



**AGREEMENT FOR SERVICE**

**PDS Discount Program**

This Agreement (the "Agreement") is entered into by and between **SecureSearch (www.securesearchpro.com)**, its applicable subsidiaries and affiliated companies, and the undersigned ("Customer"). Affiliate shall mean any business entity that controls, is controlled by or is under common control with a party.

***Please Print Neatly – Thank you***

This agreement for service is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between

**SecureSearch** and \_\_\_\_\_ (hereinafter called "**Customer**").  
*Church, School or Diocese Name*

Customer Address:

Street City State Zip

Billing Address:

Street City State Zip

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Main Contact Email: \_\_\_\_\_

Main Contact Person: \_\_\_\_\_

**PAYMENT METHOD**

**Credit Card Type:** Please circle one MC VISA AMEX **E-mail of card holder:** \_\_\_\_\_

\_\_\_\_\_ Exp. Date: \_\_\_\_\_  
Credit Card Number

Name as it appears on card: \_\_\_\_\_

Credit Card Billing Address (if different than Customer or Billing address)

Street City State Zip

**Invoiced Clients (if approved): All invoices are sent via E-mail. Please provide two (2) valid E-Mail addresses.**

Please include Accounts Payable Contact and two (2) E-mails: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

**Do you need access to credit reports? Yes/No (site visit required - \$85 one-time fee) Note: not available via PDS**

**If Yes, please write in your Permissible Purpose** \_\_\_\_\_

*Customer hereby allows SecureSearch to bill all monthly activity to Customer's credit card. Customer agrees to pay a \$25.00 penalty if insufficient funds are available. Customer also agrees that they are responsible for payment by alternate means of payment if credit card transaction is declined. Invoicing available upon approval.*

WHEREAS, Customer plans to order from SecureSearch, certain services for employment purposes, which include Consumer Reports and Investigative Consumer Reports as defined under the federal Fair Credit Reporting Act ("FCRA") (collectively, "Background Reports");

WHEREAS, SecureSearch desires to sell such Background Reports to Customer.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, SecureSearch and Customer hereby agree as follows:

**1. Customer agrees to do the following:**

- (a) Keep all Background Reports, whether oral or written, strictly confidential and restrict the use of the information in the Background Reports by Customer and its authorized personnel to employment, placement and volunteer recruitment purposes. No information from Background Reports will be given or resold to any other "person" or "user". Subject to Section 3(b), if the Consumer, or his or her representative, requests Background Report information, that person may be referred to SecureSearch for disclosure under the FCRA or other applicable laws.
  - (b) Hold SecureSearch and its affiliated companies, and the officers, agents, employees, and independent contractors of SecureSearch and its affiliates harmless on account of any expense or damage resulting from the procurement, use or publication by Customer, or the employees or agents of the Customer, of Background Report information contrary to the terms of this Agreement or contrary to state/federal law or regulation.
  - (c) Recognizing that information in Background Reports is secured from and processed by fallible sources (human and otherwise) and that for the fee charged, SecureSearch cannot be either an insurer or a guarantor of the accuracy of the information reported; Customer releases SecureSearch and its Affiliates and the officers, agents, employees, and independent contractors of SecureSearch and its Affiliates from liability for any negligence of third party furnishers of information in connection with erroneous information provided by such third parties.
  - (d) Customer shall be responsible for all charges incurred, including applicable fees as well as charges resulting from Customer's errors in inputting data, duplicate requests and errors in transmission. **Invoices are due and payable upon receipt** and considered past due after twenty (20) days of date of invoice, and unpaid balances thereafter carry a \$25 late fee and one percent (1%) compounded monthly interest. Customer shall review all invoices furnished and shall notify SecureSearch of any discrepancies within fifteen (15) days of receipt of the invoice. The fees for Background Reports exclude out of pocket expenses such as registry fees, school transcripts, court fees, state fees, and 900# fees to verify employment or education and fees for the Services exclude any applicable taxes. **SecureSearch may charge a \$2.00 fee per applicant for requests submitted manually, i.e. by facsimile or mail.**
- SecureSearch reserves the right to revisit any Background Report fee if
- (i) regulatory changes result in an increase of the charges for services; or
  - (ii) SecureSearch's average disbursement fees/out of pocket expenses should increase by more than ten percent (10%).
- (e) Customer shall 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.
  - (f) If Customer purchases motor vehicle records ("MVRs") from SecureSearch, Customer agrees to the following:
    - (i) Comply with the federal Driver's Privacy Protection Act and similar state statutes.
    - (ii) Customer shall not retain or store any SecureSearch provided MVR results, 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 file.
    - (iii) As requested by SecureSearch, Customer shall complete any state forms that SecureSearch is legally or contractually bound to obtain from Customer before serving Customer with state MVRs.
    - (iv) With regard to SecureSearch provided MVRs originating from the states of New Hampshire, Pennsylvania, Washington, and West Virginia, Customer shall not disseminate or publish personal information contained in such MVRs via the Internet.
    - (v) 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.
    - (vi) 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.
    - (vii) If Customer orders any driver records originating from the State of South Carolina, Customer acknowledges, that the person identified in the driver records received from South Carolina are third party beneficiaries to SecureSearch's Information Release Agreement with the South Carolina Department of Public Safety, Division of Motor Vehicles.
    - (viii) Prior to requesting any MVR from the State of Washington, Customer agrees (i) to obtain from the Consumer a written statement authorizing the release of the MVR and (ii) 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. SecureSearch 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.

- (ix) If Customer orders an MVR from the State of Virginia, Customer must retain the Consumer's authorization for at least five (5) years after the date the MVR was requested.
- (x) 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.
- (g) Customer acknowledges that SecureSearch 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 FCRA.
- (h) Notify SecureSearch if Customer changes its name or address.

**2. Customer certifies that:**

- (a) **It shall order Consumer Reports for employment and volunteer recruitment purposes only.** In compliance with the FCRA, prior to ordering a report, Customer shall make a clear and conspicuous disclosure in writing to the Consumer in a document that consists solely of the disclosure that a Consumer Report may be procured for employment or volunteer recruitment purposes. If the Consumer is a resident of the State of California, the disclosure shall also include the name, address and telephone number of the investigative consumer reporting agency conducting the investigation, the nature and scope of the investigation requested, and a summary of the provisions of §1786.22 of the California Code. Further, the Customer shall have the consumer authorize in writing the procurement of all Consumer Reports. Customer shall not use information contained in a Consumer Report in violation of any applicable federal or state equal employment opportunity law or regulation. The federal Fair Credit Reporting Act imposes criminal penalties – including a fine, up to two years in prison, or both – against anyone who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses, and other penalties for anyone who obtains such consumer information without a permissible purpose.
- (b) If Customer chooses to take any adverse action based in whole or in part on the Consumer Report, before taking such adverse action, Customer shall provide the Consumer with a copy of the Consumer Report; and, a description in writing of the rights of consumers under the FCRA, as prescribed by the Federal Trade Commission under 15 U.S.C. §1681g(c)(3).
- (c) With regard to Investigative Consumer Reports, as defined in 15 U.S.C. §1681a(e), it will clearly and accurately disclose to the Consumer that an Investigative Consumer Report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made. The disclosure will be made in writing and mailed or otherwise delivered to the Consumer not later than three (3) days after the date on which the report was first requested and will include a summary of the Consumer's rights provided for under 15 U.S.C. § 1681g(c). The disclosure shall also include a statement informing the Consumer of his/her right to submit a written request for additional information pursuant to 15 U.S.C. § 1681d(b), within a reasonable period of time after the receipt by him/her of the foregoing disclosure. Upon receipt of such request, Customer shall disclose in a writing the nature and scope of the investigation, which shall be complete and accurate. The disclosure must be mailed or otherwise delivered to the Consumer not later than five (5) days after the date on which the request for additional disclosure was received from the Consumer or the date the Customer first requested the report, whichever is the later. Customer shall also comply with the adverse action requirement in subsection b, if applicable.
- (d) **Customer** shall indemnify, defend and hold harmless SecureSearch and its officers, directors, employees, successors, and assignees from any and all losses, liabilities damages and claims and all related costs and expenses including reasonable attorney fees, arising from or in connection with any negligence or breach of this Agreement by Client. SecureSearch shall not be liable to Customer or any third party for any alleged or actual losses resulting from any acts or omissions by Client or by a third party who provided information to SecureSearch in the exercise of its ordinary business practice.

**Customer** is solely responsible for ensuring that all searches requested by Customer (and to be conducted by SecureSearch) are requested by Customer with appropriate authorization and for lawful and permissible purposes, pursuant to the Fair Credit Reporting Act, Fair Housing Act and any other applicable state or federal laws.

**3. Customer Security Obligations**

Customer agrees to do the following in order to preserve the security of the Services being provided pursuant to this Agreement:

- (a) **Misuse of Services or Information.** Customer agrees to take appropriate measures so as to protect against the misuse and/or unauthorized access of SecureSearch's Services through any methods, including unauthorized access through or to Customer's user identification numbers or passwords ("Account ID's"), if provided. Such misuse or unauthorized access shall include any disclosure, release, viewing or other unauthorized access to information such as social security numbers, driver's license numbers or dates of birth. Customer agrees that SecureSearch may temporarily suspend Customer's access for up to ten (10) business days pending an investigation of Customer's use or access. Customer agrees to cooperate fully with any and all investigations. If

any misuse or unauthorized access is found, SecureSearch may immediately terminate this Agreement without notice or liability of any kind.

- (b) Customer Account Maintenance. Customer is responsible for the administration and control of Account ID's by its employees and third parties, and shall identify a security administrator to coordinate with SecureSearch. Customer shall manage all Account ID's, and notify SecureSearch promptly if any Account ID becomes inactive or invalid. Customer shall follow the policies and procedures of SecureSearch with respect to account maintenance as same may be communicated to Customer from time to time.
- (c) Security Event. In the event that Customer learns or has reason to believe that SecureSearch data has been disclosed or accessed by an unauthorized party, Customer will immediately give notice of such event to SecureSearch. Furthermore, in the event that Customer has access to or acquires individually identifiable information (e.g., social security numbers, driver's license numbers or dates of birth) in relation to the Agreement, the following shall apply: Customer acknowledges that upon unauthorized acquisition of such individually identifiable information (a "Security Event"), Customer shall, in compliance with law, notify the individuals whose information was disclosed that a Security Event has occurred. Also, Customer shall be responsible for any other legal obligations which may arise under applicable law in connection with such a Security Event.

**4. In providing Background Reports, SecureSearch agrees to do the following:**

- (a) Comply with all laws applicable to the making of Background Reports for employment and volunteer recruitment purposes, including the FCRA.
- (b) Follow reasonable procedures to assure maximum possible accuracy of the information reported, subject to Paragraph 1(c) above, and reinvestigate if requested by the Customer without further charge if the information was incorrect.
- (c) Disclose, upon request from the consumer who is the subject of the Background 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.

**5. Miscellaneous**

- (a) This Agreement shall be effective as of the date it is executed on behalf of Customer by an authorized representative of Customer and shall be at will and may be cancelled at any time. There are no recurring fees.
- (b) Each party (and its employees) is and shall remain an independent contractor. Neither party is authorized to assume or create an obligation or responsibility, express or implied, on behalf of, or in the name of, the other party or to bind the other party in any manner.
- (c) SecureSearch shall have the right to conduct periodic audits of Customer's compliance with this Agreement and applicable law. In addition, certain third party vendors, such as departments of motor vehicles and credit bureaus, require the right to audit Customer either directly or through SecureSearch. The scope and frequency of any audit shall be at the reasonable discretion of Secure Search but will be subject to requirements imposed by third party vendors. SecureSearch will provide reasonable notice prior to conducting any audit provided that SecureSearch has received reasonable notice from any third party vendor involved in the audit process. Any violations discovered as a result of such audit may be cause for immediate action by SecureSearch, including, but not limited to, immediate termination of this Agreement.
- (d) SecureSearch shall have the right to reveal the existence of this Agreement and the terms or conditions thereof in any SecureSearch publication, advertising, publicity release or sales presentation regardless of the medium.
- (e) Colorado and federal law will govern this Agreement. The invalidity or unenforceability of any one provision of this Agreement shall not impair the validity and enforceability of the remaining provisions. Any legal disputes will be handled via mediation in the State of Colorado.
- (f) The obligation of either party to perform under this Agreement shall be excused during each period of delay caused by matters beyond such party's reasonable control, including without limitation, government regulation or law, war or insurrection, civil commotion, destruction of production facilities or material by earthquake, fire, flood, storm or other natural disaster, labor disturbances, epidemic or failure of suppliers, public utilities or common carriers.
- (g) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided, however, that neither party shall assign or otherwise transfer this Agreement or any interest herein without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- (h) The failure of either party to insist on prompt performance of their duties shall not constitute a waiver of that duty. Any such waivers must be provided in a written, executed document.
- (i) This Agreement and any attachments hereto constitute the entire agreement between the parties and supersede all prior understanding, written or oral between the parties with respect to the subject matter hereof. No changes or alterations may be made to this Agreement unless in writing signed by duly authorized representatives of each party to this Agreement.
- (j) By signing this Agreement, Customer agrees that SecureSearch can communicate with Customer via facsimile and electronic mail. I hereby certify that I have direct knowledge of the facts stated above and that I am authorized to execute this Agreement on behalf of the company listed above.
- (k) **If Customer desires to have access to credit reports, Customer must sign a separate document certifying the business need to access credit reports. Customer must also agree to a physical site inspection of the premises. The cost for the site survey is \$85.00 US.**

- (l) **Customer** acknowledges that if they choose to run an "instant" database search without an internal SecureSearch review (can take 1 business day) then said Customer is taking responsibility for the information returned and agrees to do additional due diligence prior to taking any Adverse Action against applicant. Additional due diligence may include verifying the record truly belongs to the applicant, ordering county courthouse searches or equivalent to determine if the conviction is accurate. No unverified record will be used for Adverse Action.

**INITIALS REQUIRED** \_\_\_\_\_

## 6. Pricing

Pricing for services are outlined in **Exhibit A (separate attachment)**. SecureSearch reserves the right to modify prices at any time.

I hereby certify that I have direct knowledge of the facts stated above and that **I am authorized to execute this Agreement on behalf of the company listed above.**

SecureSearch

By: Steven R. Durie  
President/ CEO



Customer: \_\_\_\_\_  
*Church, School or Diocese Name*

By: \_\_\_\_\_  
*Title*

Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

FEIN or Tax Exempt Number: \_\_\_\_\_

**\*\*PDS Site Number\*\* (required):** \_\_\_\_\_



Offices located in the Denver Tech Center

SecureSearch Mailing Address:

558 Castle Pines Pkwy. Unit B4-137 | Castle Rock, CO | 80108

[www.securesearchpro.com](http://www.securesearchpro.com) | Phone: 1-866-891-1954 | Fax: 1-866-552-7326

[customerservice@securesearchpro.com](mailto:customerservice@securesearchpro.com) | [info@securesearchpro.com](mailto:info@securesearchpro.com)

# EXHIBIT A

## PRICING FOR SERVICES – PDS 2009 DISCOUNT PROGRAM

<u>Integrated Products/Services</u>	<b>Price per Search/individual</b>
<p><b><u>Multi-State Criminal and Sexual Offender Search</u></b> Instant Results</p> <p>This service searches more than 305 million criminal records from counties, Department of Corrections (DOC), Administration of the Court (AOC) and state sex offender registries covering all 50 states and Washington, DC. Also included are national and international terrorism sources, more than 1.8 million photos and our proprietary database of previously completed reports. - see coverage list for details.</p> <p><i><u>DISCLAIMER: Though this search is very broad it should not be relied upon as your only source of information. We recommend that it should be accompanied by individual county searches of the known addresses of your applicant</u></i></p>	<b>\$9.00</b>
<p><b><i>Recommended Minimum</i></b></p> <p><b><u>Multi-State Criminal Search with Alias and SSN Trace</u></b> (Instant)</p> <ul style="list-style-type: none"> <li>➤ Multi-State Criminal Search (data from all 50 states, please see coverage document)</li> <li>➤ National Sex Offender Search</li> <li>➤ SSN Validation</li> <li>➤ SSN Death Index Search</li> <li>➤ Name and Address History (Going back 30 years)</li> <li>➤ “Smart Search” (Alias Search) – we search <u>all names</u> returned against the Multi-State Criminal and National Sex Offender databases</li> </ul> <p><b><i>Our Most Requested and Newest Offering</i></b></p> <p><i><u>DISCLAIMER: Though this search is very broad it should not be relied upon as your only source of information. We recommend that it should be accompanied by individual county searches of the known addresses of your applicant</u></i></p>	<b>\$12.50</b>
<p><b><u>County Courthouse Criminal Search</u></b> (Manual process; can take up to 2-4 business days)</p> <p>A court research specialist will visit the county courthouse and manually search for criminal records dating back at least 7 years. This service is available for any county in the U.S. – some counties impose access fees (see list for details)</p>	<b>\$10.00 plus applicable court access fees</b>
<p><b><u>Statewide Criminal Searches – Real-Time</u></b> 1-3 business days</p> <p>Aggregated Criminal Data – Statewide – limited to certain states that have this information available. Records are usually updated in real-time. Data may be from courts or police records – ask for list to view details and availability</p>	<b>\$10.00 plus State and Compilation fees</b>

<p><b><u>MVR – Driving History Records</u></b></p> <p>Driving history reports usually report violations over the past 3 years. Some states will go back up to 7 years. Results are instant from 45 states. Some states take up to 5 days (see list for details). A faxed copy of the applicant’s consent is necessary in some states.</p>	<p><b>\$4.00 plus State MVR Fee</b></p>
<p><b>Other Products/Services – <u>Not Integrated</u> at this point but available via SecureSearch</b></p>	<p><b>Price per search/individual</b></p>
<p><b>Education Verification – Higher Education Only</b></p> <p>Verifies attendance and degree attained</p>	<p><b>\$10.00 per school plus applicable access fees</b></p>
<p><b>Previous Employer Verification</b></p> <p>Verifies dates of employment, performance, salary , reason for departure and applicants status for rehire (some information may not be shared with SecureSearch and therefore may not be available)</p>	<p><b>\$10.00 per employer plus applicable access fees</b></p>
<p><b>Federal District Courts Search</b></p> <p>Searches for criminal records within the U.S. courts (Federal Districts). Most white collar crimes such as embezzlement, racketeering, fraud, etc are found within this search. Other crimes such as interstate kidnapping and crimes on federal land are also contained within this search.</p>	<p><b>\$15.00 per District \$25.00 National</b></p>
<p><b>Civil Courts Search (7 Years)</b></p>	<p><b>Upper: \$13.00 Lower: \$13.00 Combined: \$17.00</b></p>
<p><b>Colorado Statewide County Search (all counties including Denver) –</b> Real-Time data Instant Results</p>	<p><b>\$10.00</b></p>
<p><b>Full Pre-Employment Credit Report (TransUnion PEER)</b></p> <p><b><u>NOTE: If you desire access to credit reports you must agree to a physical site visit and inspection. The cost of the site visit is \$85.00. Please inquire.</u></b></p>	<p><b>\$10.00</b></p>
<p><b><u>SPECIAL PACKAGES</u></b></p> <p><b>Pastor Packages and Executive Screening Packages are available – <i>please inquire</i></b></p>	<p><b>Prices vary by package</b></p>

*Prices are Subject to Change. SecureSearch will provide 30 days notice of any change.*

# ATTACHMENT A

## (DO NOT FAX BACK TO SECURESEARCH)

**All users 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). Persons not subject to the Commission's jurisdiction should consult with their regulators to find any relevant regulations.**

### **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 Federal Trade Commission's Website at [www.ftc.gov/credit](http://www.ftc.gov/credit). 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 Commission's Web site. **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)
- 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©. 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**

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, which will be issued by the Federal Trade

Commission and the banking and credit union regulators. The Federal Trade Commission's regulations will be available at [www.ftc.gov/credit](http://www.ftc.gov/credit).

#### **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. The Federal Trade Commission, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulations covering disposal. The Federal Trade Commission's regulations may be found at [www.ftc.gov/credit](http://www.ftc.gov/credit).

### **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 to be jointly prescribed by the Federal Trade Commission and the Federal Reserve Board.

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.
- 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 regulations issued by the banking and credit union regulators) – 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©, 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, once the Federal Trade Commission by rule has established the format, type size, and manner of the disclosure required by Section 615(d), users must be in compliance with the rule. The FTC’s regulations will be at [www.ftc.gov/credit](http://www.ftc.gov/credit).

## 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.

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