

# CONTRACT

## A) Introduction

1. This contract is entered into between the **Department of Delaware Health and Social Services** (the Department), and **TALX Corporation, a Missouri Corporation** (the Contractor).
2. The Contract shall commence on **December 1, 2012** or on date of signatures and terminate on **June 30, 2014** unless specifically extended by an amendment, signed by all parties to the Contract. Time is of the essence.

## B) Administrative Requirements

1. Contractor recognizes that it is operating as an independent Contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the Contractor's negligent performance under this Contract and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the Contractor in their negligent performance under this Contract.
2. The Contractor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this Contract. The Contractor is an independent contractor and is not an employee of the State.
3. During the term of this Contract, the Contractor shall, at its own expense, carry insurance with minimum coverage limits as follows:

a) Comprehensive General Liability	\$1,000,000
and	
b) Medical/Professional Liability	\$1,000,000/\$3,000,000
or	
c) Misc. Errors and Omissions	\$1,000,000/\$3,000,000
or	
d) Product Liability	\$1,000,000/\$3,000,000

All contractors must carry (a) and at least one of (b), (c), or (d), depending on the type of service or product being delivered.

If the contractual service requires the transportation of Departmental clients or staff, the contractor shall, in addition to the above coverage, secure at its own expense the following coverage:

e) Automotive Liability (Bodily Injury)	\$100,000/\$300,000
f) Automotive Property Damage (to others)	\$ 25,000

SYSTEM DOC# 0116979-00000007  
CONTRACT PURCHASE ORDER # 0000165974

4. Notwithstanding the information contained above, the Contractor shall indemnify and hold harmless the State of Delaware, the Department and the Division from contingent liability to others required to indemnify the State, the Department and the Division under any provision of this Contract.
5. The policies required under Paragraph B3 must be written to include Comprehensive General Liability coverage, including Bodily Injury and Property damage insurance to protect against claims arising from the performance of the Contractor and the contractor's subcontractors under this Contract and Medical/Professional Liability coverage when applicable.
5. The Contractor shall provide a Certificate of Insurance as proof that the Contractor has the required insurance. The certificate shall identify the Department and the Division as the "Certificate Holder" and shall be valid for the contract's period of performance as detailed in Paragraph A 2.
7. The Contractor acknowledges and accepts full responsibility for securing and maintaining all licenses and permits, including the Delaware business license, as applicable and required by law, to engage in business and provide the goods and/or services to be acquired under the terms of this Contract. The Contractor acknowledges and is aware that Delaware law provides for significant penalties associated with the conduct of business without the appropriate license.
8. The Contractor agrees to comply with all State and Federal licensing standards and all other applicable standards as required to provide services under this Contract, to assure the quality of services provided under this Contract. The Contractor shall immediately notify the Department in writing of any change in the status of any accreditations, licenses or certifications in any jurisdiction in which they provide services or conduct business. If this change in status regards the fact that its accreditation, licensure, or certification is suspended, revoked, or otherwise impaired in any jurisdiction, the Contractor understands that such action may be grounds for termination of the Contract.
  - a) If a contractor is under the regulation of any Department entity and has been assessed Civil Money Penalties (CMPs), or a court has entered a civil judgment against a Contractor or vendor in a case in which DHSS or its agencies was a party, the Contractor or vendor is excluded from other DHSS contractual opportunities or is at risk of contract termination in whole, or in part, until penalties are paid in full or the entity is participating in a corrective action plan approved by the Department.

A corrective action plan must be submitted in writing and must respond to findings of non-compliance with Federal, State, and Department requirements. Corrective action plans must include timeframes for correcting deficiencies and must be approved, in writing, by the Department.

The Contractor will be afforded a thirty (30) day period to cure non-compliance with Section 8(a). If, in the sole judgment of the Department, the Contractor has not made satisfactory progress in curing the infraction(s) within the aforementioned thirty (30) days, then the Department may immediately terminate any and/or all active contracts.
9. Contractor agrees to comply with all the terms, requirements and provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and any other federal, state, local or any other anti discriminatory act, law, statute, regulation or policy along with all amendments and revision of these laws, in the performance of this Contract and will not discriminate against any applicant or employee or service recipient because of race, creed, religion, age, sex, color, national or ethnic origin, disability, status as a

person in a marriage versus a person in a civil union, veteran's status or any unlawful discriminatory basis or criteria.

10. The Contractor agrees to provide to the Divisional Contract Manager, on an annual basis, if requested, information regarding its client population served under this Contract by race, color, national origin or disability.
11. This Contract may be terminated in whole or in part by the Department upon five (5) calendar days written notice for cause or documented unsatisfactory performance, provided that, in its sole discretion, the Department may impose sanctions in lieu of termination as set forth in Appendix A attached to and incorporated into this Contract.

This Contract may be terminated in whole or in part by either party in the event of substantial failure of the other party to fulfill its obligations under this Contract through no fault of the terminating party; but only after the other party is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with the terminating party prior to termination.

This Contract may be terminated in whole or in part by Delaware for its convenience, but only after Contractor is given:

- a. Not less than 30 calendar days written notice of intent to terminate; and
- b. An opportunity for consultation with Delaware prior to termination.

If termination for default is effected by Delaware, Delaware will pay Contractor that portion of the compensation which has been earned as of the effective date of termination but:

- a. No amount shall be allowed for anticipated profit on performed or unperformed services or other work, and b. Any payment due to Contractor at the time of termination may be adjusted to the extent of any additional costs occasioned to Delaware by reason of Contractor's default.
- b. Upon termination for default, Delaware may take over the work and prosecute the same to completion by agreement with another party or otherwise. In the event Contractor shall cease conducting business, Delaware shall have the right to make an unsolicited offer of employment to any employees of Contractor assigned to the performance of the Contract, notwithstanding any provisions in this document to the contrary.

If after termination for failure of Contractor to fulfill contractual obligations it is determined that Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of Delaware.

The rights and remedies of Delaware and Contractor provided in this section are in addition to any other rights and remedies provided by law or under this Contract.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, models, maps, photographs, and reports or other material prepared by Contractor under this contract shall, at the option of the Department, become the property of the Department.

In the event of termination, the Contractor, upon receiving the termination notice, shall immediately cease work and refrain from purchasing contract related items unless otherwise instructed by the Department.

The Contractor shall be entitled to receive reasonable compensation as determined by the Department in its sole discretion for any satisfactory work completed on such documents and other materials that are usable to the Department. Whether such work is satisfactory and usable is determined by the Department in its sole discretion.

Should the Contractor cease conducting business, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets, or shall avail itself of, or become subject to any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors, then at the option of the Department, this Contract shall terminate and be of no further force and effect. Contractor shall notify the Department immediately of such events.

Delaware may suspend performance by Contractor under this Contract for such period of time as Delaware, at its sole discretion, may prescribe by providing written notice to Contractor at least 30 working days prior to the date on which Delaware wishes to suspend. Upon such suspension, Delaware shall pay Contractor its compensation, based on the percentage of the project completed and earned until the effective date of suspension, less all previous payments. Contractor shall not perform further work under this Contract after the effective date of suspension. Contractor shall not perform further work under this Contract after the effective date of suspension until receipt of written notice from Delaware to resume performance.

In the event Delaware suspends performance by Contractor for any cause other than the error or omission of the Contractor, for an aggregate period in excess of 30 days, Contractor shall be entitled to an equitable adjustment of the compensation payable to Contractor under this Contract to reimburse for additional costs occasioned as a result of such suspension of performance by Delaware based on appropriated funds and approval by Delaware.

Any notice required or permitted under this Contract shall be effective upon receipt and may be hand delivered with receipt requested or by registered or certified mail with return receipt requested to the addresses listed below. Either party may change its address for notices and official formal correspondence upon five (5) days written notice to the other.

To the Department at:  
Lawrence C. Smith  
Quality Assurance Administrator | Project Manager  
Herman Holloway Campus  
P.O. Box 906, Lewis Building  
1901 N. DuPont Highway  
New Castle, Delaware 19720  
E-mail: [larryc.smith@state.de.us](mailto:larryc.smith@state.de.us)  
Office: (302) 255-9554  
Fax: (302) 255-4425

To the Contractor at:  
Shelley Kirchhoff  
Client Relationship Manager | Government Client Services  
The Work Number®, a Service of Equifax  
11432 Luckland Road  
St. Louis, MO 63146  
Office: (314) 214-7576  
Fax: (877) 894-1606  
[shelley.kirchhoff@tul8.com](mailto:shelley.kirchhoff@tul8.com)  
[shelley.kirchhoff@theworknumber.com](mailto:shelley.kirchhoff@theworknumber.com)

13. In the event of amendments to current Federal or State laws which nullify any term(s) or provision(s) of this Contract, the remainder of the Contract will remain unaffected.
14. This Contract shall not be altered, changed, modified or amended except by written consent of all Parties to the Contract.
15. The Contractor shall not enter into any subcontract for any portion of the services covered by this Contract without obtaining prior written approval of the Department. Any such subcontract shall be subject to all the conditions and provisions of this Contract. The approval requirements of this paragraph do not extend to the purchase of articles, supplies, equipment, rentals, leases and other day-to-day operational expenses in support of staff or facilities providing the services covered by this Contract.
16. This entire Contract between the Contractor and the Department is composed of these several pages and the attached:
  - Appendix A– Divisional Requirements
  - Appendix B–Service Description (Scope of Service) / Contract Budget
  - Appendix C-Exhibit a: “Universal Membership Agreement for the Work Number® Social Services,” which also includes Exhibit 1, and Exhibit 2
  - Note: Appendix C, including any attachments, neither individually nor collectively supersedes nor nullify the contract specifications agreed to in the Department of Health and Social Services’ Standard Contract Boilerplate (approved on April 2, 2012)
17. This Contract shall be interpreted and any disputes resolved according to the Laws of the State of Delaware. Except as may be otherwise provided in this contract, all claims, counterclaims, disputes and other matters in question between the Department and Contractor arising out of or relating to this Contract or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State of Delaware.
18. In the event Contractor is successful in an action under the antitrust laws of the United States and/or the State of Delaware against a vendor, supplier, subcontractor, or other party who provides particular goods or services to the Contractor that impact the budget for this Contract, Contractor agrees to reimburse the State of Delaware, Department of Health and Social Services for the pro-rata portion of the damages awarded that are attributable to the goods or services used by the Contractor to fulfill the requirements of this Contract. In the event Contractor refuses or neglects after reasonable written notice by the Department to bring such antitrust action, Contractor shall be deemed to have assigned such action to the Department.

19. Contractor covenants that it presently has no interest and shall not acquire any interests, direct or indirect, that would conflict in any manner or degree with the performance of this Contract. Contractor further covenants that in the performance of this contract, it shall not employ any person having such interest.
20. Contractor covenants that it has not employed or retained any company or person who is working primarily for the Contractor, to solicit or secure this agreement, by improperly influencing the Department or any of its employees in any professional procurement process; and, the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working primarily for the Contractor, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the violation of this provision, the Department shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
21. Contractor agrees that no information obtained pursuant to this Contract may be released in any form except in compliance with applicable laws and policies on the confidentiality of information and except as necessary for the proper discharge of the Contractor's obligations under this Contract.
22. Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Contract unless stated to be such in writing, signed by authorized representatives of all parties and attached to the original Contract.
24. If the amount of this contract listed in Paragraph C2 is over \$25,000, the Contractor, by their signature in Section E, is representing that the Firm and/or its Principals, along with its subcontractors and assignees under this agreement, are not currently subject to either suspension or debarment from Procurement and Non-Procurement activities by the Federal Government.

### C) Financial Requirements

1. The rights and obligations of each Party to this Contract are not effective and no Party is bound by the terms of this contract unless, and until, a validly executed Purchase Order is approved by the Secretary of Finance and received by Contractor, *if required by the State of Delaware Budget and Accounting Manual*, and all policies and procedures of the Department of Finance have been met. The obligations of the Department under this Contract are expressly limited to the amount of any approved Purchase Order. The State will not be liable for expenditures made or services delivered prior to Contractor's receipt of the Purchase Order.
2. Total payments under this Contract shall not exceed \$113,400.00 for the initial twelve (12) month contract period, additionally; total payments under this Contract during the remaining seven (7) months shall not exceed \$66,150.00, in accordance with the budget presented in Appendix B. Payment will be made upon receipt of an itemized invoice from the Contractor in accordance with the payment schedule, if any. The contractor or vendor must accept full payment by procurement (credit) card and or conventional check and/or other electronic means at the State's option, without imposing any

additional fees, costs, or conditions. Contractor is responsible for costs incurred in excess of the total cost of this Contract and the Department is not responsible for such costs.

3. The Contractor is solely responsible for the payment of all amounts due to all subcontractors and suppliers of goods, materials, or services, which may have been acquired by or provided to the Contractor in the performance of this contract. The Department is not responsible for the payment of such subcontractors or suppliers.
4. The Contractor shall not assign the Contract or any portion thereof without prior written approval of the Department and subject to such conditions and revisions as the Department may deem necessary. No such approval by the Department of any assignment shall be deemed to provide for the incurrence of any obligations of the Department in addition to the total agreed upon price of the Contract.
5. Contractor shall maintain books, records, documents and other evidence directly pertinent to performance under this Contract in accordance with generally accepted accounting principles and practices. Contractor shall also maintain the financial information and data used by Contractor in the preparation of support of its bid or proposal. Contractor shall retain this information for a period of five (5) years from the date services were rendered by the Contractor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Department such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.
6. The Contractor agrees that any submission by or on behalf of the Contractor of any claim for payment by the Department shall constitute certification by the Contractor that the services or items for which payment is claimed were actually rendered by the Contractor or its agents, and that all information submitted in support of the claims is true, accurate, and complete.
7. The cost of any Contract audit disallowances resulting from the examination of the Contractor's financial records will be borne by the Contractor. Reimbursement to the Department for disallowances shall be drawn from the Contractor's own resources and not charged to Contract costs or cost pools indirectly charging Contract costs.
8. When the Department desires any addition or deletion to the deliverables or a change in the services to be provided under this Contract, it shall so notify the Contractor. The Department will develop a Contract Amendment authorizing said change. The Amendment shall state whether the change shall cause an alteration in the price or time required by the Contractor for any aspect of its performance under the Contract. Pricing of changes shall be consistent with those prices or costs established within this Contract. Such amendment shall not be effective until executed by all Parties pursuant to Paragraph B 14.

#### 3) Miscellaneous Requirements

*If applicable*, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 46, (PM #46, effective 3/11/05), and divisional procedures regarding the reporting and investigation of suspected abuse, neglect, mistreatment, misappropriation of property and significant injury of residents/clients receiving services, including providing testimony at any administrative proceedings arising from such investigations. The policy and procedures are included as Appendix N/A to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy

requirements. The Contractor's procedures must include the position(s) responsible for the PM46 process in the provider agency. Documentation of staff training on PM46 must be maintained by the Contractor.

2. *If applicable, the Contractor, including its parent company and its subsidiaries, and any subcontractor, including its parent company and subsidiaries, agree to comply with the provisions of 29 Del. Code, Chapter 58: "Laws Regulating the Conduct of Officers and Employees of the State," and in particular with Section 5805 (d): "Post Employment Restrictions."*
3. *When required by Law, Contractor shall conduct child abuse and adult abuse registry checks and obtain service letters in accordance with 19 Del. Code Section 708; and 11 Del. Code, Sections 8563 and 8564. Contractor shall not employ individuals with adverse registry findings in the performance of this contract.*
4. *If applicable, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 40 (PM #40, effective 3/10/2008), and divisional procedures regarding conducting criminal background checks and handling adverse findings of the criminal background checks. This policy and procedure are included as Appendix N/A to this Contract. It is understood that adherence to this policy includes the development of appropriate procedures to implement the policy and ensuring staff receive appropriate training on the policy requirements. The Contractor's procedures must include the title of the position(s) responsible for the PM40 process in the contractor's agency.*
5. *If applicable, the Contractor agrees to adhere to the requirements of DHSS Policy Memorandum # 36 (PM #36, effective 9/24/2008), and divisional procedures regarding minimal requirements of contractors who are engaging in a contractual agreement to develop community based residential arrangements for those individuals served by Divisions within DHSS. This policy and procedure are included as Appendix N/A to this Contract. It is understood that adherence to this policy includes individuals/entities that enter into a contractual arrangement (*contractors*) with the DHSS/Division to develop a community based residential home(s) and apartment(s). Contractors shall be responsible for their subcontractors' adherence with this policy and related protocol(s) established by the applicable Division.*
6. All Department campuses are tobacco-free. Contractors, their employees and sub-contractors are prohibited from using any tobacco products while on Department property. This prohibition extends to personal vehicles parked in Department parking lots.

E) Authorized Signatures:

For the Contractor:

\_\_\_\_\_  
Name

**Ellen Stanko**  
**Vice President**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

11/7/12

For the Department:

\_\_\_\_\_  
**Rita M. Landgraf**  
**Secretary**

\_\_\_\_\_  
Date

For the Division:

\_\_\_\_\_  
**Elaine Archangelo**  
**Director**

\_\_\_\_\_  
Date

12/6/12

APPENDIX A – Delaware Department of Health and Social Services'

DIVISIONAL REQUIREMENTS

1. The contractor agrees to meet or exceed all minimum service standards as indicated in the service specifications and all other requirements contained in the Request for Proposal. The Contractor shall recognize that no extra contractual services are approved unless specifically authorized in writing by the Division. Further, the Contractor shall recognize that any and all services performed outside the scope covered by this Contract and attached budgets will be deemed by the Division to be gratuitous and not subject to any financial reimbursement.
2. *No services will be provided to the State until a Purchase Order has been received by and approved by the TALX Corporation.*

The Contractor must maintain documentation to support all payment claims submitted to and paid by the Division. Funds received and expended under the contract must be recorded so as to permit the Division to audit and account for all contract expenditures in conformity with the terms, conditions, and provisions of this contract, and with all pertinent federal and state laws and regulations. The Division retains the right to approve this accounting system.

3. Contractors receiving Federal funds must comply with all the requirements of the Federal Office of Management and Budget (OMB) Circular A-133, Audits of State, Local Governments, and Non-profit Organizations. The Contractor's fiscal records and accounts, including those involving other programs which may be substantially related to this contract, shall be subject to audit by duly authorized Federal and State officials.

Upon reasonable advance notice, the TALX Corporation shall provide the Department such books, records, documents, and other evidence for the purpose of inspection, auditing, and copying during normal business hours of the Contractor after giving reasonable notice. Contractor will provide facilities for such access and inspection.

4. The contractor agrees that, if defunding occurs, all equipment purchased with Division funds for \$1,000.00 or more and a useful life expectancy of one (1) year, will be returned to the Division within thirty (30) days.
5. The contractor agrees to submit monthly program performance reports no later than twenty (20) days after the end of the previous month. Quarterly and annual performance reports and other reports as required by the Division will be provided upon reasonable and advance notice.

*Upon written request, and at least 30 days advance notice, the TALX Corporation, will provide a copy of the Affirmative Action and EEO Report it files annually with EEOC to the Division of Social Services.*

6. The contractor agrees that the project will be carried out in accordance with the policies and procedures established by the Department, and the terms and conditions of this contract and RFP application as approved by the Department.

7. The contractor agrees, if applicable, to participate in Local Coordinating Team meetings that will enable personnel to perform more effectively on the project. A contractor who serves more than one county must designate a representative for each county in which they provide service. Failure to participate in the LCT meetings may result in termination of the contract.
8. The contractor agrees to cooperate and assist in efforts undertaken by the Division, the U.S. Department of Health and Human Services, or any other agency or organization duly authorized by any of the preceding to evaluate the effectiveness, feasibility and cost of the program/service.
9. No part of any funds under this contract shall be used to pay the salary or expenses of any contractor or agent acting for the contractor, to engage in any activity (lobbying) designed to influence legislation or appropriations pending before the State Legislature and/or Congress.
10. The contractor agrees that no personal information obtained from an individual in conjunction with the project shall be disclosed in a form that identifies an individual without the written and informed consent of the individual concerned.
11. Notice of any vacant staff positions included in the budget and paid for by Division funds, must be given to the Division if the position remains vacant for longer than ten (10) working days. The Division, at its discretion, can recoup the lost value associated with positions that remain vacant for longer than ten (10) working days.
12. If, at any given time, the Contractor cannot provide the contracted and authorized services, the Division has the authority to remove the funds from the contract.
13. The Contractor recognizes that the Division does not grant or sub-grant any of its federal funds to the Contractor. The relationship between the Contractor and the Division is solely a contractual relationship.
14. There will be a ninety (90) day period during which the agency may extend the contract period for renewal if needed.
15. Contracted staff who, as part of their contractual obligation, are required to access information from and/or enter information into the Division of Social Services various data bases such as the Delaware Client Information Systems, shall be subject to a criminal background check when the contract begins or when the contract is renewed if the original contract began before this requirement. The vendor is responsible to replace any staff person who fails to pass the criminal background check based on the DSS assessment of the results.
16. The Division of Social Services will adhere to the applicable regulations of the Fair Credit Act (FCRA), 15 U.S.C. 1681-1681y and those promulgated after this notice was prescribed in 2004.
17. The Division will not pay for services performed after the contract expiration/termination date. In order to receive payment for services performed prior to close of business on the contract expiration/termination date, the contractor must submit a payment request within ninety (90) calendar days of the contract expiration/termination date. Payment requests received in excess of ninety (90) calendar days of the contract expiration/termination date will be returned to the contractor without payment.

18. The Division reserves the right to reduce the number of people a Contractor currently serves, restrict the number of referrals a Contractor may receive, or rescind authorization to operate one or more service sites (e.g., neighborhood home, apartment) or any combination of such measures as sanctions for documented unsatisfactory contract performance as determined by the Division. The Division may impose such sanctions for a period of between 30 to 365 days, with the right to renew the sanctions at the Division's sole discretion.
19. *Limitation of Liability. The Department of Health and Social Services, Division of Social Services financial liability under this contract is limited to the SFY 13 general fund appropriation for the Division of Social Services.*
20. The contract is renewable, at the Division's discretion. The option to renew shall be exercisable solely and exclusively by DSS.

**Appendix B**  
**SERVICE DESCRIPTION / BUDGET SCHEDULE**  
**Service Description and Tiered Pricing Matrix:**  
**State of Delaware – Department of Health and Social Services**

**Agency Name:** State of Delaware – Department of Health and Social Services, Division of Social Services

**Effective Date:** December 1, 2012 or on date of signatures through June 30, 2014

**Service Description:** TALX shall provide the Services in accordance with the Contract and this Budget Schedule.

- a) **Product:** An Employment Verification includes the Consumer's (i) employer name and (ii) employment status. An income Verification may include, without limitation, the Consumer's (i) employer address, (ii) employment dates, where available, (iii) position title, (iv) medical and dental information, where available, (v) pay rate, (vi) up to three (3) years YTD gross income details, and (viii) up to three (3) years of pay period detail.
- b) **Input Requirements:** An Agency may request access to Data by providing the Consumer's social security number.
- c) **Delivery:** The Service provides automated access to requested Data via the Internet or phone. If Data is requested via Internet, it will be delivered instantly via the same mode. If Data is requested via phone, it will be delivered by fax within one (1) business day.

**Pricing:** Fee for Services provided under this Schedule include:

Verification Fees: Select a pricing plan below and initial by the plan you choose

**Monthly Minimum Payment:**

Agency Initials: \_\_\_\_\_

Transaction Type	Fee/Month	Verifications per month / Cost Per Transaction	Cost/Trans. Above Cap
Employment Summary (SSN Search)	FREE	UNLIMITED FREE	FREE
Income Verification	\$9,450.00 per month	3,000 Income Verifications Cost Per Transaction: \$3.15	\$3.50 each

- A monthly minimum payment is charged for all Income Verifications up to and including the Monthly Transaction Ceiling. Total transactions are reconciled at the end of each month and any costs above ceiling applied. It is acknowledged by Company that from time to time the market price will be adjusted. In the event TALX changes the market price, TALX shall provide Company thirty (30) day written notice. The sum total of a year of Monthly Minimum Payments shall be deemed the "Annual Amount."

Agency Initials: \_\_\_\_\_



Exhibit a to Appendix C

UNIVERSAL MEMBERSHIP AGREEMENT  
for  
The Work Number<sup>®</sup> Social Services

This **Universal Membership Agreement** (the "Agreement") is entered into by and between TALX Corporation, a Missouri Corporation, 11432 Lackland Road, St. Louis, Missouri ("TALX"), and \_\_\_\_\_ ("Agency").

**RECITALS:**

- A. TALX operates The Work Number<sup>®</sup> (the "Service"), a service used to verify certain employment-related information about an individual ("Consumers"); and
- B. Agency wishes to confirm employment and/or income information of Consumers through the Service.

**NOW, THEREFORE**, the parties agree as follows:

1. **SCOPE OF THE AGREEMENT.** This Agreement consists of the general terms set forth in the body of this Agreement, Exhibit 1, Exhibit 2, and each Schedule A executed by the parties which may contain additional terms. If there is a conflict between the general terms and conditions of this Agreement and any Exhibit or Schedule, the provisions of the Exhibit or Schedule will govern and control. This Agreement specifically supersedes and replaces any agreement between the parties that predates this Agreement and which relates to the Service as provided in Schedule A, even if the prior agreement contains an "entire agreement" or "merger" clause, and any such agreements are terminated.
2. **TALX OBLIGATIONS.** The Service will provide Agency with automated access to certain employment and/or income data ("Data") furnished to TALX by employers.
3. **AGENCY OBLIGATIONS.**
  - a. Agency shall comply with the terms set forth in this Agreement which includes Exhibits 1 and 2, and also each Schedule A executed by the parties which may contain additional terms.
  - b. Agency shall pay for the Services as set forth herein. All prices stated in this Agreement are exclusive of, and Agency shall pay, all sales, use, privilege, or excise taxes.
  - c. Agency certifies that it will order Data from the Service only when Agency intends to use the Data (i) in accordance with the Fair Credit Reporting Act ("FCRA") and all state law FCRA counterparts as though the Data is a consumer report, and (ii) for one of the following FCRA permissible purposes: (1) in connection with a credit transaction involving the Consumer on whom the Data is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer, (2) in connection with a determination of the 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, or (3) when Agency otherwise has a legitimate business need for the information either in connection with a business transaction that is initiated by the Consumer, or to review an account to determine whether the Consumer continues to meet the terms of the account; and for no other purpose.

Agency agrees to only use the Data consistent with the obligations of users of consumer reports as provided for in the Federal Trade Commission (the "FTC")'s Notice Form attached as Exhibit 1.
  - d. Agency may use the Data provided through the Service only as described in this Agreement. Agency may reproduce or store the Data obtained from the Service solely for its own use in accordance with this Agreement, and will hold all Data obtained from the Service under this Agreement in strict confidence and will not reproduce, reveal, or make it accessible in whole or in part, in any manner whatsoever, to any others unless required by law, or unless Agency first obtains TALX's written consent; provided, however, that Agency may discuss Consumer Data with the Data subject when Agency has taken adverse action against the subject based on the Data. Agency will

not provide a copy of the Data to the Consumer, except as may be required or permitted by law or approved in writing by TALX, except in any state where this contractual prohibition would be invalid. Agency will refer the Consumer to TALX whenever the Consumer disputes the Data disclosed by Agency. Agency will not interpret the failure of TALX to return Data as a statement regarding that consumer's credit worthiness, because the failure may result from one or more factors unrelated to credit worthiness.

- e. Agency represents and warrants it (i) is administering a government funded benefit or program, (ii) has been given the legal authority to view the Data by the Consumer or by operation of law, and (iii) is requesting the Data in compliance with all laws.
- f. Agency acknowledges it shall employ decision making processes appropriate to the nature of the transaction in accordance with commercially reasonable standards and will utilize the Data as part of its process.
- g. Agency represents and warrants it has written authorization from the Consumer to verify income. Agency need not use any particular form of authorization or obtain a separate signature for verifying income provided that the form constitutes Consumer authorization. Notwithstanding the foregoing, in the event Agency is using the Service to collect on defaulted child support obligations, Agency is not required to obtain such authorization.
- h. Agency may not allow a third party service provider (hereafter "Service Provider") to access, use, or store the Service or Data on its behalf without first obtaining TALX's written permission and without the Service Provider first entering into a Client Service Provider Information Use and Nondisclosure Agreement with TALX.
- i. In order to ensure compliance with this Agreement, applicable law and TALX policies, TALX may conduct reviews of Agency activities, including requesting copies of the Consumer's authorization to verify income with respect to requests for Data, and use of Data. Agency shall provide documentation to TALX as reasonably requested by TALX and shall allow access to its premises for purposes of such review by TALX. Agency shall cooperate fully with any and all investigations by TALX of allegations of abuse or misuse of the Services.
- j. Agency agrees to indemnify and hold harmless TALX and any employer of a Consumer about whom the information is sought from any and all liability arising out of Agency's breach of any obligation, representation or warranty under this Agreement.
- k. Additional representations and warranties as may be set forth in each Schedule A.

#### **4. AGENCY USE OF SERVICE.**

Data on the Service may be accessed by Agency to verify Consumer's employment status ("Employment Verification") or income ("Income Verification") for the purposes of determining eligibility for receipt of public aid or assistance, prevention or identification of fraud, overpayments associated with the receipt of public aid or assistance, or collecting on defaulted child support obligations that are in effect and valid.

**5. DATA SECURITY.** This Section 5 applies to any means through which Agency orders or accesses the Service including, without limitation, system-to-system, Interactive Voice Response ("IVR"), fax, batch file transfer, private network, or the Internet. If Agency orders or accesses the Service via the Internet, Agency shall fully comply with TALX's connectivity security requirements specified in 5.b below.

- a. For the purposes of this Section 5, the term "Authorized User" means an Agency employee that Agency has authorized to order or access the Service and who is trained on Agency's obligations under this Agreement with respect to the ordering and use of the Service, and the Data provided through the same, including Agency's FCRA and other obligations with respect to the access and use of Data. Agency will:
  - 1. ensure that only Authorized Users can order or have access to the Service,
  - 2. ensure that Authorized Users do not order Data for personal reasons or provide Data to any third-party except as permitted by this Agreement,
  - 3. ensure that all devices used by Agency to order or access the Service are placed in a secure location and are accessible only by Authorized Users, and that such devices are secured when not in use through such

means as screen locks, shutting power controls off, or other commercially reasonable security procedures,

4. take all necessary measures to prevent unauthorized ordering of or access to the Service by any person other than the Authorized User for permissible purposes, including, without limitation, (i) limiting the knowledge of the Agency security codes, usernames, and any passwords Agency may use to those individuals with a need to know, (ii) requiring Agency users to change passwords at least every ninety (90) days, or sooner if an Authorized User is no longer responsible for accessing the Service, or if Agency suspects any unauthorized person has learned the password, (iii) using all security features in the software and hardware Agency uses to order or access the Service, and (iv) requiring each individual Agency user to have a unique UserID and password to access the Service,
  5. not use personal computer hard drives or portable and/or removable data storage equipment or media (including, but not limited to, laptops, zip drives, tapes, disks, CDs, DVDs, software and code) to store Data unless the Data is stored on such media or device is encrypted using the following minimum standards which standards may be modified from time to time by TALX: Advanced Encryption Standard (AES), minimum 256-bit key or Triple Data Encryption Standard (3DES) minimum 168-bit key, encryption algorithms. In addition, all printed Data must be stored in a secure, locked container when not in use, and must be completely destroyed when no longer needed by cross-cut shredding machines (or other equally effective destruction method) such that the results are not readable or useable for any purpose. When Data in electronic form is no longer needed, it must be securely and effectively erased or media containing Data must be physically destroyed. In either case, commercially reasonable practices for the type of Data received from TALX must be employed,
  6. in no event access the Service via any wireless communication device, including but not limited to, web enabled cell phones, interactive wireless pagers, personal digital assistants (PDAs), mobile data terminals, portable data terminals, or other portable devices which do not store data in a manner consistent with the encryption requirements provided in Section 5.a.5,
  7. if Agency sends, transfers, or ships any Data, Agency shall encrypt the Data using the following minimum standards which standards may be modified from time to time by TALX: Advanced Encryption Standard (AES), minimum 256-bit key or Triple Data Encryption Standard (3DES) minimum 168-bit key, encrypted algorithms,
  8. monitor compliance with the obligations of this Section 5, and immediately notify TALX if Agency suspects or knows of any unauthorized access or attempt to access the Service and/or Data obtained from the Service. Such monitoring will include, without limitation, a review of each TALX invoice for the purpose of detecting any unauthorized activity,
  9. not ship hardware or media between Agency locations or to third parties without deleting all TALX Agency number(s), usernames, security codes and Agency user passwords or Data unless such information is encrypted as provided herein,
  10. if Agency uses a third-party vendor to establish access to the Service, be responsible for third party vendor's use of Agency's member numbers, usernames, security access codes, or passwords, and Agency will ensure that the third party vendor safeguards Agency's security access code(s), usernames and passwords through the use of security requirements that are no less stringent than those applicable to Agency under this Section 5,
  11. use commercially reasonable efforts to ensure Data security when disposing of any Data or record obtained from TALX. Such efforts must include any procedures or requirements established by any federal agency that governs Agency's industry.
- b.** Agency will, with respect to Agency's network security:
1. use commercially reasonable efforts to protect Data when stored on servers, subject to the following requirements: (i) Data must be protected by multiple layers of network security, including, but not limited to, firewalls, routers, intrusion detection devices; (ii) secure access (both physical and network) to systems storing Data, must include authentication and passwords that are changed at least every ninety

- (90) days; and (iii) all servers must be kept current and patched on a timely basis with appropriate security-specific system patches, as they are available,
2. use commercially reasonable efforts to protect Agency's connection with dedicated industry-recognized firewalls that are configured and managed to adhere to industry accepted best practices,
  3. use commercially reasonable efforts to only hold Data on an application server which can only be accessed by a presentation server, through one of the following: (i) Dual or multiple firewall method (preferred) – this method consists of a firewall between the Internet and the presentation server(s) and another firewall between the presentation server(s) and the application server holding the Data. The network firewall should ensure that only the presentation server(s) is/are allowed to access the application server holding Data, (ii) Single firewall method (acceptable) – when a dual firewall method is not feasible, a single firewall will provide acceptable levels of protection. The firewall should be installed between the Internet and the presentation server(s). Multiple interfaces to separate the presentation server(s) and that application server holding Data are required. The firewall should be configured to allow only the presentation server(s) access to the application server holding Data, or (iii) ensure that all administrative and network access to firewalls and servers must be through an internal network or protected extranet using strong authentication encryption such as VPN and SSL.
  4. use commercially reasonable efforts to route communications from Agency's internal services to external systems through firewalls configured for network address translation (NAT),
  5. use commercially reasonable efforts to establish procedures and logging mechanisms for systems and networks that will allow tracking and analysis in the event there is a compromise, and maintain an audit trail history for at least three (3) months for review by TALX.
- c. If TALX reasonably believes that Agency has violated this Section 5, TALX may, in addition to any other remedy authorized by this Agreement, with reasonable advance written notice to Agency, and at TALX's sole expense, conduct, or have a third party conduct on its behalf, an audit of Agency's network security systems, facilities, practices and procedures to the extent TALX reasonably deems necessary, including an on-site inspection, to evaluate Agency's compliance with the data security requirements of this Section 5.
6. **CONFIDENTIALITY.** Each party acknowledges that all materials and information disclosed by a party ("Disclosing Party") to another party ("Recipient") in connection with performance of this Agreement, including the terms of this Agreement and the pricing terms contained in Schedule A, consist of confidential and proprietary data ("Confidential Information"). Each Recipient will hold those materials and that information in strict confidence, and will restrict its use of those materials and that information to the purposes anticipated in this Agreement. If the law or legal process requires Recipient to disclose confidential and proprietary data, Recipient will notify the Disclosing Party of the request. Thereafter, the Disclosing Party may seek a protective order or waive the confidentiality requirements of this Agreement, provided that Recipient may only disclose the minimum amount of information necessary to comply with the requirement. Recipient will not be obligated to hold confidential any information from the Disclosing Party which (a) is or becomes publicly known, (b) is received from any person or entity who, to the best of Recipient's knowledge, has no duty of confidentiality to the Disclosing Party, (c) was already known to Recipient prior to the disclosure, and that knowledge was evidenced in writing prior to the date of the other party's disclosure, or (d) is developed by the Recipient without using any of the Disclosing Party's information. The rights and obligations of this Section 6 with respect to (i) confidential and proprietary data that constitutes a "trade secret" (as defined by applicable law), will survive termination of this Agreement for so long as such confidential and proprietary information remains a trade secret under applicable law; and (ii) all other confidential and proprietary data, will survive the termination of this Agreement for the longer of two (2) years from termination, or the confidentiality period required by applicable law.
7. **TERM AND TERMINATION.** This Agreement shall be for an annual term, and shall be automatically renewed for successive one year terms. Either TALX or Agency may terminate this Agreement or any Schedule(s), at any time upon thirty (30) days prior written notice to the other. Unless otherwise provided for in the relevant schedule, TALX may change the price of the Service and/or the Service Schedule and/or Description with thirty (30) days notice. Agency's use of the Service after such thirty (30) day period shall constitute its agreement to such change(s), without prejudice to its right to terminate this Agreement as

provided above. If TALX believes that Agency has breached an obligation under this Agreement, TALX may, at its option and reserving all other rights and remedies, terminate this Agreement and/or any Schedules immediately upon notice to Agency.

8. **RIGHTS TO SERVICE.** The Service and the Data, including all rights thereto, are proprietary to TALX.
9. **WARRANTY.** TALX warrants that the Service will be performed in all material respects in a reasonable and workmanlike manner and in compliance with laws and regulations applicable to TALX' performance thereof. Agency acknowledges that the ability of TALX to provide accurate information is dependent upon receipt of accurate information from employers. TALX does not warrant that the Service will be error free. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, TALX MAKES NO OTHER WARRANTIES AS TO THE SERVICE OR THE DATA, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF GOOD TITLE, MERCHANTABILITY, AND/OR FITNESS FOR A PARTICULAR PURPOSE EVEN IF TALX KNOWS OF SUCH PURPOSE.
10. **INDEMNIFICATION.** Agency and TALX recognize that every business decision represents an assumption of risk and that neither party in furnishing Confidential Information, Data, or the Service to the other, underwrites or assumes the other's risk in any manner. Each party agrees to indemnify, defend and hold harmless ("Indemnify") the other party and its affiliates, and their directors, officers and employees (each, an "Indemnified Party"), from and against claims, demands, liabilities, suits, damages, expenses and costs, including reasonable attorneys', experts' and investigators' fees and expenses ("Claims") brought by third parties against the Indemnified Party and arising from the indemnifying party's, or its affiliates', directors', officers' or employees' ("Indemnifying Party") (i) breach of this Agreement, (ii) negligent or intentional, wrongful act or omission, (iii) infringement on third party proprietary rights. Further, each party agrees to Indemnify the other from and against the Indemnifying Party's (i) violation of applicable law, or (ii) breach of Section 6 Confidentiality.
11. **LIMITATION OF LIABILITY.** In no event shall either party or its officers, agents or employees be liable for loss of profits or for indirect, special, incidental or consequential damages arising out of or related to the performance of this Agreement, even if that party has been advised of the possibility of such damages. In no event shall damages of any kind payable by TALX hereunder exceed the sum paid by Agency for the service which causes Agency's claim.
12. **APPLICABLE LAW AND ARBITRATION.** This Agreement shall be governed by the laws of the State of Missouri, without giving effect to the principles of conflict of laws thereof. Any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association in St. Louis, Missouri, and judgment upon the award entered in any court having jurisdiction.
13. **MISCELLANEOUS.** This Agreement sets forth the entire agreement between the parties regarding the Service. Except as otherwise provided in this Agreement, this Agreement may be amended only by a subsequent writing signed by both parties. This Agreement may not be assigned or transferred by Agency without TALX' prior written consent. This Agreement shall be freely assignable by TALX and shall inure to the benefit of and be binding upon the permitted assignee of either Agency or TALX. If any provision of this Agreement is held to be invalid or unenforceable under applicable law in any jurisdiction, the validity or enforceability of the remaining provisions thereof shall be unaffected as to such jurisdiction and such holding shall not affect the validity or enforceability of such provision in any other jurisdiction. To the extent that any provision of this Agreement is held to be invalid or unenforceable because it is overbroad, that provision shall not be void but rather shall be limited only to the extent required by applicable law and enforced as so limited. Any notice under this Agreement shall be effective upon personal delivery by an overnight or other courier or delivery service, or three (3) days after pre-paid deposit with the postal service, in either case to the party's address in the first sentence of this Agreement or any substitute therefore provided by notice.
14. **COUNTERPARTS/EXECUTION BY FACSIMILE.** For the convenience of the parties, copies of this Agreement and Schedules hereof may be executed in two or more counterparts and signature pages exchanged by facsimile. The parties intend that counterpart copies signed and exchanged as provided in the preceding sentence shall be fully binding as an original handwritten executed copy hereof and thereof and all of such copies together shall constitute one instrument.

Agency acknowledges receipt of Exhibit 1, "Notice to Users of Consumer Reports Obligations of Users". Furthermore, Agency has read "Notice to Users of Consumer Reports Obligations of Users" which explains Agency's obligations under the FCRA as a user of consumer report information (to be initiated by the person signing on behalf of Agency).

**THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES.**

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated below.

Agency

TALX Corporation

By  
(signature): \_\_\_\_\_  
Name  
(print): \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By  
(signature): \_\_\_\_\_  
Name  
(print): **Ellen Stanko  
Vice President**  
Title: \_\_\_\_\_  
Date: 11/7/12

**Exhibit a to Appendix C**  
**UNIVERSAL MEMBERSHIP AGREEMENT**  
**for**  
**The Work Number<sup>SM</sup> Social Services**

**Exhibit 1**

All users ("user" or "Consumer") 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),<sup>15</sup> 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(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**

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 Agency by contacting the Agency.

#### **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(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 preestablished 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

**Exhibit a to Appendix C**  
**UNIVERSAL MEMBERSHIP AGREEMENT**  
**for**  
**The Work Number<sup>®</sup> Social Services**

**Exhibit 2 VERMONT FAIR CREDIT REPORTING CONTRACT CERTIFICATION**

The undersigned, \_\_\_\_\_ ("Agency"), acknowledges that it subscribes to receive various information services from TALX Corporation ("TALX") in accordance with the Vermont Fair Credit Reporting Statute, 9 V.S.A. § 2480e (1999), as amended (the "VFCRA"), and the federal Fair Credit Reporting Act, 15, U.S.C. 1681 et. seq., as amended (the "FCRA"), and its other state law counterparts. In connection with Agency's continued use of TALX services in relation to Vermont consumers, Agency hereby certifies as follows:

Vermont Certification. Agency certifies that it will comply with applicable provisions under Vermont law. In particular, Agency certifies that it will order Data relating to Vermont residents, that are credit reports as defined by the VFCRA, only after Agency has received prior consumer consent in accordance with VFCRA § 2480e and applicable Vermont Rules. Agency further certifies that the attached copy of VFCRA § 2480e applicable Vermont Rules were received from TALX.

Agency: \_\_\_\_\_

Signed By: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Account Number: \_\_\_\_\_

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

**Please also include the following information:**

Compliance Officer or Person Responsible for Credit Reporting Compliance

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Vermont Fair Credit Reporting Statute, 9 V.S.A. § 2480e (1999)

§ 2480e. Consumer consent

- (a) A person shall not obtain the credit report of a consumer unless:
- (1) the report is obtained in response to the order of a court having jurisdiction to issue such an order; or
  - (2) the person has secured the consent of the consumer, and the report is used for the purpose consented to by the consumer.
- (b) Credit reporting agencies shall adopt reasonable procedures to assure maximum possible compliance with subsection (a) of this section.
- (c) Nothing in this section shall be construed to affect:
- (1) the ability of a person who has secured the consent of the consumer pursuant to subdivision (a)(2) of this section to include in his or her request to the consumer permission to also obtain credit reports, in connection with the same transaction or extension of credit, for the purpose of reviewing the account, increasing the credit line on the account, for the purpose of taking collection action on the account, or for other legitimate purposes associated with the account; and
  - (2) the use of credit information for the purpose of prescreening, as defined and permitted from time to time by the Federal Trade Commission.

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VERMONT RULES \*\*\* CURRENT THROUGH JUNE 1999 \*\*\*  
AGENCY 06. OFFICE OF THE ATTORNEY GENERAL  
SUB-AGENCY 031. CONSUMER PROTECTION DIVISION  
CHAPTER 012. Consumer Fraud--Fair Credit Reporting  
RULE CF 112 FAIR CREDIT REPORTING  
CVR 06-031-012, CF 112.03 (1999)  
CF 112.03 CONSUMER CONSENT

(a) A person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing if the consumer has made a written application or written request for credit, insurance, employment, housing or governmental benefit. If the consumer has applied for or requested credit, insurance, employment, housing or governmental benefit in a manner other than in writing, then the person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing or in the same manner in which the consumer made the application or request. The terms of this rule apply whether the consumer or the person required to obtain consumer consent initiates the transaction.

(b) Consumer consent required pursuant to 9 V.S.A. §§ 2480e and 2480g shall be deemed to have been obtained in writing if, after a clear and adequate written disclosure of the circumstances under which a credit report or credit reports may be obtained and the purposes for which the credit report or credit reports may be obtained, the consumer indicates his or her consent by providing his or her signature.

(c) The fact that a clear and adequate written consent form is signed by the consumer after the consumer's credit report has been obtained pursuant to some other form of consent shall not affect the validity of the earlier consent.

