



This agreement (the "Agreement") is entered into by and between USA Protect, LLC, hereinafter referred to as ("LPPolice"), a Delaware Limited Liability Company, and the new user first indicated above and within this Agreement (the "Customer") for the LPPolice Services.

**1. SCOPE OF SERVICES.** LPPOLICE provides nationwide background investigation information and related services ("the Services") using its proprietary databases and information obtained from third parties ("Third Parties"). Customer hereby subscribes to Services for approved investigatory practices that fall within the scope of Customer's legally approved and authorized authority. LPPOLICE reserves the right to cancel, suspend, or reject this Agreement without recourse against LPPOLICE, or any of its employees, officers, directors, agents, affiliates, or other designees. Additionally, the Customer hereby authorizes LPPOLICE to independently verify the information provided herein and perform research about the individuals identified herein. LPPOLICE agrees to provide the Services to Customer subject to the terms and conditions contained herein. This Agreement shall encompass any and all delivery methods for the Services.

**2. RESTRICTED LICENSE.** LPPOLICE hereby grants to Customer a restricted license to use the Services and the data delivered in connection therewith, subject to the restrictions and limitations set forth below:

**2.1 Generally.** LPPOLICE hereby grants to Customer a restricted license to use the Services solely for Customer's own internal business purposes. Customer represents and warrants that Customer's use of the Services shall be for only legitimate business purposes relating to its business and as otherwise governed by this Agreement and shall be for employment purposes only. Customer shall not use the Services for marketing purposes or resell, broker or give information provided by LPPOLICE to any third party, and shall not use the Services for personal (non-business) purposes. Customer agrees that, if LPPOLICE determines or reasonably suspects that Customer is engaging in marketing activities, reselling or brokering LPPOLICE's Services, information, programs, computer applications, or data, or is otherwise violating any provision of this Agreement, or any of the laws, regulations, or rules described herein, LPPOLICE may take immediate action, including, without limitation, terminating the delivery of, and the license to use, the Services. Customer shall not access the Services from Internet Protocol addresses located outside of the United States and its territories without LPPOLICE's prior written approval. Customer may not use data to create a competing product. Customer shall comply with all laws, regulations and rules which may, in LPPOLICE's opinion, govern the use of the Services and information provided therein. LPPOLICE may at any time mask or cease to provide Customer access to any LPPOLICE Services or portions thereof which LPPOLICE may deem, in its sole discretion, to be sensitive or restricted information.

**2.2 GLBA Data.** Some of the information contained in the Services is "nonpublic personal information," as defined in the Gramm-Leach-Bliley Act (15 U.S.C. § 1601 et seq.) and related state laws (the "GLBA"), and is regulated by the GLBA ("GLBA Data"). Customer shall not obtain and/or use GLBA Data through the Services in any manner that would violate the GLBA or any similar state or local laws, regulations and rules. Customer acknowledges and agrees that it may be required to certify its permissible use of GLBA Data at the time it requests information in connection with certain LPPOLICE Services. In addition, Customer agrees it will certify, in writing, its permissible uses of GLBA Data in Part 4 and recertify upon request by LPPOLICE. Customer certifies with respect to GLBA data received through the Services that it complies with the Interagency Standards for Safeguarding Customer Information issued pursuant to the GLBA.

**2.3 DPPA Data.** Some of the information contained in the Services is "personal information," as defined in the Drivers Privacy Protection Act, (18 U.S.C. § 2721 et seq.) and related state laws (the "DPPA"), and is regulated by the DPPA ("DPPA Data"). Customer shall not obtain and/or use DPPA Data through LPPOLICE's Services in any manner that would violate the DPPA. Customer acknowledges and agrees that it may be required to certify its permissible use of DPPA Data at the time it requests information in connection with certain Services. In addition, Customer agrees it will certify, in writing, its permissible uses of DPPA Data in Part 4 and recertify upon request by LPPOLICE.

**2.4 Social Security and Driver's License Numbers.** LPPOLICE may in its sole discretion permit Customer to access Social Security Numbers or Driver's License Numbers if Customer is authorized by LPPOLICE to receive this data. If Customer obtains such data through the Services, Customer certifies it will not use the said data for any purpose other than as expressly authorized by LPPOLICE policies, the terms and conditions contained herein, and applicable laws and regulations. In addition to the restrictions on distribution otherwise set forth in Section 3 below, Customer agrees that it will not permit data obtained through the Services to be used by an employee or contractor that is not an authorized user with an authorized use. Customer agrees it will certify, in writing, its uses for the data and recertify upon request by LPPOLICE. Customer may not, to the extent permitted by the terms of this Agreement, transfer such sensitive information via email or ftp without LPPOLICE's prior written consent. However, Customer shall be permitted to transfer such information so long as: (a) a secured method (for example, sftp) is used, (b) transfer is not to any third-party, and (c) such transfer is limited to such use as permitted under this Agreement. LPPOLICE may at any time and for any or no reason cease to provide sensitive data to Customer.

**2.5 Copyrighted and Trademarked Materials.** Customer shall not remove or obscure the copyright notice or other notices contained on materials accessed through the Services.

**2.6 HIPAA.** Customer represents and warrants that Customer will not provide LPPOLICE with any Protected Health Information (as that term is defined in 45 C.F.R. Sec. 160.103) or with Electronic Health Records or Patient Health Records (as those terms are defined in 42 U.S.C. Sec. 17921(5), and 42 U.S.C. Sec. 17921(11), respectively) or with information from such records without the execution of a separate agreement between the parties.

**2.7 Retention of Records.** For uses of GLB Data, DPPA Data and MVR Data, as described in Sections 2.2, 2.3 and 4.4, Customer shall maintain for a period of five (5) years a complete and accurate record (including consumer identity, purpose and, if applicable, consumer authorization) pertaining to every access to such data.

### **3. SECURITY/CUSTOMER DATA.**

**3.1** LPPOLICE has adopted "LPPOLICE Data Privacy Principles" ("Principles"), which may be modified from time to time, recognizing the importance of appropriate privacy protections for consumer data and Customer agrees that Customer (including its directors, officers, employees or agents) will comply with the Principles or Customer's own comparable privacy principles, policies, or practices. LPPOLICE's Data Privacy Principles are available at the Customer's request. Customer agrees to do the following in order to preserve the security of the Services being provided pursuant to this Agreement:

**3.2** Customer acknowledges that the information available through the Services will include personally identifiable information and it is Customer's obligation to keep all such accessed information confidential and secure. Accordingly, Customer shall:

3.2.1 Restrict access to Services to those employees who have a need to know as part of their official duties;

3.2.2 Ensure that none of its employees shall:

3.2.1 Obtain and/or use any information from the Services for personal reasons

3.2.2 Transfer any information received through the Services to any party except as permitted hereunder;

3.2.3 Keep all user identification numbers, and related passwords, or other security measures (collectively, "User IDs") confidential and prohibit the sharing of User IDs;

3.2.4 Immediately deactivate the User ID of any employee who no longer has a need to know, or for terminated employees on or prior to the date of termination;

3.2.5 In addition to any obligations under Paragraph 2, take all commercially reasonable measures to prevent unauthorized access to, or use of, the Services or data received therefrom, whether the same is in electronic form or hard copy, by any person or entity;

3.2.6 Maintain and enforce data destruction procedures to protect the security and confidentiality of all information obtained through Services as it is being disposed;

3.2.7 Be capable of receiving the Services where the same are provided utilizing "secure socket layer," or such other means of secure transmission as is deemed reasonable by LPPOLICE;

3.2.8 Not access and/or use the Services via mechanical, programmatic, robotic, scripted or other automated search means, other than through batch or machine-to-machine applications approved by LPPOLICE; and

3.2.9 Take all steps to protect their networks and computer environments, or those used to access the Services, from compromise.

**3.3** Customer agrees that on at least a quarterly basis it will review searches performed by its User IDs to ensure that such searches were performed for a legitimate business purpose and in compliance with all terms and conditions herein. Customer will implement policies and procedures to prevent unauthorized use of User IDs and the LPPOLICE Services and will immediately notify LPPOLICE by writing to the LPPOLICE Privacy, Security and Compliance Organization at 100 Cummings Center, Suite 216G, Beverly, MA and by email ([customerservice@locateplus.com](mailto:customerservice@locateplus.com)) and by phone (1-888-746-3463), if Customer suspects, has reason to believe or confirms that a User ID for the Services (or data derived directly or indirectly therefrom) is or has been lost, stolen, compromised, misused or used, accessed or acquired in an unauthorized manner or by any unauthorized person, or for any purpose other than legitimate business reasons. Customer shall remain solely liable for all costs associated therewith and shall further reimburse LPPOLICE for any expenses it incurs due to Customer's failure to prevent such impermissible use or access of User IDs and/or the Services, or any actions required as a result thereof. Customer acknowledges that, upon unauthorized acquisition or access of or to such personally identifiable information, including but not limited to that which is due to use by an unauthorized person or due to unauthorized use (a "Security Event"), Customer shall, in compliance with law, notify the individuals whose information was potentially accessed or acquired that a Security Event has occurred, and shall also notify any other parties (including but not limited to regulatory entities and credit reporting agencies) as may be required in LPPOLICE's reasonable discretion. Customer agrees that such notification shall not reference LPPOLICE or the product through which the data was provided, nor shall LPPOLICE be otherwise identified or referenced in connection with the Security Event, without LPPOLICE's express written consent. Customer shall be solely responsible for any other legal or regulatory obligations which may arise under applicable law in connection with such a Security Event and shall bear all costs associated with complying with legal and regulatory obligations in connection therewith. Customer shall remain solely liable for claims that may arise from a Security Event, including, but not limited to, costs for litigation (including attorneys' fees), and reimbursement sought by individuals, including but not limited to, costs for credit monitoring or allegations of loss in connection with the Security Event, and to the extent that any claims are brought against LPPOLICE, shall indemnify LPPOLICE from such claims. Customer shall provide samples of all proposed materials to notify consumers and any third-parties, including regulatory entities, to LPPOLICE for review and approval prior to distribution. In the event of a Security Event, LPPOLICE may, in its sole discretion, take immediate action, including suspension or termination of Customer's account, without further obligation or liability of any kind. Customer shall not, and shall not cause or permit others to, transmit, convey, compile, store, review, distribute or otherwise use outside of the United States, any data, including without limitation any personal information, received from LPPOLICE hereunder.

#### **4. FCRA/MVR OBLIGATIONS.**

**4.1** Customer acknowledges that LPPOLICE has provided the "Notice to Users of Consumer Reports", attached hereto as Attachment A, which informs users of consumer reports of their legal obligations under the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq. (the "FCRA").

**4.2** In providing consumer reports, as that term is defined by the FCRA ("Consumer Reports"), LPPOLICE agrees to do the following:

4.2.1 Comply with all laws applicable to the making of Consumer Reports for employment purposes, including the FCRA.

4.2.2 Follow reasonable procedures to assure maximum possible accuracy of the information reported, subject to Section 13 below.

4.2.3 Disclose, upon request from the consumer who is the subject of the Consumer Report (the "Consumer"), the information reported, reinvestigate any information disputed by the Consumer at no charge to the Customer and take any necessary corrective action with the Consumer and the Customer.

**4.3** Customer agrees to do the following:

4.3.1 Keep all Consumer Reports, whether oral or written, strictly confidential. Subject to Part 5, Section 3, if the Consumer, or his or her representative, requests Consumer Report information, that person may be referred to LPPOLICE for disclosure under the FCRA or other applicable laws.

4.3.2 Comply with the Vermont Fair Credit Reporting Act, 9 V.S.A. § 2480e, by securing the written consent of the Consumer prior to ordering a Consumer Report on a Vermont resident.

4.3.3 Customer shall comply with all relevant privacy and antidiscrimination laws in using any information provided by LPPOLICE. Any adjudication matrix or instructions relating to Customer's use of LPPOLICE's Candidate Data Capture system that Customer has provided to LPPOLICE for use in adjudicating background reports or implementing the services provided by such system have been reviewed by Customer's legal counsel and comply with federal, state, and local privacy and LPP\_terms\_website\_06 25 2012 AC

anti-discrimination laws, including but not limited to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.; New York State General Business Law §§ 380 et seq.; New York Executive Law §§ 296(1), (15) and (16); New York Correction Law §§ 752-53; and New York City Administrative Code § 8-107(10). Customer acknowledges receipt of Attachment B hereto.

**4.4** If Customer purchases motor vehicle records (“MVR or MVRs”) from LPPOLICE, Customer agrees to the following conditions (to the extent that they apply to law enforcement agencies):

4.4.1 Comply with the DPPA and similar state statutes, including using MVRs only for purposes permitted by the DPPA.

4.4.2 Customer shall not retain or store any LPPOLICE-provided MVR, or portions of information contained therein, in any database or combine such information with data in any other database, provided that, Customer may keep a copy of a Consumer’s MVR in the Consumer’s personnel/volunteer file.

4.4.3 As requested by LPPOLICE, Customer shall complete any state forms that LPPOLICE is legally or contractually bound to obtain from Customer before serving Customer with state MVRs.

4.4.4 With regard to LPPOLICE-provided MVRs originating from the states of Pennsylvania, Washington, and West Virginia, Customer shall not disseminate or publish personal information contained in such MVRs via the Internet.

4.4.5 Customer shall not publish Virginia MVRs or any information derived from Virginia MVRs via e-mail. However, Customer may disseminate Virginia MVRs via the Internet through use of a secure Internet connection.

4.4.6 If Customer orders an MVR from the state of Alaska for any purpose, Customer shall obtain the written authorization of the Consumer before ordering such MVR.

4.4.7 Prior to requesting any MVR from the State of Washington, Customer agrees (a) to obtain from the Consumer a written statement authorizing the release of the MVR and (b) execute an attestation that the information in the MVR is necessary to determine whether the individual should be employed to operate a school bus or commercial vehicle upon public highways. LPPOLICE will provide a copy of the required release and attestation to the Customer. Customer agrees to retain each release and attestation for a period of not less than two (2) years. Any MVR received from the State of Washington must be deleted within one (1) year, of receipt unless longer retention is required by Federal law.

4.4.8 If Customer orders an MVR from the Commonwealth of Virginia, Customer must retain the Consumer’s authorization for at least five (5) years after the date the MVR was requested. Any Virginia motor vehicle data shall be considered Confidential Information as defined by Virginia statutes. Any unauthorized disclosure and misuse of Virginia motor vehicle data or any information derived therefrom shall be subject to the penalties set forth in VA Code §§ 46.2-208 through 46.2-216.2 and § 46.2-380 and the DPPA. Customer agrees to make available to Virginia Interactive, Virginia Department of Motor Vehicles (collectively, the “Virginia DMV”), or the authorized representative of either of them, at any reasonable time, documentation of each and every inquiry and Virginia motor vehicle data access made. Customer shall indemnify and hold the Virginia DMV harmless for any unauthorized disclosure and/or misuse of Virginia motor vehicle data by Customer.

4.4.9 With regard to MVR data originating from the state of West Virginia, Customer shall indemnify the state of West Virginia from any wrongful use of the MVR data.

4.4.10 If Customer orders an MVR from the territory of Puerto Rico for any purpose, Customer shall obtain the written authorization of the Consumer before ordering such MVR.

4.4.11 Prior to requesting an MVR on a Consumer that is under the age of eighteen (18) from the State of Hawaii, Customer agrees to have the Juvenile Information Release Form executed.

4.4.12 If Customer orders an MVR from the Commonwealth of Kentucky or the State of Utah, Customer shall obtain the written authorization of the Consumer before ordering such MVR. Customer acknowledges and agrees such consent will not predate the request for an MVR by more than ninety (90) days if it is for a Utah MVR.

4.4.13 If Customer orders MVRs from the State of Indiana, Customer shall not retain such MVRs except as integrated into the intended use, and Customer must permanently destroy all such MVRs once they have been put to their intended use, except as otherwise required to be maintained for auditing purposes. As required by Ind. Code § 24-4.9-3-3.5 (c), Customer shall not dispose of records or documents containing unencrypted and/or un-redacted personal information of Indiana residents without shredding, incinerating, mutilating, erasing, or otherwise rendering the personal information illegible or unusable. Customer shall not disseminate Indiana MVRs except within the Customer’s organization and only by a secure means. Customer agrees to indemnify In.gov and the State of Indiana from all losses damages, judgments, liabilities, costs and expenses (including, but not limited to cost of notice), that arise out of the Customer’s misuse, misappropriation, or any other act or omission with respect to laws restricting access to and/or disclosure of Indiana MVRs. Customer must maintain, and make available for inspection by the State of Indiana or its designees, upon request, for at least five (5) years, records concerning (a) each person or entity that received the information contained in Indiana MVRs, and (b) the permitted use for which such information was obtained and revealed.

4.4.14 If Customer orders MVRs from the State of New Mexico, Customer shall report to LPPOLICE the following occurrences promptly upon the discovery of:

4.4.14.1 Any known misuse of and/or breach of security or confidentiality involving a New Mexico MVR furnished to Customer;

4.4.14.2 Any litigation or notice of claim involving the content or handling of a New Mexico MVR furnished to Customer (such an occurrence shall be reported by Customer to LPPOLICE within three (3) business days of service of process); or

4.4.14.3 Any non-monetary breach of the Agreement by Customer (such an occurrence shall be reported by Customer to LPPOLICE within five (5) business days of discovering such breach).

4.4.15 End Users shall be capable of generating, within seven (7) days of a request by LPPOLICE or the New Mexico MVD, a history of its disclosures over time of any New Mexico MVRs obtained under this Agreement. The use of New Mexico MVRs is restricted to use, one time, for a legitimate purpose. Customer must destroy all such records remaining in its possession when they are no longer needed for Customer’s purposes after its use or as required by State or Federal law. Customer agrees to destroy the New Mexico MVRs (except insofar as the information is incorporated into the permitted use) after their use. Customer agrees to indemnify, hold harmless, and release NM Interactive and the State of New Mexico and their employees, agents and contractors from and against any and all loss, damages of LPP\_terms\_website\_06 25 2012 AC

any kind, liability, court awards, suits and proceedings, including costs, expenses and attorneys' fees, arising from the performance, disclosure, or use of any data contained in any New Mexico MVRs by Customer, its officers, agents, volunteers or employees, except insofar (with respect to indemnity, hold harmless and release of the State of New Mexico) as they may result from the actions or inactions of the State of New Mexico, its agencies, employees, contractors or subcontractors; and except insofar (with respect to indemnity, hold harmless and release of NM Interactive) as they may result from the actions or inactions of NM Interactive, its parent corporation, its subsidiaries, officers, agents, contractors, subcontractors, or employees.

## **5. PRICING SCHEDULE.**

5.1 LPPOLICE agrees to provide the services requested by Customer online or and set forth in an Addendum for the fees listed online in a separate Addendum subsequently incorporated by reference. The fees listed online or in an Addendum may be updated from time to time through any or all of the following methods: online announcements, customer bulletins, emails, notices, announcements in invoices, or published price schedules. LPPOLICE is not responsible for ensuring delivery of such updates, changes, additions, or deletions to any of its pricing policies that may occur from time to time. Customer acknowledges and agrees that reasons for pricing changes may include changes in legal or regulatory requirements relating to the Services and, with respect to package pricing that may include out of pocket expenses, increases in out of pocket expenses. All current and future pricing documents are deemed incorporated herein by reference. Unless otherwise explicitly stated online or in a Schedule A, the following shall apply:

5.1.1 Customer shall be responsible for all charges incurred, including any monthly minimum commitments, charges resulting from Customer's errors in inputting data, and duplicate requests and errors in transmission; and

5.1.2 The fees for Background Reports exclude out of pocket expenses such as registry fees, school transcripts, court fees, state fees, and fees to verify employment or education and fees for the Services exclude any applicable taxes.

## **6. FEES AND PAYMENT.**

Customer agrees to pay LPPOLICE the applicable charge then prevailing for Services rendered to Customer, as determined by the contracted service plan for which Customer has agreed to. Customer shall pay to LPPOLICE prices as updated from time to time through online announcements, bulletins, and published price schedules. All current and future LPPOLICE pricing documents are deemed incorporated herein.

Customer shall be responsible for payment for all services obtained through Customer's access identification code. Payment methods shall be determined by the specific service package to which the Customer has agreed to in their original Agreement. For packages where credit card payments are accepted, the incidence of a Customer's credit card being rejected, declined, or Customer's information expires, LPPOLICE shall suspend Customer's account and shall inform Customer of the failed payment attempt. Account access shall not be reinstated until updated payment information is received and processed and Customer acknowledges that the billing cycle shall not change to coincide with the late payment. In the event that Customer cancels their service plan no refunds shall be issued, nor shall partial payment be accepted. In the event that there are outstanding charges for LPPolice services, such charges shall survive the cancellation/suspension of Customer's account and shall be due and payable immediately. If payments are past due more than twenty-five (25) days, LPPOLICE may terminate this Agreement. Any past due amounts shall accrue interest at the lesser of five percent (5%) per month on the unpaid amounts or the maximum allowed by law for each month such amounts remain past due and owing. Customer is responsible for all collection costs and attorney fees incurred by LPPOLICE through its efforts to collect on balance(s) owed by Customer.

For specific fee and payment information, the Customer should refer to their original Agreement or contact a LPPOLICE customer service representative

**7. INTELLECTUAL PROPERTY.** Customer agrees that Customer shall not reproduce, retransmit, republish, or otherwise transfer for any commercial purposes the information delivered as part of the LPPOLICE Services, programs or computer applications. Customer acknowledges that LPPOLICE (and/or their third-party data providers) shall retain all right, title, and interest under applicable contractual, copyright, patent, trademark, trade secret and related laws in and to the LPPOLICE Services and the data and information that they provide. Customer shall use such materials in a manner consistent with LPPOLICE's interests and notify LPPOLICE of any threatened or actual infringement of LPPOLICE's rights.

**8. TERM OF AGREEMENT.** This Agreement is for services rendered and shall be in full force and effect during such periods of time during which LPPOLICE is providing services for Customer.

**9. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without effect to conflicts of law principles. Additionally, any action brought pursuant to Customer's use of the LPPOLICE Services or pursuant to the terms and conditions of this Agreement shall be brought within the jurisdiction of the courts of Suffolk County, Massachusetts.

**10. ASSIGNMENT.** The license granted pursuant to this Agreement to Customer to use the LPPOLICE Services may not be assigned by Customer, in whole or in part, without the prior written consent of LPPOLICE. For purposes of this Agreement, a change in control of Customer of ten percent (10%) or more shall constitute an assignment.

**11. WARRANTIES.** LPPOLICE does not make and hereby disclaims any warranty, express or implied, with respect to the Services provided hereunder; provided, however, that LPPOLICE does hereby warrant that LPPOLICE has complied with the law and applicable third-party data provider contracts in providing the LPPOLICE Services. LPPOLICE does not guarantee or warrant the correctness, completeness, merchantability, or fitness for a particular purpose of the Services or information provided therein. In no event shall LPPOLICE be liable for any indirect, incidental, or consequential damages, however arising, incurred by Customer from receipt or use of information delivered hereunder or the unavailability thereof.

**12. INDEMNIFICATION/LIMITATION OF LIABILITY.** Customer hereby agrees to protect, indemnify, defend, and hold harmless LPPOLICE from and against any and all costs, claims, demands, damages, losses, and liabilities (including attorneys' fees and costs) (collectively, "Losses") arising from or in any way related to (a) use of information received by Customer (or any third party receiving such information from or through Customer) furnished by or through LPPOLICE; (b) breach of any terms, conditions, representations, conditions or certifications in this Agreement; and (c) any Security Event. LPPOLICE hereby agrees to protect, indemnify, defend, and hold harmless Customer from and against any and all Losses arising from or in any way related to its breach of the warranty made in Section 11 hereof regarding authorized provision of the data. Except for LPPOLICE's indemnification obligations set forth in this Section 12, neither LPPOLICE, nor its subsidiaries and affiliates, nor any third-party data provider (for purposes of Sections 11 and 12, LPPOLICE, its subsidiaries and affiliates, and its data providers are hereby collectively referred to as "LPPOLICE") shall be liable to Customer (or to any person claiming through Customer to whom Customer may have provided data from the Services) for any Losses

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arising out of or caused in whole or in part by LPPOLICE's acts or omissions in procuring, compiling, collecting, interpreting, reporting, communicating, or delivering the Services. Notwithstanding anything herein to the contrary, the indemnification obligations set forth herein shall not apply to any Losses arising from adverse action letter mailing services performed by LPPOLICE. Customer agrees that LPPOLICE's aggregate liability for any and all losses or injuries arising out of any act or omission of LPPOLICE in connection with anything to be done or furnished under this Agreement and for which indemnification is sought, shall never exceed the value of Customer's contracted Services over the previous three (3) months and Customer covenants and promises that it will not sue LPPOLICE for an amount greater than such sum even if Customer and/or third parties were advised of the possibility of such damages and that it will not seek punitive damages in any suit against LPPOLICE.

**13. PERFORMANCE.** LPPOLICE will use commercially reasonable efforts to deliver the Services requested by Customer and to compile information gathered from selected public records and other sources used in the provision of the Services; provided, however, that the Customer accepts all information "AS IS." Customer understands that Customer may be restricted from accessing certain Services which may be otherwise available. LPPOLICE reserves the right to add materials and features to, and to discontinue offering any of the materials and features that are currently a part of, LPPOLICE's Services.

**14. SURVIVAL OF AGREEMENT.** Provisions hereof related to release of claims, indemnification, use and protection of information, data and Services, payment for the Services, audit, disclaimer of warranties, security, customer data and governing law shall survive any termination of the license to use the LPPOLICE Services.

**15. AUDIT.** Customer understands and agrees that, in order to ensure compliance with the FCRA, and other state or federal laws, regulations or rules, regulatory agency requirements of this Agreement, LPPOLICE's obligations under its contracts with its data providers, and LPPOLICE's internal policies, LPPOLICE may conduct periodic reviews of Customer's use of the Services and may, upon reasonable notice, audit Customer's records, processes and procedures related to Customer's use, storage and disposal of LPPOLICE Services and the information received therefrom. Customer agrees to cooperate fully with any and all audits and to respond to any such audit inquiry within ten (10) business days, unless an expedited response is required. Violations discovered in any review and/or audit by LPPOLICE will be subject to immediate action, including, but not limited to, suspension or termination of the license to use the Services, reactivation fees, legal action, and/or referral to federal or state regulatory agencies.

**16. EMPLOYEE TRAINING.** Customer shall train new employees prior to allowing access to the Services on Customer's obligations under this Agreement, including but not limited to, the licensing requirements and restrictions under Section 2 and the security requirements of Section 3. Customer shall conduct a similar review of its obligations under this Agreement with existing employees who have access to LPPOLICE Services not less than annually. Customer shall keep records of such training which may be audited upon request by LPPOLICE.

**17. ATTORNEYS' FEES.** The prevailing party in any action, claim or law suit brought pursuant to this Agreement is entitled to payment of all attorneys' fees and costs expended by such prevailing party in association with such action, claim or lawsuit.

**18. TAXES.** The charges for all LPPOLICE Services are exclusive of any state, local, or otherwise applicable sales, use, or similar taxes. If any such taxes are applicable, they shall be charged to Customer's account.

**19. CUSTOMER CHANGE/CREDIT REPORT.** Customer shall notify LPPOLICE immediately of any changes to the information on Customer's Application for the Services, and, if at any time Customer no longer meets LPPOLICE credentialing procedures, LPPOLICE may terminate this Agreement. Customer is required to promptly notify LPPOLICE of a change in ownership of Customer's company, any change in the name of Customer's company, and/or any change in the physical address of Customer's company. Furthermore, Customer acknowledges and agrees that, as part of the credentialing process, Customer's credit report(s) may be requested by LPPOLICE in accordance with the FCRA from one (1) or more consumer reporting agencies. Upon Customer's request, Customer will be informed of whether any credit report was requested, and the name and address of the credit reporting agency that furnished the report to LPPOLICE.

**20. RELATIONSHIP OF PARTIES.** None of the parties shall at any time represent that it is the authorized agent or representative of the other. Nothing in this Agreement shall serve to create a relationship beyond that of Service Provider-Customer.

**21. CHANGE IN AGREEMENT.** By receipt of the Services, Customer agrees to, and shall comply with, changes to the Restricted License granted Customer in Section 2 herein, changes in pricing, and changes to other provisions of this Agreement as LPPOLICE shall make from time to time by notice to Customer via e-mail, online "click-wrap" amendments, facsimile, mail, invoice announcements, or other written notification. All e-mail notifications shall be sent to the individual named in the Customer Administrator Contact Information section, unless stated otherwise in this Agreement. LPPOLICE may, at any time, impose restrictions and/or prohibitions on the Customer's use of the LPPOLICE Services or certain data. Customer understands that such restrictions or changes in access may be the result of a modification in LPPOLICE policy, a modification of third-party agreements, a modification in industry standards, a Security Event or a change in law or regulation, or the interpretation thereof. Upon written notification by LPPOLICE of such restrictions, Customer agrees to comply with such restrictions.

**22. CONFIDENTIALITY.** The term "Confidential Information" shall mean this Agreement and all data, trade secrets, business information and other information of any kind whatsoever that a Party ("Discloser") discloses, in writing, orally, visually or in any other medium, to the other Party ("Recipient") or to which Recipient obtains access and that relates to Discloser. A "writing" shall include an electronic transfer of information by e-mail, over the Internet or otherwise. Each of the Parties, as Recipient, hereby agrees that it shall not disclose Confidential Information of the other Party to any third party during or after the Term of this Agreement, other than on a "need to know" basis and then only to: (a) Recipient's employees; (b) its agents and consultants, provided that all such persons are subject to a written confidentiality agreement that shall be no less restrictive than the provisions of this Section; and (c) as required by law or as otherwise expressly permitted by this Agreement. Recipient shall not use or disclose Confidential Information of the other Party for any purpose other than to carry out this Agreement. Recipient shall treat Confidential Information of the other Party with no less care than it employs for its own Confidential Information of a similar nature that it does not wish to disclose, publish or disseminate, but not less than a reasonable level of care. Upon expiration or termination of this Agreement for any reason or at the written request of either Party during the Term of this Agreement, Recipient shall promptly return to the Discloser, at such Discloser's direction, all of Discloser's Confidential Information in the possession of Recipient, subject to and in accordance with the terms and provisions of this Agreement. To the extent legally permitted, Recipient shall notify Discloser of any actual or threatened requirement of law to disclose Confidential Information promptly upon receiving actual knowledge thereof and shall reasonably cooperate with Discloser's reasonable, lawful efforts to resist, limit or delay disclosure.

The obligations of confidentiality in this Section shall not apply to any information that (a) Recipient rightfully has in its possession when disclosed to it, free of obligation to Discloser to maintain its confidentiality; (b) Recipient independently develops without access to Discloser's Confidential Information; (c) is or becomes known to the public other than by breach of this Section or (d) is rightfully received by Recipient from a third party without the obligation of confidentiality. All

Confidential Information and any results of processing Confidential Information or derived in any way therefrom shall at all times remain the property of the Discloser.

**23. FORCE MAJEURE.** The parties will not incur any liability to each other or to any other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement (except for payment obligations) to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control, and without the negligence of, the parties. Such events, occurrences, or causes include, without limitation, acts of God, telecommunications outages, Internet outages, power outages, any irregularity in the announcing or posting of updated data files by the applicable agency, strikes, lockouts, riots, acts of war, floods, earthquakes, fires, and explosions.

**24. PUBLICITY.** LPPOLICE may name Customer in press releases, advertisements, promotional or marketing materials, and make other third-party disclosures referencing Customer as a customer of the LPPOLICE Services.

**25. ENTIRE AGREEMENT/MISCELLANEOUS.** Except as otherwise provided herein, this Agreement constitutes the final written agreement and understanding of the parties and is intended as a complete and exclusive statement of the terms of the agreement, which shall supersede all prior representations, agreements, and understandings, whether oral or written, which relate to the use of LPPOLICE's Services and all matters within the scope of this Agreement. Any new, other, or different terms supplied by the Customer beyond the terms contained herein, including those contained in purchase orders or confirmations issued by the Customer, are specifically and expressly rejected by LPPOLICE unless LPPOLICE agrees to them in a signed writing specifically including those new, other, or different terms. The terms contained herein shall supersede and govern in the event of a conflict between these terms and any new, other, or different terms. This Agreement can be executed in counterparts and faxed or electronic signatures will be deemed originals. In the event any one or more provisions of this Agreement or any exhibit is held to be invalid or otherwise unenforceable by a court of competent jurisdiction, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the enforceability of the remaining provisions shall be unimpaired. All capitalized terms used in these Terms and Conditions that are not defined shall have the meaning given to them in the Application. LPPOLICE may transfer or assign this Agreement to any division, corporation or other business entity controlled by or under the common control of LPPOLICE or the company's corporate successors or assigns. The headings in this Agreement are inserted for reference and convenience only and shall not enter into the interpretation hereof.