



Effective Date: 8/1/19

Last Updated: 12/30/23

General Terms

These General Terms (the “Terms”) are incorporated by reference into the Master Service Agreement (the “Agreement”) between Foley Carrier Services, LLC, its direct and indirect subsidiaries, and any joint ventures into which any of the foregoing may enter and which are controlled by Foley Carrier Services, LLC (hereinafter “we,” “us,” “our,” “Foley”) and Customer (“Customer,” “You,” “Your,” “End-User”). These terms govern all services to Customer as outlined in the Schedule of Services and Order Confirmation Form (“Order Confirmation”) (collectively the “Services”), which are incorporated into the Agreement between Foley and Customer (collectively the “Parties”). By accessing or using the Services, You agree to be bound by these Terms. You must agree to the Terms before you can use the Services. You should also carefully review our [Privacy Policy](#) before using Foley’s Services.

These Terms are subject to change by Foley without prior written notice at any time at Foley’s sole discretion. However, Foley will use commercially reasonable efforts to provide notice to customers of material changes to these Terms. Any changes to the Terms will be in effect as of the “Last Updated” referenced at the top of this document, online at Foley’s website posting these Terms. You should review these Terms prior to purchasing any services from Foley. Customer is responsible for regularly reviewing these Terms and the other terms of this Agreement.

CONTINUED MAINTENANCE OF AN ACCOUNT WITH FOLEY OR CONTINUED USE OF FOLEY’S SERVICES AFTER THE “LAST UPDATED DATE,” CONSTITUTES YOUR UNDERSTANDING, ACCEPTANCE, AND AGREEMENT TO ALL OF THE TERMS OF THE AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS, YOU MAY NOT USE ANY FOLEY SERVICES.

1. Definitions

The following definitions apply to all capitalized terms contained in the Agreement:

- 1.1. “Admin User” has the meaning set forth in Section 6.3.
- 1.2. “Affiliate” means an entity that controls, is controlled by, or is under common control with a Party to this Agreement.
- 1.3. “Affiliated Persons” has the meaning set forth in Section 9.1.
- 1.4. “Agreement” means this Master Service Agreement including any and all annexes, Appendices or Exhibits hereto, plus the applicable Order Confirmation, Schedule of Services, and all other documents that are expressly incorporated in the Master Service Agreement, and as amended as authorized from time to time.



- 1.5. “Authorized User” means an individual authorized by Customer to access and use Foley’s Services, which must be either (a) an employee of Customer, or (b) an employee of a Customer Affiliate.
- 1.6. “Candidate” has the meaning set forth in Section 2.1.
- 1.7. “Confidential Information” has the meaning set forth in Section 13.1.
- 1.8. “Customer Data” means any data or information submitted to Foley by Customer in connection with accessing the Services or pursuant to this Agreement, excluding data and information relating to the operation and/or performance of the Platform.
- 1.9. “Disclosing Party” has the meaning set forth in Section 13.1.
- 1.10. “Effective Date” has the meaning set forth in Section 12.1.
- 1.11. “Fees” means the amounts owed or charged to Customer by Foley in accordance with the fee structure in the Order Confirmation.
- 1.12. “Insight Data” means any reports, commentaries, market testing outputs, consumer testing outputs, data analyses, test results and consumer insights gained by Foley through Customer’s permitted use of Foley’s Services and that is collected on a non-personally, non-Customer, and non-consumer identifiable basis.
- 1.13. “Passwords” has the meaning set forth in Section 5.1(a).
- 1.14. “Platform” means, collectively and individually, any websites, software, portals, applications, and Application Programming Interfaces (“API”s), programs, components, functions, screen designs, reporting data, and report formats owned or operated by Foley, and all Updates, Upgrades, and other derivative works, upgrades, releases, fixes, patches, etc. related to the software that Foley develops or deploys during the term of this Agreement, as they may be modified, relocated and/or redirected from time to time.
- 1.15. “Protected Data” means all data, materials, content, personal identifying information, and other information Customer obtains from the Platform or Foley that is specific to Customer and/or its affiliate(s), its employee(s), its contractor(s), or any Third Party on its/their behalf, and any summaries, reports, and compilations of the same. Protected Data does not include data solely owned by Customer.
- 1.16. “Laws” has the meaning set forth in Section 6.2.
- 1.17. “Legal Support Services” has the meaning set forth in Section 14.1.



- 1.18. “Loss” has the meaning set forth in Section 11.1.
- 1.19. “Receiving Party” has the meaning set forth in Section 13.1.
- 1.20. “Reporting Criteria” has the meaning set forth in Section 7.9.
- 1.21. “Supplier(s)” means third-party vendors or entities that contract with Foley to provide services or products to facilitate Foley’s effort in providing effective and efficient Services to customers.
- 1.22. “Term” has the meaning set forth in Section 12.1.
- 1.23. “Third Party” means any natural person or legal entity other than Foley and Customer.
- 1.24. “Updates” has the meaning set forth in Section 7.3.
- 1.25. “Upgrades” has the meaning set forth in Section 7.3.

2. Our Services

2.1. Foley is a provider of the services listed in the Schedule of Services document incorporated by reference into the Agreement. In the United States, Foley is defined as a “consumer reporting agency” pursuant to the Fair Credit Reporting Act, 15 U.S.C. Section 1681 et seq. (“FCRA”) and applicable state law. Any FCRA-regulated screening reports that Foley furnishes pursuant to this Agreement are defined by the FCRA and applicable state law as “consumer reports” or “investigative consumer reports.” All such reports provided by Foley pursuant to this Agreement are collectively defined as “Consumer Reports,” and all references to “Consumer Report(s)” herein shall refer to an entire Consumer Report(s) as well as any specific information contained within a Consumer Report(s). Subject to the terms and conditions of this Agreement, and upon Customer’s request, Foley will furnish Consumer Reports for employment purposes and the related Services described in this Agreement in connection with Customer’s screening, as applicable, of prospective and/or current employees, independent contractors, temporary workers/employees, and/or other individuals for legally permissible employment-related purposes (collectively and each, a “Candidate”). Customer shall request Consumer Report(s) for employment-related purposes pursuant to procedures prescribed by Foley from time to time only when it is considering the individual inquired upon for employment, promotion, reassignment, or retention as an employee, contractor, temporary worker, or volunteer, and for no other purpose. The FCRA imposes criminal penalties against anyone who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses, including a fine, up to two years in prison, or both, pursuant to Section 1681q of the FCRA.

2.2. Foley will: (i) perform all Services in a competent and workmanlike manner in accordance with industry standards; (ii) utilize sufficient personnel possessing the skills, experience and abilities to perform the Services; and (iii) assemble information from a variety of sources, including public records (including from state departments of motor vehicles), courts, employers, databases maintained by consumer reporting agencies, and other information repositories. Notwithstanding



anything to the contrary in this Agreement, the data sources which make up the Services have been created and are maintained by, among others, various state and federal agencies which are not under the control of Foley. Therefore, Foley cannot be a guarantor that the information provided from these sources is absolutely accurate or current. Responsibility for the accuracy and the currency of Protected Data rests solely with the various state agencies and other contributors from which Foley obtains Protected Data. Nevertheless, Foley has in place procedures designed to respond promptly to claims of incorrect or inaccurate information in accordance with applicable Laws. Customer specifically waives any claim or claims against Foley and Foley data suppliers arising out of or related to the accuracy and currency of Protected Data.

3. Customer Data License Grant

3.1. Customer hereby grants to Foley (i) a non-exclusive, worldwide, royalty-free, fully paid up, sublicensable, right and license during the Term to copy, distribute, display and create derivative works of and use the Customer Data to perform Foley's obligations under this Agreement, and (ii) a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid up, sublicensable right and license during and after the Term to (A) store, copy, distribute, display and create derivative works of and otherwise use the Customer Data, in connection with its internal operations and functions, including improving and developing products and services and (B) create Insight Data from the Customer Data.

4. Support Services

4.1. So long as the Customer is covered under a program offered by Foley on an annual or monthly basis, and Customer has not lapsed in the payment of Fees, Foley shall provide customer service to Customer via e-mail and phone to answer questions about our Services. Normal customer service hours are 8:30 a.m. to 5:00 p.m. ET.

- a) E-mail Communication. Customer agrees that all agreements, notices, disclosures, and other communications may be provided to the Customer electronically and will satisfy any legal requirement that such communications be in writing. The Customer agrees that it is responsible for keeping Foley updated on any change to Customer's preferred e-mail address.
- b) Wireless Phone Policy. By providing its wireless phone number to Foley or signing this Agreement, Customer understands that Customer is expressly authorizing, and gives prior informed consent for, Foley and its Affiliates to contact Customer's phone number for any reason by phone or text message, or by using an artificial or prerecorded voice. Foley may also record telephone calls with Customer for quality assurance purposes.

5. License Grant and Restrictions

5.1. Foley License Grant for Services. As Customer is purchasing a service, as set forth on the applicable Schedule of Services and Order Confirmation, Foley hereby grants to Customer a



non-exclusive, non-transferable license for the Term of this Agreement to: (i) utilize the Services, Foley's Platform, including online tools, only for Customer's internal business needs; (ii) use the Services, Platform, and all Foley or Third Party data contained therein solely to support the use of the Services; and (iii) make a commercially reasonable number of copies of any deliverables provided by Foley, however, that Customer shall reproduce and include all of Foley's copyright notices, trademarks, and proprietary legends on each such copy. Customer and all of its Authorized Users hereunder shall be bound by and comply with this Agreement, and Customer is solely responsible for all activities of its Authorized Users. Customer acknowledges and agrees that some or all of the Services purchased may be provided by one or more Supplier selected by Foley at its sole discretion.

- a) Password Protection of Service. Customer shall be responsible for protecting and safeguarding any keys, certificates, passwords, access codes, user IDs or other login information (collectively, "Passwords") provided to Customer for the purpose of accessing and using the Services. In the event that Customer makes such Passwords available to any Third Party, Customer shall be liable for all actions taken by such Third Party that relate to the usage of Passwords. Customer shall not disclose or make available Customer's Passwords other than to Customer's Authorized Users. Customer shall use all commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and Customer will notify Foley in writing within 24 hours of its awareness of any such unauthorized use.
- b) The Parties acknowledge that the Services may include processing information regulated by privacy or data protection laws. To the extent that any privacy or data protection laws impose an obligation upon Foley to comply with an individual's request for access to or correction of their Protected Data, Customer agrees that it shall satisfy such obligations, including, but not limited to, tracking compliance and retaining copies of signed approvals/applications.

5.2. Restrictions. Customer specifically agrees to limit its use of the Services and Platform as expressly authorized in this Agreement. Notwithstanding the foregoing, Customer specifically agrees not to (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Platform and/or Services or any portion thereof; (ii) modify, port, translate, localize or create derivative works of the Platform or Services; (iii) use the Services to knowingly (a) infringe on the intellectual property rights of any Third Party or any rights of publicity or privacy; (b) violate any law, statute, ordinance or regulation (including but not limited to the laws and regulations governing export/import control, unfair competition, anti-discrimination and/or false advertising); (c) vault defamatory, trade libelous, unlawfully threatening, or unlawfully harassing data; (d) vault obscene, pornographic or indecent data in violation of applicable law; or (e) propagate any viruses, worms, Trojan horses or other programming routine intended to damage any system or data; (iv) use the Services or Platform in any application that may involve risks of death, bodily injury, property damage or environmental damage, or in any life support applications, devices or systems; (v) use the



Services or Platform in violation of any applicable laws, wherever such use occurs, and not use or require Foley or its service providers to use any Protected Data obtained via the Services for any unlawful purpose; (vi) gain or attempt to gain unpermitted access by any means to any Foley computer system, network, or database. Customer shall have no right to receive any object code or source code from the Platform or otherwise relating to the Services. Customer may not copy or incorporate portions or “screen shots” of the Services except in training materials for Customer’s internal use only and provided that the incorporated materials shall bear notice of Foley’s copyrights and trademarks as specified by Foley. At no time may Customer sublicense, sell, rent, lease, transfer, distribute or otherwise commercially exploit or make protected data of a Third Party available to any Third Party who does not own that data.

6. Customer Obligations, Warranties, and Certifications

6.1. Customer represents and warrants that it has the right to enter into this Agreement with Foley. Customer further represents and warrants that it is not a party to any agreement or under any condition which would prevent it from fulfilling its obligations under this Agreement.

6.2. Compliance with Applicable Laws.

(a) Customer shall comply with any and all local, state, federal, and international laws, regulations, and ordinances, including, without limitation, and as the FCRA, State and Federal EEOC compliance, the Driver’s Privacy Protection Act (18 USC § 2721 et seq.), the Americans with Disabilities Act (42 USC § 12101 et seq.) and regulations promulgated thereunder (collectively, “Laws”), to the extent such legal requirements apply to Customer’s use of the Services. If utilizing Foley’s FCRA-regulated services, Customer is considered a “user” of Consumer Reports under the FCRA and applicable state law, and accordingly: (i) Customer shall comply with its compliance certifications and obligations set forth in the “Compliance Certification” incorporated by reference into the Master Service Agreement; and (ii) Customer acknowledges it has received, reviewed and will comply with its obligations in the “Notice to Users of Consumer Reports: Obligations of Users under the FCRA” incorporated by reference into the Master Service Agreement. Customer acknowledges that all Protected Data is regulated by the FCRA. Customer shall promptly notify Foley if Customer believes it has failed to fulfill any obligation in this Agreement, including, without limitation, those obligations related to confidentiality, consumer privacy, data protection, and compliance with applicable Laws.

(b) New York City, Fair Chance Act Compliance. **This Section 6.2(b) only applies to Customer if Customer has operations in New York City, New York, or has four (4) or more employees in New York City, New York.** Amendments to the New York City Fair Chance Act that took effect on July 29, 2021 impose restrictions on an employer’s ability to take adverse action against job applicants, current employees and independent contractors based on pending criminal charges, arrests or convictions. In addition, the New York City Commission on Human Rights issued Legal Enforcement Guidance as well as Frequently



Asked Questions About New York City's Employment Protections Based on Criminal History, which require most New York City employers to bifurcate their background screening process to consider virtually all noncriminal information prior to the grant of a conditional offer of employment and to conduct investigations of criminal backgrounds only after a conditional offer of employment has been extended. It is Customer's responsibility to understand how the amendment to the New York City Fair Chance Act applies to Customer and to order background screenings from Foley in a sequence that is in compliance with all laws applicable to Customer. Customer agrees that Foley is not responsible in any way for ensuring that Customer is compliance with the New York City Fair Chance Act when it returns an order by Customer for a criminal background check on a Candidate. Customer shall indemnify Foley for any Losses that arise out of or relate to the sequence of Customer's viewing of background screening reports on a Candidate that were delivered to Customer by Foley. Foley is not a law firm. As such, Foley does not provide legal advice. All information contained in this Section is provided for informational purposes only and should not be construed as legal advice on any subject. All customers of Foley must direct questions about legal issues and legislative developments to their legal counsel. The material in this Section may not reflect the most current legal developments, and Foley does not guarantee completeness or accuracy of the provided information. Foley disclaims all liability with respect to actions taken or not taken based on any or all the contents of this Section to the fullest extent permitted by law. Do not act or refrain from acting upon information on or linked in this Section without seeking professional legal counsel. The transmission and receipt of information contained in this Section does not constitute or create an attorney-client relationship between Foley and Customer.

6.3. Account Credentialing, Access, and Maintenance. Prior to obtaining services from Foley, Customer must satisfy Foley's client credentialing requirements, which for clients ordering Credit Reports, will include a physical on-site inspection. Customer shall cooperate with Foley's client credentialing process and pay the associated fee, if any, set forth in this Agreement. Customer shall designate to Foley the name of an "Admin User(s)" who shall be: (i) Customer's main contact(s) for the Services obtained under this Agreement, and (ii) responsible for the strict administration and control of Customer's account login codes and passwords. The Admin User(s) shall identify and authorize all Customer account Authorized Users and their respective access privileges, and promptly notify Foley of any changes to Customer's company name, physical address, account users and if any account login codes or passwords become invalid, inactive, or compromised in any manner. An Admin User may be an Outsourced Provider.

6.4. Data Privacy and Security. Customer shall maintain commercially reasonable and appropriate technical, physical, administrative, and other organizational precautions and security measures to protect against unauthorized access to and/or misuse of the Foley Platform and Consumer Reports. Foley may, in its reasonable discretion and without penalty, suspend and, upon written notice, cancel Customer's account if Foley reasonably suspects or identifies any misuse of or unauthorized access to its Platform and/or Consumer Reports through Customer's account. Customer shall be responsible for, and shall indemnify Foley for, any Losses that arise out of or relate to misuse or unauthorized access to the Foley Platform through Customer's account.



6.5. Audits and Record Retention. Foley, on behalf of itself and/or its Suppliers may conduct reasonable periodic audits of Customer's compliance with this Agreement. Unless otherwise prohibited by applicable Laws, Customer shall, for a minimum period of five (5) years plus the current year, maintain copies of all Candidate consumer disclosure/consent forms, Consumer Reports, and, as applicable, all pre-adverse and adverse action notices. Customer shall, upon reasonable advance notice, during its normal business hours, make available to Foley and/or its Suppliers such documentation reasonably requested to demonstrate Customer's compliance with its obligations in this Agreement. If Customer becomes aware of an audit initiated by a Third Party involving Foley's Consumer Reports or other Services provided pursuant to this Agreement, Customer shall provide Foley prompt written notice of the audit. Customer shall not provide access to its Foley account or Consumer Reports to any auditing party unless required to do so by applicable Laws and after Foley expressly consents in writing to such access request.

6.6. Prohibition on Resale or Reuse of Reports. Customer shall not, directly, or indirectly, sell, transfer, disclose the contents of or distribute Consumer Reports, in whole or in part, to any Third Party (other than to the applicable Candidate upon which the Consumer Report is based or in conjunction with a Required Disclosure, as defined below in Section 13.3. Unless otherwise agreed upon between the Parties in a separate, written agreement signed by both Parties, Customer shall use Consumer Reports for Employment Purposes solely as an "End-User" as that term is defined by the FCRA, for a single, one-time use, and shall hold the report in strict confidence, and not disclose it to any Third Party who is not involved in the employment decision. Customer will use Consumer Reports and the data obtained from such reports only in the United States such Consumer Reports and data shall only be shared with Customer's locations within the United States.

6.7. Client Criteria Application Details and Responsibility. This Section is only applicable if Customer utilizes Foley's Client Criteria Application, as described below and subject to applicable product/service specifications. If Customer elects to obtain such services, Customer shall provide Foley with the criteria, guidelines and instructions established by Customer for determining whether the information in a Candidate's Consumer Report satisfies Customer's eligibility criteria ("Client Criteria"). Foley will apply Customer's Client Criteria to the Consumer Report information reported by Foley and then provide to Customer a status that reflects the outcome of such application ("Client Criteria Application"); provided, however, that Foley will not apply any "does not meet" or equivalent final adverse decision, which ultimately must be determined and applied by Customer. If Foley performs Client Criteria Application on behalf of Customer, Foley's sole responsibility will be to perform such services accurately in accordance with Customer's then-current Client Criteria provided to Foley. Customer represents and warrants to Foley that the Client Criteria is compliant with all applicable Laws and acknowledges that Customer is solely responsible for the creation and content of the Client Criteria and for ensuring such compliance on an ongoing basis. Customer may update its Client Criteria from time to time by providing advance written notice to Foley, and such updated Client Criteria will be effective upon Foley's written confirmation to Customer.

6.8. Compliance Responsibility; No Legal Advice. Customer acknowledges that Foley will not render any opinions regarding Consumer Report content, and Customer shall base its screening



processes, Client Criteria (if applicable) and decisions on its own policies, procedures, and review of applicable Laws. Any consultation, training and/or sample forms (e.g., disclosure and authorization forms, pre-adverse and adverse action notices) provided by Foley are provided for informational purposes only, and not for the purpose of providing legal advice and/or Customer's reliance. CUSTOMER ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR, AND FOR CONSULTING ON AN ONGOING BASIS WITH ITS OWN LEGAL COUNSEL FAMILIAR WITH CUSTOMER'S LEGAL/REGULATORY OBLIGATIONS RELATED TO, THE COMPLIANT PROCUREMENT AND USE OF CONSUMER REPORTS AND OTHER SERVICES OBTAINED PURSUANT TO THIS AGREEMENT INCLUDING, WITHOUT LIMITATION (AND COLLECTIVELY DEFINED AS "CUSTOMER COMPLIANCE OBLIGATIONS"): FULFILLING ITS COMPLIANCE OBLIGATIONS IN THIS AGREEMENT; ENSURING THAT ITS DISCLOSURE AND AUTHORIZATION FORMS AND PROCESSES, CLIENT CRITERIA APPLICATION GUIDELINES AND PROCESSES, PROFESSIONAL REFERENCE QUESTIONS AS PREPARED OR REQUESTED BY CUSTOMER, PRE-ADVERSE ACTION AND ADVERSE ACTION NOTICE FORMS AND PROCESSES, INCLUDING THOSE FOLEY SENDS ON CUSTOMER'S BEHALF, AND ALL OTHER PAPERWORK AND FORMS UTILIZED BY OR ON BEHALF OF CUSTOMER IN ITS HIRING AND CANDIDATE SCREENING PRACTICES ARE APPROPRIATE FOR ITS USE AND IN COMPLIANCE WITH ALL APPLICABLE LAWS. CUSTOMER SHALL NOT ASSERT ANY CLAIM AGAINST FOLEY, AND WAIVES LIABILITY AGAINST FOLEY, FOR ANY CLAIMS REGARDING OR ARISING OUT OF THE CUSTOMER COMPLIANCE OBLIGATIONS. Customer acknowledges and agrees that any information provided by Foley related to the Services does not constitute legal advice.

6.9. Candidate Information and Identity Verification. Customer acknowledges that, in preparing Consumer Reports, Foley relies on the personally identifying information (PII) (such as, without limitation, name, date of birth, social security number or applicable national ID, and address) provided to Foley by the Candidate and/or Customer, as applicable. Customer acknowledges that: (i) Customer is responsible for confirming that the Candidate is who they claim to be; and (ii) Customer is advised to review the completed Consumer Report in comparison to the applicant's job application, I-9 information, and/or Candidate provided PII to ensure that the Candidate identifying information provided to and used by Foley to prepare the Consumer Report, as well any additional identifying information obtained by Foley while preparing the Consumer Report, matches the identifying information provided by the Candidate to Customer. Customer understands that: (i) erroneous or falsified Candidate identifying information may cause the Consumer Report to be incomplete and/or inaccurate; and (ii) Foley is not responsible for determining whether the identifying information submitted about the Candidate is erroneous or falsified.

6.10. Affiliate Ordering Rights. Upon Foley receiving authorization from Customer in a form reasonably acceptable to Foley, Foley will permit an Affiliate of Customer to order Foley's services under the same terms and conditions as this Agreement, provided that: (i) the Affiliate is neither an existing customer nor a competitor of Foley, (ii) the Affiliate satisfies Foley's standard account access credentialing requirements, and (iii) the Affiliate and/or Customer, as applicable, execute a mutually acceptable new master service agreement, or equivalent, that binds the Affiliate to the terms of this Agreement, and includes a compliance certification from Affiliate reasonably acceptable to Foley.



- 6.11. Customer Contact Information. Customer is required to keep an updated address, e-mail address, and phone number on file at all times. Failure to keep updated contact information on file could result in a loss or error regarding critical information, which may prevent Customer from being compliant with applicable laws and regulations. Foley will not be responsible for any negative consequences due to Customer's failure to keep updated contact information on file with Foley.
- 6.12. Drug or alcohol test requests: To the extent Customer utilizes Foley's DOT Drug and Alcohol Testing Service, Customer is responsible for promptly responding to test requests and acknowledges that a failure to test may result in Customer non-compliance with applicable laws and regulations. Foley will not be responsible for any consequences of Customer's delay in responding to test requests.
- 6.13. Employee enrollment: To the extent Customer utilizes Foley Services that require ongoing file maintenance or monitoring, Customer is responsible for keeping an updated list of its employees/contractors/volunteers on file with Foley at all times. This list determines the compliance for the Customer and how the Customer will be billed. It is solely Customer's obligation to deactivate or unenroll employees/contractors/volunteers in ongoing Services or monitoring programs including, but not limited to, motor vehicle report monitoring, driver qualification file maintenance, criminal record monitoring, and social media monitoring services, as applicable. Customer shall ensure that all such enrollments and listed active employees/contractors/volunteers are accurate and up-to-date. Foley will not refund Customer for its failure to timely deactivate and/or unenroll an employee/contractor/volunteer from Foley's monitoring services. Foley may ask Customer to validate the names of employees/contractors quarterly, based on current information and new information obtained during the applicable quarter.
- 6.14. Telephone Consumer Protection Act Consent: Customer consents to receiving calls and text messages, including autodialed calls and texts, and calls made using an artificial or prerecorded voice for both marketing and informational purposes, from Foley or its representatives at the telephone number provided (including any mobile telephone number) and acknowledges and agrees that such calls may be recorded. Customer acknowledges and understands that Customer may opt out of receiving communication as provided in the Privacy Policy. Additionally, Customer certifies that it will obtain consent for Foley to call any phone number of its Candidates of which Customer has provided to Foley for purposes of reminding Candidates to complete an application or to take action to comply with FMSCA or Clearinghouse regulations, the FCRA, or other applicable Laws. Customer agrees to indemnify, defend, and hold harmless Foley for any claims or Losses that arise out of or relate to Foley calling or text messaging a Candidate on Customer's behalf, provided that the call/text message was made in solely in furtherance of performing the Services for Customer.
- 6.15. Cooperation, Access to Information, Premises and Facilities. Customer shall cooperate with Foley in all matters relating to the Services and provide access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Foley, for the purposes of performing the Services. Customer shall respond promptly to any request by Foley to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Foley to perform Services in accordance with the requirements of



this Agreement. Customer shall provide such Customer materials or information as Foley may reasonably request to carry out the Services in a timely manner and ensure that Customer materials or information are complete and accurate in all material respects. Customer shall maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which such Services commence.

- 6.16. Customer's Acts or Omissions. If Foley's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants, or employees, Foley shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. Foley Obligations

- 7.1. Compliance with FCRA and Other Applicable Laws. Foley shall comply with all Laws applicable to Foley in its preparation and transmission of Consumer Reports and other Services provided pursuant to this Agreement.
- 7.2. Service Performance; Service Revisions. Upon Customer's request, Foley shall, in accordance with the terms of this Agreement, perform the Services identified in the applicable Schedule of Services and Order Confirmation, as may be amended by the parties from time to time by written amendment signed by both Parties. Customer acknowledges that: (i) Foley may fulfill its Services under this Agreement through its affiliates, subsidiaries, and subcontractors, provided, Foley shall remain solely responsible for its obligations under this Agreement, and (ii) Foley relies on the information furnished by Customer, Customer's Candidates, and Suppliers when preparing Consumer Reports.
- 7.3. Maintenance; Updates; Upgrades: Foley regularly provides upgrades, modifications, improvements, enhancements, extensions, new releases, and other changes to the Services and Platform in its discretion (collectively "Updates"), and therefore the Services are continually evolving. Foley will make all Updates available to Customer when they become generally available. Foley has no obligation to issue any Updates. Any upgrades or modifications, improvements and other changes to the Platform that provide substantial new functionality ("Upgrades") may be separately licensed by Foley for an additional fee. The determination of which constitutes an Update and any Upgrades shall be at Foley's sole discretion. Customer shall be deemed to have accepted any Update unless, within thirty (30) days after receipt of notice by Foley, Customer informs Foley in writing that such change is not acceptable. If Customer informs Foley that such change is not acceptable, Foley may by notice to Customer either (i) continue to supply the product in accordance with the original specifications and manufacturing procedures or (ii) terminate this Agreement with respect to such product on a date specified by Foley in a notice of termination, which date shall not be earlier than one (1) year from the date of Customer's notice to Foley that it does not accept the change proposed by Foley.



- 7.4. Features and Functions. Foley reserves the right to change or discontinue features or functionality of the Platform or Services from time to time; provided, however, that any such change shall not materially diminish the features or functionality of the Platform or Services available as of the Effective Date. In the event that such changes materially diminish the features or functions, Customer can terminate the applicable Services at its discretion, and termination is Customer's sole and exclusive remedy for such change. Notwithstanding anything herein to the contrary, Customer understands, acknowledges, and agrees that (i) certain features and functionalities of the Services are provided by Third Party software, the use of which Foley licenses from such Third Parties and (ii) Foley shall not be responsible or liable for any damages resulting from the discontinuance, reduction, or other modification of such features or functionality as a result of the acts or omissions of such Third Parties, including but not limited to, the revocation of any such licenses.
- 7.5. Discontinuance of specific services. Foley will use commercially reasonable efforts to provide notice to Customer if a service will be discontinued or materially changed.
- 7.6. Training and Account Implementation. The Fees set forth in the Order Confirmation include Foley's standard account implementation services and Foley's standard user-training as detailed in the applicable Schedule of Services.
- 7.7. Data Privacy and Security. Foley shall maintain commercially reasonable and appropriate technical, physical, administrative, and other organizational precautions and security measures to protect Candidate data against Foley's accidental or unlawful destruction and unauthorized disclosure or access. Foley is not responsible for disclosure or compromise of such data due to Customer's acts or omissions, or otherwise resulting from the use of Customer's passwords or accounts, due to no fault of Foley.
- 7.8. Record Retention. During the Term of this Agreement, Foley shall maintain Consumer Report information for a minimum of five (5) years, unless otherwise required or prohibited by applicable Laws.
- 7.9. Matching and Reporting Criteria. Customer acknowledges that in performing its Services under this Agreement, Foley follows certain internally developed and defined record matching and reporting criteria designed for Foley to meet its accuracy and compliance obligations (collectively, "Reporting Criteria"). The Reporting Criteria are subject to change from time to time at Foley's sole discretion (subject to Foley's compliance with applicable and changing Laws). Foley makes a summary of such Reporting Criteria available to Customer from within Customer's password-protected Foley account. The Reporting Criteria constitute Foley's Confidential Information and are made available to Customer only for its use in understanding Foley's Reporting Criteria. Any further distribution of the Reporting Criteria by Customer is strictly prohibited. Customer shall indemnify, defend, and hold harmless, Foley for any claims or Loss (as defined below in Section 11.1.), which arise out of or relate to any prohibited distribution of Reporting Criteria by Customer.



- 7.10. Verification and Reference Services. If Customer engages Foley to perform verification and reference checks, Foley's sole responsibility in fulfilling such services will be to: (i) accurately convey to the party providing the verification or reference ("Provider") the questions provided or selected by Customer; and (ii) accurately convey the Provider's responses to Customer's questions, subject to adjustments Foley determines in good faith are necessary or advisable to ensure Foley's compliance with applicable Laws in conveying such responses. Customer shall indemnify, defend, and hold Foley harmless from and against any claims or Loss arising out of: (i) the content of questions that have been customized at Customer's request; or (ii) the content of a Provider's responses accurately reported by Foley as received from the Provider.

8. Professional Services

- 8.1. Unless otherwise expressly stated in the applicable Order Confirmation of the Agreement, Foley's services in the Schedule of Services correspond to Foley's standard technology, product, and service offerings, and exclude any customized technology development, training, reporting, product features and service levels. Should Customer request (and Foley agree to provide) such customization, the parties shall set forth the corresponding terms and fees in a mutually acceptable written and signed statement of work, addendum, or amendment.

9. Disclaimer of Warranty

- 9.1. Foley's services will be performed in a professional manner in accordance with the terms of this agreement. Foley will maintain and follow reasonable procedures to assure the maximum possible accuracy of the information contained in each Consumer Report, and Foley will re-verify any disputed Consumer Report information as required by applicable Law. CUSTOMER ACKNOWLEDGES THAT FOLEY IS NEITHER AN INSURER NOR GUARANTOR OF THE ACCURACY, RELIABILITY, VALIDITY, DEPTH OR COMPLETENESS OF THE INFORMATION PROVIDED BECAUSE SUCH INFORMATION IS SUBJECT TO HUMAN ERROR AND IS OBTAINED FROM PUBLIC RECORDS AND OTHER THIRD PARTY SOURCES THAT ARE NOT UNDER THE CONTROL OF FOLEY AND MAY NOT ALWAYS BE ACCURATE, CONSISTENT, VALID OR COMPLETE. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FOLEY, AND ITS AFFILIATES, DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, SUCCESSIONS OR ASSIGNS (COLLECTIVELY "AFFILIATED PERSONS") MAKES NO WARRANTIES WHATSOEVER AND DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, ANY WARRANTY OF TITLE, ANY IMPLIED WARRANTY ARISING FROM THE COURSE OF DEALING OR PERFORMANCE, ANY WARRANTY FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, ANY WARRANTY OF USAGE OF TRADE, AND ANY WARRANTY OF NONINTERRUPTION OF PLATFORM USE.



10. Limitation of Liabilities

10.1. To the fullest extent permitted by applicable Laws, Foley and its Affiliated Persons' total liability to Customer pursuant to this Agreement shall not exceed the amounts paid by Customer and collected by Foley pursuant to this Agreement within the twelve (12) month period immediately preceding the event(s) giving rise to the claim. Foley's liability shall be further limited to damages that are proximately caused by an act or omission of Foley, and Foley will not be liable for claimed damages that still would have risen but for any act or omission by Foley. With respect to Foley's liability relating to any applicant, employee, or other Candidate alleging inaccurate or incomplete Consumer Report information, Customer shall, prior to having taken any action adverse to the Candidate based on the inaccurate or incomplete Consumer Report information, provide Foley a reasonable opportunity to reinvestigate the disputed information in accordance with Foley's FCRA-imposed reinvestigation obligations and deadlines, and Customer shall indemnify, defend, and hold Foley harmless for any Losses caused by Customer's failure to do so.

10.2. IN NO EVENT WILL FOLEY OR ITS AFFILIATED PERSONS BE LIABLE TO CUSTOMER OR A THIRD PARTY FOR ANY LOST REVENUE, LOST PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY, OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY UNDER THIS SECTION CONSTITUTE A FUNDAMENTAL BASIS OF THEIR BARGAIN AND ACKNOWLEDGE THE FEES SET FORTH IN THIS AGREEMENT ARE BASED IN PART ON THE LIMITATIONS OF LIABILITY IN THIS SECTION. Foley and Customer shall each use good faith, reasonable efforts to mitigate any potential damages other adverse consequences arising from or related to this Agreement.

11. Indemnification

11.1. CUSTOMER AGREES TO INDEMNIFY, DEFEND, AND HOLD FOLEY AND ITS AFFILIATED PERSONS, AND THEIR EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, AND REPRESENTATIVES HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, LOSSES, JUDGMENTS, COSTS, EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES), CLAIMS, ACTIONS, DEMANDS AND SUITS (COLLECTIVELY "LOSS(ES)") THAT MAY BE BROUGHT, INSTITUTED, OR MAY ARISE AGAINST OR BE INCURRED TO THE EXTENT SUCH LOSS RESULTS FROM, IS



BASED ON, OR ARISES OUT OF: (A) CUSTOMER'S BREACH OF THIS AGREEMENT; (B) THE IMPROPER USE OF ANY PRODUCT, SERVICES OR INFORMATION PROVIDED BY FOLEY; (C) CUSTOMER'S INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR OTHER RIGHT OF ANY PERSON OR ENTITY; (D) CUSTOMER'S VIOLATION OF ANY LAW, INCLUDING BUT NOT LIMITED TO, CUSTOMER'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER THE FCRA; (E) ANY GROSSLY NEGLIGENT, WILLFUL, OR MALICIOUS CONDUCT BY CUSTOMER OR ITS EMPLOYEES; (F) ANY ACTS OR OMISSIONS OF CUSTOMER OR CUSTOMER'S AGENTS; (G) ANY BUSINESS DECISION MADE BY CUSTOMER BASED ON ITS USE OF FOLEY'S PLATFORM, SOFTWARE, SERVICES, OR DELIVERABLES, OR ANY UNAUTHORIZED MODIFICATIONS TO THE SAME; OR (H) THE CONTENT, COMPLIANCE, METHOD OF DELIVERY OR EFFECTIVENESS OF ANY NOTICES, AUTHORIZATIONS, DISCLOSURES, PRE-ADVERSE OR ADVERSE ACTION LETTERS.

11.2. Procedure. When seeking indemnification pursuant to this Agreement, Foley shall provide Customer with prompt written notice of a claim or Loss and shall cooperate with Customer in good faith and in all reasonable respects in connection with the defense of any such action at the expense of the Customer. Customer will assume the defense of any claim against Foley with counsel reasonably satisfactory to Foley. Foley may participate in the defense thereof, such participation to be at the expense of Foley. Customer shall not without the consent of Foley (such consent not to be unreasonably withheld, conditioned or delayed), enter into any settlement that requires a finding or admission of fault of Foley or its Affiliated Persons, or reasonably can be expected to require a material affirmative obligation of, result in any ongoing material liability to or adverse impact on, or otherwise prejudice, Foley. The absence of insurance shall not diminish any responsibility of the Customer to indemnify Foley.

12. Term; Termination; Account Deactivation

12.1. Term, Services and Support. The Agreement shall be in effect as of the date of agreement, acceptance, and signature of the Parties on the applicable Master Service Agreement signature page ("Effective Date"). The initial term and subsequent renewal period will constitute the "Term." The Term length for all Services will be for an initial term of three (3) years ("Initial Term") and shall automatically renew for additional terms of twelve (12) months each unless the Services are terminated as otherwise authorized in this Section.

12.2. Termination; Suspension. Either Party may terminate the Agreement for convenience after the first year of the Initial Term by providing written notice of non-renewal at least ninety (90) days prior to the anniversary date of the Effective Date per Section 15, "Notices." Customer acknowledges and agrees that all prepaid Fees are non-refundable, regardless of a termination that occurs according to this Section, and Customer shall pay Foley for all Services provided through the date of termination. Additionally, either party may terminate this Agreement with immediate effect upon



delivery of written notice to the other party if the non-terminating party: (i) defaults in the performance of its material obligations in this Agreement and fails to substantially cure such default within thirty (30) days after receipt of a written notice of default, or (ii) becomes the subject of any proceeding commenced under the United States Bankruptcy Code, or executes an assignment for the benefit of creditors or files for relief under any applicable reorganization, moratorium or similar debtor relief Laws. Additionally, Foley may terminate and/or suspend Customer's license grant and/or suspend, terminate or limit any of Customer's use of the Services, without penalty, with immediate effect upon written notice to Customer if: (i) Customer's breach of this Agreement is reasonably determined by Foley to be a violation of Law or to present a risk of non-compliance by Foley with applicable legal or contractual obligations, (ii) required by a Supplier, (iii) Customer fails to timely pay amounts due under this Agreement, or (iv) Foley reasonably suspects or identifies any misuse of or unauthorized access to its Platform and/or the Services or Customer's account. Customer acknowledges that, with just cause, such as violation of the terms of Customer's contract or a legal requirement, or a material change in existing legal requirements that adversely affects Customer's Agreement, Foley may, upon its election, discontinue serving the Customer and cancel the agreement immediately.

12.3. Access to Consumer Reports. Following the expiration or termination of this Agreement, Foley will provide Customer with a reasonable time frame to: (i) download for its records copies of its Candidate Consumer Reports, and/or (ii) obtain from Foley, at either Foley's then-current fee or an additional fee mutually agreed upon by the Parties, a CD, hard drive, or similar format containing copies of Customer's Candidate Consumer Reports. Thereafter, Foley shall have no further duty to maintain copies of Candidate Consumer Reports for access by Customer.

12.4. Account Deactivation. Customer acknowledges that if Customer is determined by Foley at any time not to meet Foley's standard client credentialing requirements and as a result Customer's account is not activated, or is subsequently deactivated, then any prior charges incurred related to Customer's account, whether for account set-up registration or for pending or completed orders, shall be promptly paid to Foley by Customer. Foley may suspend or deactivate Customer's account(s) in the event Customer does not place any orders under its account(s) for an extended period of time.

12.5. Survival. All provisions of this Agreement that by their nature are reasonably intended to have effect after termination or expiration of this Agreement (including, without limitation, compliance, audit rights, privacy, data protection, confidentiality, dispute resolution, indemnity, and limitation of liability) shall survive such termination or expiration. Notwithstanding any termination, expiration or cancellation of this Agreement, Customer shall remain responsible for all charges incurred by Customer and for all of Customer's compliance obligations pursuant to this Agreement.

13. Confidentiality

13.1. Confidential Information Defined. Each party ("Disclosing Party") may disclose or make available to the other party ("Receiving Party"), whether orally or in physical form, confidential information (collectively "Confidential Information"). Confidential Information is defined as all information that the Disclosing Party furnished to the Receiving Party that the disclosing party considers and maintains as confidential, and which is otherwise understood given the content of the



information and the circumstances of disclosure to be confidential, whether tangible or intangible and whatever form or medium provided, including all non-public confidential or proprietary information concerning the Disclosing Party and its business, products and/or services, including, without limitation, its software; systems and technology; vendor technologies, capabilities, research methods, business practices and plans, product and service plans or specifications, methodologies and strategies; financial condition/financial results; pricing; Consumer Reports; invoices; and trade secrets, or other intellectual property. Confidential Information does not include information that: (i) was rightfully in the possession of the Receiving Party prior to disclosure by the Disclosing Party; (ii) was or is independently developed by the Receiving Party without use of the Confidential Information; (iii) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party in violation of this Agreement; or (iv) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party and such source is not, to the best of the Receiving Party's knowledge, under any obligation to keep such information confidential.

13.2. Duty of Confidentiality. The Receiving Party agrees: (i) to keep confidential and hold in strict confidence the Confidential Information; (ii) to take all commercially reasonable precautions to protect the confidentiality of the Confidential Information (which precautions shall be no less than those employed by the Receiving Party to preserve the confidentiality of its own confidential materials and information); (iii) that it will not, without the prior written consent of the Disclosing Party, or except in conjunction with a Required Disclosure, disclose any portion of the Confidential Information to any Third Party; (iv) not to copy or reproduce the Confidential Information, except as reasonably required for the purposes contemplated in this Agreement (in which case the Receiving Party shall ensure that any confidentiality or other proprietary rights notices on the Confidential Information are reproduced on all copies); (v) not to reverse engineer or disassemble any products, software, technology or tangible objects that utilize or contain such Confidential Information; and (vi) to return and/or destroy all Confidential Information of the Disclosing Party upon request.

13.3. Required Disclosures. If the Receiving Party is requested in any judicial or administrative proceeding or by any governmental or regulatory authority (whether by depositions, interrogatories, requests for information or documents, subpoenas, civil investigative demands, or similar processes) or otherwise required by applicable Laws to disclose the Confidential Information (collectively, a "Required Disclosure"), the Receiving Party may make such disclosure, provided, to the extent legally permissible, it gives prompt written notice to the Disclosing Party of such Required Disclosure so that Disclosing Party may seek an appropriate protective order. Foley will not: (i) be restricted from disclosing to Candidates the Candidate's own Consumer Reports and file information, (ii) be restricted from disclosing Confidential Information to the extent necessary to perform its obligations under this Agreement, or (iii) be required to destroy, erase, or return any Consumer Reports or related Candidate data in Foley's files except as required by applicable law.

14. Legal Support Services

14.1. If Foley (including any of its Affiliates) assists Customer or is otherwise required to participate in preparation for, defense of, or responding to any legal or regulatory proceedings involving or



relating to Customer, including, without limitation, subpoenas, depositions, hearings and trials (collectively, “Legal Support Services”), Customer shall reimburse Foley to the extent permitted by applicable Law for all costs and expenses Foley reasonably incurs in connection therewith, including, without limitation, reasonable attorneys’ fees and disbursements. Foley will use reasonable efforts to provide Customer advance notice prior to Foley participating in any Legal Support Services or otherwise incurring costs and expenses that are subject to reimbursement by Customer pursuant to this Section 13. Except to the extent required by applicable Law, Foley is under no obligation to provide Legal Support Services to Customer and will evaluate such matters on a case-by-case basis.

15. Notices

15.1. Foley may provide notice to Customer regarding any changes or updates to the terms of this Agreement by (i) sending a message to the e-mail address Customer provides Foley for contact purposes or (ii) posting a notice to the website or Foley Platform. Notices by e-mail will be effective when Foley sends the e-mail and notices Foley provides by posting on the Foley Platform will be effective upon the date of the posting. It is Customer’s responsibility to keep its e-mail address on file with Foley current and to regularly check the Platform for any notice of updated terms.

15.2. Except as otherwise provided in Section 15.1, all other notices regarding this Agreement: (i) must be in writing, (ii) must be delivered (a) in person, (b) by certified mail, return receipt requested, postage pre-paid, or (c) by a nationally recognized overnight delivery service; (iii) must be delivered to the applicable party at the address set forth below in this Section 15.2 or such other address as a party may designate by notice in accordance with this Section 15; and (iv) will be deemed given on the date of delivery.

Notices to Foley:

Foley Carrier Services, LLC
140 Huyshope Avenue
Hartford, CT 06106
Attn: Legal

*Notices to Customer will be provided to the address provided by Customer to Foley during the account set-up process.

16. Class Action Waiver

16.1. THE PARTIES AGREE THAT ANY ARBITRATION PROCEEDING OR COURT ACTION HEREUNDER SHALL PROCEED SOLELY ON AN INDIVIDUAL BASIS, WITHOUT THE RIGHT FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS OR COLLECTIVE ACTION BASIS, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF OTHERS OR ANY GOVERNMENTAL BODY OR THE PUBLIC. TO THAT END, THE PARTIES WAIVE THEIR RIGHT TO COMMENCE, BECOME A PARTY TO, OR REMAIN A

P: 800.253.5506 | F: 860.913.2456 | 140 Huyshope Avenue 2ND Floor, Hartford, CT 06106



PARTICIPANT IN ANY CLASS, COLLECTIVE, OR HYBRID CLASS/COLLECTIVE ACTION IN ANY COURT, ARBITRATION PROCEEDING, OR ANY OTHER FORUM, AGAINST THE OTHER. ACCORDINGLY, THERE WILL BE NO AUTHORITY FOR ANY ARBITRATOR OR COURT TO PROCEED ON SUCH BASIS. THE CLASS ACTION WAIVER SHALL BE SEVERABLE FROM THIS AGREEMENT IN THE EVENT IT IS FOUND UNENFORCEABLE. ANY CLAIM THAT ALL OR PART OF THE CLASS ACTION WAIVER IS INVALID, UNENFORCEABLE, UNCONSCIONABLE, REVOCABLE, VOID, OR VOIDABLE MAY BE DETERMINED ONLY BY A COURT OF COMPETENT JURISDICTION.

17. Miscellaneous Provisions

17.1. Amendment. Except as otherwise set forth in this Agreement, this Agreement may be modified only by a writing which specifically states that it amends this Agreement and is executed by an authorized representative of both parties. This Agreement may not be modified by any purchase order or similar order forms received from Customer, even if Foley has accepted or acknowledged receipt of such forms.

17.2. Waiver. Except as otherwise expressly provided in this Agreement, the failure or delay of a party to enforce its rights, or exercise any remedy, power, or privilege, arising out of or related to this Agreement shall not operate as or be construed as a waiver of such rights, remedy, power, or privilege.

17.3. Severability. If any provision of this Agreement, in whole or in part, is determined to be illegal, unenforceable, or invalid, such provision shall be deleted from this Agreement and shall not affect the legality, enforceability or validity of the remainder of this Agreement which will remain in full force and effect.

17.4. Interpretation. This Agreement shall be considered drafted mutually by the parties. Each Party has had the opportunity to be represented by independent legal counsel of its choice. In the event of a dispute, no Party shall be entitled to claim that any provision should be construed against the other Party due to the fact that such Party drafted it.

17.5. Assignment. Neither party shall assign this Agreement without the prior written consent of the other party; provided, however, that Foley shall have the right to assign this Agreement in connection with a merger, acquisition, corporate reorganization, public stock offering, or sale of all or substantially all of its assets. The foregoing limitation on Customer's ability to assign this Agreement is due, in part, to Foley's regulatory obligations and related customer credentialing procedures and requirements. Any purported assignment or delegation in violation of this Section is null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties' respective successors and permitted assigns, if any. No assignment or delegation relieves Customer of any of its obligations under this Agreement. Customer's use of subcontractors shall not relieve Customer of any of its duties and obligations under this Agreement.



17.6. Remedies Cumulative. Subject to the “Limitation of Liabilities” in Section 10, all remedies available to either party related to this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

17.7. Force Majeure. The obligations of either party to perform under this Agreement (other than payment obligations) shall be excused during a reasonable period of delay caused by matters beyond such party’s reasonable control, including, without limitation: acts of God; changes in Laws; government order or action; closure or unavailability of universities, courthouse or other data sources; shortage of adequate power or transportation facilities; internet service failure; Third Party system or service integration failure; war; invasion; hostilities (whether war is declared or not); terrorist threats or acts; riot or other civil unrest; strikes, labor stoppages or slowdowns or other industrial disturbances; viral epidemic; public national health crisis; national or regional emergency; and earthquake, fire, flood or other natural disaster.

17.8. Governing Law; Venue; Mediation. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the principles of conflicts of laws. All legal actions or proceedings relating to this Agreement shall be brought in state or federal courts located in Manhattan, New York, New York and the parties executing this agreement hereby consent to the exclusive personal jurisdiction of such courts. Notwithstanding the foregoing, each Party shall be entitled to seek immediate injunctive relief to protect its Confidential Information. The Parties agree to participate in mediation, as a condition precedent to pursuing litigation arising out of or relating to this Agreement, conducted by a licensed, qualified mediator in New York.

17.9. Limitation of Action. To the maximum extent permitted by applicable Law and except for actions for non-payment or breach of either Party's rights to its Intellectual Property, no action (regardless of form) arising out of this Agreement may be commenced by Customer more than one (1) year after the cause of action has accrued or been discovered.

17.10. Attorneys’ Fees. In the event of any dispute arising out of or relating to this Agreement, the prevailing party shall be entitled to recover, in addition to any and all other remedies, which shall be cumulative, the reasonable attorneys’ fees, expenses, and costs which it incurs as a result thereof.

17.11. Relationship of the Parties. The parties will perform their obligations in this Agreement as independent contractors. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or other form of joint enterprise, employment, fiduciary relationship, or relationship of principal and agent between the parties.

17.12. Title. Customer acknowledges that all title, ownership and intellectual property rights in the Foley Platform, products, and services, including, without limitation, all work performed under the Agreement or any statement of work by Foley in the performance of its Services, and all documentation relating thereto, shall remain the property of Foley and/or its licensors or Suppliers, as applicable. Customer further acknowledges that Foley is an aggregator of Third Party data and information and that all content contained in Consumer Reports is the property of the applicable content owner and may be protected by applicable contract, copyright, and related Laws. Subject to applicable Laws and the terms of this Agreement, Customer will retain the perpetual right to maintain its copies of Consumer Reports.

17.13. Counterparts; Validity of Facsimile and Scanned Signatures. This Agreement may be



executed by electronic or hard-copy signature and in any number of counterparts, each of which shall be deemed to be one and the same instrument. The exchange of executed copies of this Agreement by facsimile, scanner/email or other electronic transmission will constitute effective execution and delivery of this Agreement for all purposes. Signatures of the Parties transmitted by such methods will be treated in all respects as having the same effect as an original signature.

17.14. Shared Opportunity and Risk. If at any time during the Term of this Agreement, Foley or any of its agents or representatives (a) assist Customer in a pilot and or development program to launch, test, or market a new technology owned by Customer; (b) assist Customer in the enhancement or application of existing technology owned by Customer in a manner in which said technology has not been previously used; and/or (c) make a significant contribution to the development of new technology with Customer, Foley may be entitled to additional compensation as mutually agreed between the Parties.

17.15. Data and Document transfer: Customer agrees that Foley may charge Customer an additional fee for costs and expenses incurred by Foley to export or transfer data or documents stored by Foley that relate to Customer or Customer's, including, but not limited to, Candidate Consumer Reports, drug testing data, driver files, or documents from the FMCSA Clearinghouse.

17.16. Exclusivity. Unless expressly stated otherwise in an agreement signed by both Parties with respect to licensed products or Services, during the Term, Customer may not contract with other parties for the procurement of similar and/or comparable licensed products or Services to those of which Customer purchased or purchases from Foley.

17.17. Insurance. During the Term of this Agreement and for two (2) years following acceptance of the Services, Customer shall maintain, at its sole cost, the insurance coverage set forth below, with one or more insurance companies licensed to do business in the state where the work is performed and with a rating of not less than A, X or better as shown in the most current issue of the A.M. Best Rating Guide:

- a) Commercial General Liability Insurance including coverages for premises/operations, products/completed operations, bodily injury, property damage, independent contractors and coverage for insured contracts specifically in support of the contractual obligations of Customer including, without limitation, any indemnity obligations contained in the Agreement, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate.
- b) Professional liability to cover the actual or alleged negligent acts, errors and omissions arising out of the professional products or services rendered by or on behalf of Customer with limits not less than \$1,000,000 per occurrence.
- c) Employers' Liability Insurance protecting Customer against common law liability in the absence of statutory liability, for employee bodily injury arising out of the master-servant relationship with a limit of not less than \$1,000,000.
- d) Platform Security/Cyber Liability covering all damages and is related, but not limited to, breaches of data security from all services. Such insurance shall have a limit of not less than \$2,000,000 per occurrence. Coverage to include a blanket vicarious liability for other entities. If this endorsement is unavailable from Customer's insurance carrier, the policy will name Foley and its Affiliates as an additional insured. Any breach of this



Section may result in immediate termination of the Agreement by Foley without liability for such termination upon written notice to Customer.