

**3.7.3 Limitation on Use of Application Programs.** Client will use the Application Programs licensed under this Section only to process its own internal data (whether entered by Client, its Vendors or its applicants for employment) and only in connection with its receipt of the ADP Vantage HCM Recruiting Management Services. Client will not assign, loan, sub-license or otherwise transfer the Application Programs, or alter, modify or adapt (or cause to be altered, modified or adapted) the Application Programs. To the extent provided, Client will not publish the results of benchmark tests run with the Application Programs. CLIENT WILL NOT COPY, RECOMPILE, DISASSEMBLE, REVERSE ENGINEER, OR MAKE OR DISTRIBUTE ANY OTHER FORM OF, OR ANY DERIVATIVE WORK FROM, THE APPLICATION PROGRAMS. Except as set forth herein, Client will not allow all or any part of the Application Programs to be used in any country not respecting the trade secret and copyright protection of the Application Programs.

**3.7.4 Documentation.** ADP will make available to Client and Documentation applicable to the Application Programs, Client will copy the Documentation only for its internal business use to satisfy its reasonable internal needs, *provided* that any such copies include all proprietary, copyright and other similar notices.

### **3.8 Verification Services Schedule 1 – Verification Services Description Overview**

The Work Number® service (the “Service”) is an employment and income verification service provided by ADP, Inc., powered by The Work Number, owned and operated by TALX Corporation (“TALX”), which provides subscribing employers with an automated method of authorizing and providing employment and income verification.

#### **Parties to Verifications.**

ADP serves as Client’s agent solely for employment and income verification purposes. The Service is designed to assist (i) Client, (ii) employees of Client, and (iii) commercial, private, non-profit and governmental entities (“Verifiers”) who wish to verify an employee’s employment and/or income.

#### **Client Interests.**

Client provides employment and income data (“Data”) to ADP on a regular basis and ADP, through The Work Number, provides employment and/or income verifications to Verifiers. Client acknowledges that the ability of The Work Number to provide accurate information is dependent upon accurate Data from Client. Client shall maintain its Data in an accurate, complete and current manner, to provide Data on employees of Client, and to notify ADP in advance of any and all changes or modifications in format of the Client’s computer interface and/or the Data.

The Work Number may use Client’s name and logo in routine communications to Verifiers to inform Verifiers of participation by clients in the Service in order to serve clients more efficiently and to reduce calls to clients from Verifiers.

#### **Employee Interests.**

Employees of Client may need verification of employment and/or income to qualify for home loans, automobile loans, chattel loans, social services programs, confirm immigration status or obtain worker’s compensation payments. The Work Number® provides the necessary verification on a timely basis.

#### **Verifier Interests.**

Verifiers may obtain different amounts of information and in different manners dependent on the nature of the Verifier and the nature of the relationship with The Work Number. Verifiers may be commercial verifiers such as mortgage lenders, pre-employment screeners, automobile lenders, property managers, parties to consumer lending and others; social service agencies seeking to qualify an employee for social service assistance; child support agencies providing support for dependent children; immigration officials needing confirmation of employment; insurers; law enforcement agencies; or other Verifiers with a need to verify employment or income.

The Work Number will provide verifications to serve the interests of Client, employees of Client and Verifiers by providing verifications (i) to relieve the employer of the burden of employment and income verification obligations as often as practicable; (ii) where the employee has applied for a benefit (such as a job application, qualification for social services assistance or a loan application) or has obtained a benefit and the Verifier is seeking to determine whether the employee is qualified to receive the benefit or is seeking to enforce obligations undertaken by the employee in connection with the benefit; (iii) where the employee is obligated by Federal, state or local law to provide the verification information to the Verifier; and (iv) to provide demographic studies which will not reveal identifying information unique to any individual employee.

#### **Fair Credit Reporting Act.**

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In order to enhance the protections available to employees of Client, with respect to the privacy and accuracy of the Data supplied by the Service, The Work Number has determined to incorporate features of the Fair Credit Reporting Act (the "FCRA") in connection with the Service. Client acknowledges receipt of the Notice to Furnisher attached as Exhibit 1 to this Schedule 1 and agrees that it shall comply with all of the obligations of a furnisher set forth in such Notice to Furnisher. Client acknowledges that The Work Number will have responsibilities to maintain the accuracy of Data on the Service database, and grants the authority necessary to fulfill these responsibilities, including, but not limited to, the right to make changes to the Data of Client as required. Client will be furnished with certain security information and defaults which permit employees to provide access to the Data to verifiers. Client shall maintain the security information and defaults in strictest confidence.

The Work Number reserves the right to modify the Service from time to time. If the modification shall be a substantial change from this Service Description Overview. The Work Number shall provide notice of the change to Client. Client may terminate the Service by notice given to ADP within thirty (30) days after notice of an amendment to the Service Description Overview, and termination shall be effective ninety (90) days after notice is provided unless Client provides for an earlier or later effective date of termination in the notice of termination. Absence of such termination shall constitute Client's agreement to the modified Service Description Overview.

### EXHIBIT 1 TO SCHEDULE 1

**All furnishers subject to the Federal Trade Commission's jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission's Web site, [www.ftc.gov/credit](http://www.ftc.gov/credit). Furnishers who are not subject to the Commission's jurisdiction should consult with their regulators to find any relevant regulations.**

#### NOTICE TO FURNISHERS OF INFORMATION: OBLIGATIONS OF FURNISHERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA, 15 U.S.C. 1681s-2. State law may impose additional requirements on furnishers. All furnishers of information to CRAs should become familiar with the applicable laws and may want to consult with their counsel to ensure that they are in compliance. The text of the FCRA is set forth in full at the Website of the Federal Trade Commission (FTC): [www.ftc.gov/credit](http://www.ftc.gov/credit). A list of the sections of the FCRA cross-referenced to the U.S. Code is at the end of this document.

Section 623 imposes the following duties upon furnishers:

#### Accuracy Guidelines

The banking and credit union regulators and the FTC will promulgate guidelines and regulations dealing with the accuracy of information provided to CRAs by furnishers. The regulations and guidelines issued by the FTC will be available at [www.ftc.gov/credit](http://www.ftc.gov/credit) when they are issued. Section 623(e).

#### General Prohibition on Reporting Inaccurate Information

The FCRA prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. Sections 623(a)(1)(A) and (a)(1)(C).

#### Duty to Correct and Update Information

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must promptly provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. Section 623(a)(2).

#### Duties After Notice of Dispute from Consumer

If a consumer notifies a furnisher, at an address specified for the furnisher for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate, the furnisher must thereafter report the correct information to CRAs. Section 623(a)(1)(B).

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. Section 623(a)(3).

The federal banking and credit union regulators and the FTC will issue regulations that will identify when an information furnisher must investigate a dispute made directly to the furnisher by a consumer. Once these regulations are issued, furnishers must comply with them and complete an investigation within 30 days (or 45 days, if the consumer later provides relevant additional information) unless the dispute is frivolous or irrelevant or comes from a "credit repair organization." The FTC regulations will be available at [www.ftc.gov/credit](http://www.ftc.gov/credit). Section 623(a)(8).

#### Duties After Notice of Dispute from Consumer Reporting Agency

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by the consumer. Sections 623(b)(1)(A) and (b)(1)(B).
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that compile and maintain files on a nationwide basis. Section 623(b)(1)(C) and (b)(1)(D).
- Complete the above steps within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). Section 623(b)(2).
- Promptly modify or delete the information, or block its reporting. Section 623(b)(1)(E).

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## **Duty to Report Voluntary Closing of Credit Accounts**

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnishes information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. [Section 623\(a\)\(4\)](#).

## **Duty to Report Dates of Delinquencies**

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. [Section 623\(a\)\(5\)](#).

Any person, such as a debt collector, that has acquired or is responsible for collecting delinquent accounts and that reports information to CRAs may comply with the requirements of Section 623(a)(5) (until there is a consumer dispute) by reporting the same delinquency date previously reported by the creditor. If the creditor did not report this date, they may comply with the FCRA by establishing reasonable procedures to obtain and report delinquency dates, or, if a delinquency date cannot be reasonably obtained, by following reasonable procedures to ensure that the date reported precedes the date when the account was placed for collection, charged to profit or loss, or subjected to any similar action. [Section 623\(a\)\(5\)](#).

## **Duties of Financial Institutions When Reporting Negative Information**

Financial institutions that furnish information to "nationwide" consumer reporting agencies, as defined in Section 603(p), must notify consumers in writing if they may furnish or have furnished negative information to a CRA. [Section 623\(a\)\(7\)](#). The Federal Reserve Board has prescribed model disclosures, 12 CFR Part 222, App. B.

## **Duties When Furnishing Medical Information**

A furnisher whose primary business is providing medical services, products, or devices (and such furnisher's agents or assignees) is a medical information furnisher for the purposes of the FCRA and must notify all CRAs to which it reports of this fact. [Section 623\(a\)\(9\)](#). This notice will enable CRAs to comply with their duties under Section 604(g) when reporting medical information.

## **Duties When ID Theft Occurs**

All furnishers must have in place reasonable procedures to respond to notifications from CRAs that information furnished is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher may not furnish information that a consumer has identified as resulting from identity theft unless the furnisher subsequently knows or is informed by the consumer that the information is correct. [Section 623\(a\)\(6\)](#). If a furnisher learns that it has furnished inaccurate information due to identity theft, it must notify each consumer reporting agency of the correct information and must thereafter report only complete and accurate information. [Section 623\(a\)\(2\)](#). When any furnisher of information is notified pursuant to the procedures set forth in Section 605B that a debt has resulted from identity theft, the furnisher may not sell, transfer, or place for collection the debt except in certain limited circumstances. [Section 615\(f\)](#).

The FTC's Web site, [www.ftc.gov/credit](http://www.ftc.gov/credit), has more information about the FCRA, including publications for businesses and the full text of the FCRA.

## **Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:**

Section 602	15 U.S.C. 1681	Section 615	15 U.S.C. 1681m
Section 603	15 U.S.C. 1681a	Section 616	15 U.S.C. 1681n
Section 604	15 U.S.C. 1681b	Section 617	15 U.S.C. 1681o
Section 605	15 U.S.C. 1681c	Section 618	15 U.S.C. 1681p
Section 605A	15 U.S.C. 1681cA	Section 619	15 U.S.C. 1681q
Section 605B	15 U.S.C. 1681cB	Section 620	15 U.S.C. 1681r
Section 606	15 U.S.C. 1681d	Section 621	15 U.S.C. 1681s
Section 607	15 U.S.C. 1681e	Section 622	15 U.S.C. 1681s-1
Section 608	15 U.S.C. 1681f	Section 623	15 U.S.C. 1681s-2
Section 609	15 U.S.C. 1681g	Section 624	15 U.S.C. 1681t
Section 610	15 U.S.C. 1681h	Section 625	15 U.S.C. 1681u
Section 611	15 U.S.C. 1681i	Section 626	15 U.S.C. 1681v
Section 612	15 U.S.C. 1681j	Section 627	15 U.S.C. 1681w
Section 613	15 U.S.C. 1681k	Section 628	15 U.S.C. 1681x
Section 614	15 U.S.C. 1681l	Section 629	15 U.S.C. 1681y

**3.7 Benefit Services Disclosures.** The following disclosures shall apply to the Benefit Services.

**3.7.1 Carrier Enrollment Benefit Services.** If Client receives carrier enrollment or premium payment administration & disbursement Benefit Services hereunder, ADP will on a monthly basis determine the premium amounts due from the Client to the Carriers. Premium payment disbursements to the Carriers are received by ADP via the following methods of payment: Fed wire; ACH transfer; or Client check. Such payments are deposited into an ADP zero balance account for processing and reconciliation by ADP. This account is maintained separately from ADP's operating accounts. Due to the nature of the ACH system, ADP generally receives use of the amounts disbursed to ADP via ACH transfer within two Business Days from the ACH impound date. Fed wire funds are made available to ADP immediately. Within 24 hours following receipt of premium amounts via ACH transfer or Fed wire, or as soon as confirmation is made that the Client's check has cleared, ADP remits to the Carriers the payment amounts made by the Client for the premiums then due. Such payments to Carriers are made by ADP either by check or by ACH transfer. Once disbursed by ADP, if payments are made to the Carriers by check, on average checks remain outstanding for fifteen days before being presented for payment.

**3.7.2 Flexible Spending Account and Commuter Benefits Administration Benefit Services.** As flexible spending account and commuter benefits claims are adjudicated by ADP, and ADP determines that a participant is entitled to reimbursement, ADP determines the aggregate amount to be paid as reimbursement to participants and obtains Client funds for such reimbursements. In the event that ADP provides Stored Value Card Services to Client, the provisions of Section 10.7.15 of Annex A shall apply. All such reimbursement amounts disbursed to ADP pending participant reimbursement are maintained in an account that is separate

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from ADP's operating accounts. Clients remit claim reimbursement payment amounts to ADP via Client-initiated Fed wire or ACH transfer, via ADP-initiated ACH transfer, or via Client check. Due to the nature of the ACH system, ADP generally receives use of the amounts disbursed to ADP via ACH transfer within two Business Days from the ACH impound date. Once Client checks clear the banking system, the payment amounts are made available to ADP. Fed wire funds are made available to ADP immediately. Immediately upon ADP's receipt of good funds from the Client, ADP makes disbursements in the amount of the applicable reimbursement to each participant. Participants receive such payments either by check or, if they and the Client have elected, by direct deposit. On average, checks remain outstanding for nine to twelve days before being presented for payment. In some cases, upon the Client's request and as a convenience to the Client, ADP holds a Client-determined amount on account in order to facilitate the prompt reimbursement of participant claims at the time of claim adjudication. Except to the extent Client has elected to prefund the Account, as set forth in Annex Z, ADP does not determine the amount to be held on account for the Client, and all such amounts may be withdrawn at any time by the Client.

**3.7.3 Investment of Amounts Held.** ADP invests such funds, pending disbursement or presentment for payment, in long and short term investments, such as money market funds, United States treasury obligations, United States government agency obligations, corporate notes, and other investments.

**3.8 COBRA/Direct Bill Services Disclosures.** The following disclosures shall apply to the COBRA/Direct Bill Services.

**3.8.1 Disbursements.** Participant payments are received via check or, if arrangements are made by the participant, via ACH transfer. Such payments are made throughout the month and are deposited into an ADP account for processing and reconciliation by ADP. This ADP account is maintained separately from ADP's operating accounts. Due to the nature of the ACH system, payments received through ACH generally clear within two Business Days. On average, participant checks require 48 to 72 hours to clear. On a monthly basis, ADP reviews each payment and records each payment to the participant's record. ADP then reconciles to the particular client, the amounts paid by participants. After completing this recording and reconciliation process, ADP remits to the Client (or to the Client's designated carriers, depending on the arrangements made with the Client) the payment amounts made by participants for that month's premiums, along with payments made by participants that are still within the applicable grace period (in each case, less the 2% administrative fee allowed by COBRA). Such payments to Client or carriers are made by ADP either by check or by Fed wire. On occasion, participants may pay for coverage in advance of the applicable due date. Amounts disbursed to ADP are held by ADP for approximately 15 days prior to disbursement by ADP. Once disbursed by ADP, if payments are made by check, checks are presented for payment approximately 14 to 21 days following disbursement.

**3.8.2 Investment of Amounts Held.** ADP invests such funds, pending disbursement or presentment for payment, in long and short term investments, such as money market funds, United States treasury obligations, United States government agency obligations, corporate notes, and other investments.

**3.9 Notice to Furnishers applicable to the Screening Services.**

### NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Consumer Financial Protection's Bureau (CFPB) website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore). At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the CFPB's website. **Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

#### I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

##### A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. [Section 604\(a\)\(1\)](#)
- As instructed by the consumer in writing. [Section 604\(a\)\(2\)](#)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. [Section 604\(a\)\(3\)\(A\)](#)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. [Sections 604\(a\)\(3\)\(B\) and 604\(b\)](#)
- For the underwriting of insurance as a result of an application from a consumer. [Section 604\(a\)\(3\)\(C\)](#)
- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. [Section 604\(a\)\(3\)\(F\)\(i\)](#)
- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. [Section 604\(a\)\(3\)\(F\)\(ii\)](#)

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- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. [Section 604\(a\)\(3\)\(D\)](#)
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. [Section 604\(a\)\(3\)\(E\)](#)
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. [Sections 604\(a\)\(4\) and 604\(a\)\(5\)](#)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. [Section 604\(c\)](#). The particular obligations of users of "prescreened" information are described in Section VII below.

### **B. Users Must Provide Certifications**

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

### **C. Users Must Notify Consumers When Adverse Actions Are Taken**

The term "adverse action" is defined very broadly by Section 603. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

#### **1. Adverse Actions Based on Information Obtained From a CRA**

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

#### **2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies**

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

#### **3. Adverse Actions Based on Information Obtained From Affiliates**

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C. 1 above.

### **D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files**

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

### **E. Users Have Obligations When Notified of an Address Discrepancy**



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Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed. Federal regulations are available at, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

## **F. Users Have Obligations When Disposing of Records**

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. Federal regulations have been issued that cover disposal.

## **II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES**

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations prescribed by the CFPB.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

## **III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES**

### **A. Employment Other Than in the Trucking Industry**

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- **Before** taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. [Section 615\(b\)\(2\)](#)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

### **B. Employment in the Trucking Industry**

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking company by contacting the company.

## **IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED**

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.

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- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

### V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

### VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the medical provider). If the information is to be used for an insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in federal regulations) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or as permitted by statute, regulation, or order).

### VII. OBLIGATIONS OF USERS OF "PRESCREENED" LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. Sections 603(l), 604(c), 604(e), and 615(d). This practice is known as "prescreening" and typically involves obtaining from a CRA a list of consumers who meet certain pre-established criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, the CFPB has established the format, type size, and manner of the disclosure required by Section 615(d), with which users must comply. The relevant regulation is 12 CFR 1022.54.

### VIII. OBLIGATIONS OF RESELLERS

#### A. Disclosure and Certification Requirements

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  - (1) the identity of all end-users;
  - (2) certifications from all users of each purpose for which reports will be used; and
  - (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller.Resellers must make reasonable efforts to verify this information before selling the report.

#### B. Reinvestigations by Resellers

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

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## **C. Fraud Alerts and Resellers**

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

## **IX. LIABILITY FOR VIOLATIONS OF THE FCRA**

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.

The CFPB's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore), has more information about the FCRA, including publications for businesses and the full text of the FCRA.

### **Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:**

Section 602	15 U.S.C. 1681	Section 615	15 U.S.C. 1681m
Section 603	15 U.S.C. 1681a	Section 616	15 U.S.C. 1681n
Section 604	15 U.S.C. 1681b	Section 617	15 U.S.C. 1681o
Section 605	15 U.S.C. 1681c	Section 618	15 U.S.C. 1681p
Section 605A	15 U.S.C. 1681cA	Section 619	15 U.S.C. 1681q
Section 605B	15 U.S.C. 1681cB	Section 620	15 U.S.C. 1681r
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Section 612	15 U.S.C. 1681j	Section 627	15 U.S.C. 1681w
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