

## CHECKR ORDER FORM

**Customer ("You" or "Your"):**

Evisort Inc.

**MSA Effective Date:** 6/22/2018

**Order Effective Date:** 6/22/2018

**Order Initial Term:** 12 Months

This Order Form (this "**Order**") incorporates by reference and shall be governed by the terms and conditions of the Checkr Master Service Agreement dated as of the MSA Effective Date above (the "**MSA**"). Capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the MSA.

- 1. Term:** Starts on the Order Effective Date above and continues for the Initial Term. After the Initial Term, this Order automatically renews for additional one (1) year periods (each, a "**Renewal Term**") until either party terminates with at least 30 days notice prior to the expiration of the Initial Term or Renewal Term, or until otherwise terminated per the MSA. The Initial Term and any applicable Renewal Terms are collectively referred to as the "**Term**."
- 2. Reports and Fees:** During the Term, You are authorized to order the Reports specified in the attached **Exhibit A**. Per the MSA, Checkr will automatically charge or debit the credit card or ACH debit account You provide each month. You may request changes and/or additions to the screening packages and associated pricing set out in Exhibit A from time to time in writing to Checkr, and Checkr will confirm any approval of such changes either in writing, by issuing an invoice, or charging or debiting Your designated payment account.
- 3. Permissible Purpose Certification:** You certify that you will order and use the Reports only for employment purposes, including hiring and promotion decisions. Prior to ordering any Reports, you must obtain the Consumer's written authorization, pursuant to Section 3 of the MSA, and verify the Consumer's identity using a government issued identification, such as a driver's license, passport, or state-issued identification card. You certify that You will notify Checkr immediately if Your permissible purpose change(s) for any reason. You also certify that You are the business type selected below and have a need for consumer credit information in connection with the evaluation of individuals for employment, promotion, reassignment or retention as an employee. See Section 3 of the MSA for further requirements
- 4. Copies of Reports to Consumers:** While You acknowledge sole responsibility for compliance with California Civil Code Sections 1786.16(a)(5) and (b), if "Copy of Report to the Consumer" is selected in **Exhibit A**, You authorize Checkr to provide on your behalf to each Consumer about whom You have requested a Report with a copy of the Report to the address provided by the Consumer
- 5. Statutory Notices:** By signing below, You acknowledge receipt of and certify that You have reviewed and fully understand the following three statutory notices:

(1) Summary of Your Rights Under the Fair Credit Reporting Act (16 C.F.R. Part 601) located at [http://files.consumerfinance.gov/f/201504\\_cfpb\\_summary\\_your-rights-under-fcra.pdf](http://files.consumerfinance.gov/f/201504_cfpb_summary_your-rights-under-fcra.pdf)

(2) Remedying the Effects of Identity Theft located at [http://files.consumerfinance.gov/f/201410\\_cfpb\\_summary\\_remedying-the-effects-of-id-theft-fcra.pdf](http://files.consumerfinance.gov/f/201410_cfpb_summary_remedying-the-effects-of-id-theft-fcra.pdf)

(3) Notice to Users of Consumer Reports (16 C.F.R. Part 601) located at <https://www.gpo.gov/fdsys/pkg/CFR-2012-title12-vol8/pdf/CFR-2012-title12-vol8-part1022-appN.pdf>

You authorize the use of the documents and links above with Your Consumers via the Platform. Unless You elect to utilize the Checkr Hosted Platform, You agree to give Your Consumers the documents and links above when applicable.

- 6. Standard Forms:** By signing below, You acknowledge receipt of, and certify that You have reviewed, fully understand, have received independent legal advice on the contents and effects of the following standard forms as they relate to You, Checkr, and the Consumer; and You fully understand that these are standard forms that were neither drafted specifically for You, nor on Your behalf. Checkr's standard forms for disclosures, authorizations and notifications are entitled:

- (1) Disclosure Regarding Background Investigation
- (2) Authorization for Background Check
- (3) Pre-adverse Action Notification
- (4) Post-adverse Action Notification
- (5) Commonwealth of Massachusetts Criminal Offender Record Information Policy, as applicable

You also acknowledge and certify that:

- (1) You authorize the use of Checkr's standard Disclosure and Authorization forms with Your Consumers via the Platform.
- (2) You agree to give Your Consumers the pre-adverse and adverse action notices when applicable.

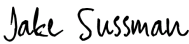
(3) You agree and authorize the use of Checkr's default MVR filters when applicable.

If You wish to use Your own independently drafted disclosures, authorizations and notifications, You must notify Checkr in writing and secure Checkr's additional credentialing and approval prior to being granted API access and permission to host Your own forms. You further certify that You are solely liable for any modifications You make to Checkr's disclosures, authorizations and notifications. You understand and agree that Checkr's review and approval process should not be construed as legal advice, and You must seek independent counsel regarding compliance as it relates to Your modifications and use of such forms.

By signing below, You are certifying that You have direct knowledge of the facts You have certified to in this Order. The parties have caused this Order to be executed and agreed to by their duly authorized representatives.

CUSTOMER

DocuSigned by:



584BFF4AC036494...

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

Printed Name: Jake Sussman

Title: COO

Business Type: Internet, Software & Technology

Customer Address: 1411 Industrial Road

(No P.O. Boxes) San Carlos California 94070

CHECKR, INC.

DocuSigned by:



FB7568A79A6145E...

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

Printed Name: Kristen Faris

Title: VP of Industry

Checkr Address: One Montgomery Street, Suite 2000

San Francisco, CA 94104

## Exhibit A

### Reports and Fees

Product Name	Description	List Unit Price	Net Unit Price
Federal Criminal Search	Search using the Public Access to Court Electronic Records (PACER) database to perform a search of federal felony records at the district level in the federal district with jurisdiction over the county where the Consumer resides as provided by the Consumer. The search performed will review records that extend back to a minimum of seven years from the date of search for convictions.	\$5.00	\$5.00
Pro Criminal	Bundle includes National Criminal, Unlimited County Criminal, Address History, SSN Check, Sex Offender Search, & Global Watchlist	\$35.00	\$35.00
SSN Trace	A search utilizing credit bureau header and footer information and public records databases using the name and social security number provided by the Consumer. This search provides associated names and address history as a pointer of jurisdictions and name to search. This search does not match an individual with a number but verifies whether a SSN has been validly issued by the Social Security Administration ("SSA").	Included	Included
Sex Offender Registry & Global Watchlist Search	Sex Offender Search: Search using the National Sex Offender Public Website ("NSOPW"), which includes sex offender registries from all 50 states, the District of Columbia, as well as tribal territories. Records from this search are then verified with the specific state's sex offender registry.  Global Watchlist Search: Search of various US and international government watch lists, which shall include, for example: FBI Most Wanted Lists, Interpol's Most Wanted Lists, Office of Foreign Asset Control Sanction Lists, Denied Persons Lists, Department of State Sanction Lists, Specially Designated Nationals Lists; as well as various US Drug Enforcement Administration Wanted Fugitive Lists.	Included	Included
National Criminal Search	A multi-jurisdictional database search to locate records and addresses for the searched individual. This multi-jurisdictional database search (sometimes referred to as a "National Criminal Database search") is an automated search of commercial databases that consist of both publicly available and purchased criminal records compiled from a variety of state, county and other proprietary sources.  The National Criminal Search includes retrieval of data from national security sources, numerous federal databases, and arrest and criminal data from various local, county and state agencies including: Administrative Office of Courts; Departments of Correction; Individual County Courts**; State Specific Criminal Records Repositories; and Criminal records from multiple states. This tool is used as a pointer and then all records are verified at the source before being reported.	Included	Included
Unlimited County Criminal Searches	Search of available and legally reportable felony and misdemeanor convictions, including pending records, based on address information for the past seven years, unless otherwise specified, that is returned from a SSN Trace or revealed in a National Criminal Database search. This search uses a network of professional court and record researchers to perform county level searches for felony and misdemeanor level criminal records in each identified county. This search will utilize reputable electronic databases maintained by governmental organizations or their agents in jurisdictions where available and conduct physical court searches in jurisdictions where performing electronic searches of reputable databases is not possible.	Included	Included
Credit Report	(For employment purposes only) A credit report is a detailed report of a Consumer's credit history, as reported by one of the three credit bureaus.	\$8.00	\$8.00

\*Does not include Variable Costs as [additional county court fees and state DMV fees](#) may apply.

\*\*The National Criminal Database search does not include all Individual County Courts, but only courts that contribute to a proprietary database.

## CHECKR MASTER SERVICES AGREEMENT

Customer ("You" or "Your"):

Evisort Inc.

Customer Address: 1411 Industrial Road

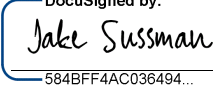
(No P.O. Boxes) San Carlos California 94070

MSA Effective Date: 6/22/2018

This Checkr Master Services Agreement ("MSA") is entered into by Customer and Checkr, Inc. ("Checkr") as of the MSA Effective Date above. This MSA is intended to be executed in conjunction with one or more Orders. All Orders between the parties are incorporated into and automatically become a part of this MSA.

The parties have caused this MSA to be executed and agreed to by their duly authorized representatives:

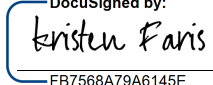
### CUSTOMER

Signature:  584BFF4AC036494...

Printed Name: Jake Sussman

Title: COO

### CHECKR, INC.

Signature:  FB7568A79A6145E...

Printed Name: Kristen Faris

Title: VP of Industry

### 1. DEFINITIONS

"**Adjudication Criteria**" means the set of rules determined by Customer that control what categories of criminal records and offenses are filtered and/or displayed on a Report, by Checkr on Your behalf.

"**Agreement**" means collectively, this MSA and any Order(s) including any Exhibits thereto, entered into between the parties.

"**API**" means the Checkr Platform's application programming interface(s) used to provide Checkr's services

"**App**" means a software application owned or controlled by You that implements the API.

"**Background Check**" means the production of a Report.

"**Background Information**" means the personal information required to be submitted to the Platform to conduct a Background Check on that Consumer.

"**Checkr Hosted Platform**" means the standard Consumer registration flow as presented on Checkr's Platform.

"**Consumer**" means an individual applicant who is subject to a Background Check in support of their application for employment or engagement as an independent contractor by You.

"**Credit Report**" means a specific type of Report including consumer credit information obtained from a credit bureau.

"**Customer Credential Application**" means the credentialing application form that You must submit to Checkr in order to seek approval to become a customer of Checkr.

**"Customer Portal"** means the online Checkr portal and related tools that Checkr makes available to You and its other customers, to access the Platform and manage Background Checks.

**"Documentation"** means any technical literature, end user agreements, Customer instructions, and other written materials ordinarily provided by Checkr with the Platform.

**"Employment Purposes"** means the specific permissible purpose of a Report concerning the evaluation of individuals for employment, promotion, reassignment or retention as an employee.

**"FCRA"** means the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

**"Fees"** means collectively, the Service Fees and Variable Costs.

**"Intellectual Property Rights"** means all forms of proprietary rights, titles, interests, and ownership relating to patents, copyrights, trademarks, trade dresses, trade secrets, know-how, mask works, moral rights, and all similar rights that may exist now or later in any jurisdiction, including without limitation any applications and registrations for the foregoing.

**"Investigative Consumer Report"** means a specific type of Report as defined under FCRA Section 603(e).

**"Law"** means all applicable laws, rules and regulations, whether federal, state or local.

**"MSA Effective Date"** means the start date of this MSA as set forth above.

**"Order"** means the order form that references this MSA by its MSA Effective Date, and specifies the certain Products that You are authorized to purchase.

**"Order Effective Date"** means the start date of each Order as set forth in that Order.

**"Platform"** means the background check platform offered by Checkr, that allows access to Checkr's various products, including but not limited to the Customer Portal, the APIs and other technology and tools offered by Checkr.

**"Privacy Policy"** is located at <https://checkr.com/privacy-policy/>.

**"Report"** means a consumer report or other applicable screening product offered on the Platform (as defined under the FCRA and applicable state Laws), including a Credit Report and an Investigative Consumer Report (if applicable).

**"Service Fees"** means the fees specified in Your Order for purchase of Reports and use of the Platform. Service Fees do not include Variable Costs.

**"Term"** is defined in each applicable Order.

**"Variable Costs"** means the additional variable costs and fees that may be imposed by third parties or governmental entities, such as court fees, county processing fees, multi-state or international fees, etc. related to the Background Check that You order. Variable Costs, as updated from time-to-time, may be located at <https://checkr.com/pricing/additional-pricing-information/>.

## 2. USE OF PLATFORM

**2.1 Credentialing Required.** YOU ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS CONTINGENT ON CHECKR RECEIVING AND APPROVING YOUR CUSTOMER CREDENTIAL APPLICATION. YOU WILL NOT HAVE AN ACCOUNT WITH CHECKR OR ACCESS TO THE PLATFORM OR REPORTS UNTIL CHECKR APPROVES YOUR CUSTOMER CREDENTIAL APPLICATION AND PROVIDES YOU WITH A USERNAME AND PASSWORD PROMPT. You must submit a complete and accurate Customer Credential Application and provide all reasonably requested information about You as part of Checkr's credentialing process. Any information that You provide via the Customer Credential Application or to the Platform will be handled in accordance with our Privacy Policy. Checkr, in its sole discretion, may accept or reject Your Customer Credential Application. Only the entity that enters into this MSA may use and access the Platform under this MSA. Any affiliates, parents, subsidiaries, or other related entities must submit their own Customer Credential Application, be separately credentialed, and enter into a separate agreement with Checkr.

**2.2 Order Form.** In addition to this MSA, You must enter into an Order with Checkr before You can use the Platform. The Order will specify the Service Fees and Report(s) that apply. If You wish to add other Report types later, please contact Your sales representative.

**2.3 Use of Platform.** During the Term and subject to the terms of the Agreement, You may access and use the Platform solely:

- (a) for Your own use of the specific Report(s) in the Order;
- (b) via the Checkr API in compliance with its accompanying Documentation, and any reasonable rules or guidelines that Checkr may provide; and
- (c) In compliance with any additional Platform terms or policies as provided by Checkr.

**2.4 Restrictions.** You represent and warrant that You shall:

- (a) not use, or attempt to use, the Platform for unauthorized purposes (e.g., tenant screening);
- (b) not use the Platform for the benefit of any third party without Checkr's prior written permission;
- (c) not do any of the following, or allow any third party to do any of the following: (i) copy, distribute, rent, lease, lend, sublicense or transfer the Platform, or make the Platform available to any third party, including Your affiliates, parents or subsidiaries, without Checkr's express prior written consent, (ii) modify, decompile, reverse engineer, or disassemble the Platform or otherwise attempt to discover any underlying source code, ideas, algorithms, file formats or programming interfaces, (iii) create derivative works based on the Platform; (iv) modify, remove, or obscure any copyright, trademark, patent or other notices or legends that appear on the Platform; or (v) use the Platform to develop a competitive product offering;
- (d) not use any agents, robots, scripts, spiders, or other automated means to access or manage the Platform; and

- (e) not allow Your personnel to access the Platform or order Reports for improper, illegal or unauthorized purposes, including on themselves, associates, or any other person except in the exercise of their official duties.

### 3. USE OF REPORTS

**3.1 Your Certifications.** When requesting and using Reports, You must comply with all Laws, including but not limited to the FCRA, anti-discrimination Laws, and state Laws. You are solely liable for Your failure to do so. **You certify and agree:**

- (a) To request and use each Report only for the permissible purpose(s) to which You certified in each applicable Order;
- (b) To use each Report for only a one-time use (e.g., You may use a Report to determine eligibility for employment, but You may not later use that same Report to determine eligibility for promotion);
- (c) To develop and follow reasonable procedures to comply with Laws and for the fair and equitable use of Background Information and Reports;
- (d) To strictly comply with the Security Obligations in Section 5 with respect to Reports and related information;
- (e) To hold the Reports in strict confidence and not disclose the Reports, unless required by Law, to any third parties;
- (f) To comply with and provide all statutorily required notices in FCRA and other state laws when using the Background Information and Reports;
- (g) To maintain up-to-date hiring locations and all necessary information related to any applicable salary restrictions;
- (h) To maintain complete and accurate records of all required consents, authorizations and disclosure forms of each Consumer You requested a Report for, for at least five years from the date the Report was received and make available to Checkr upon request; and
- (i) To obtain the Consumer's consent to receive any legal or other notices electronically in compliance with U.S. Electronic Signatures in Global and National Commerce Act of 2000.

**3.2 California Certification.** As applicable to You or the Report that You request, You hereby certify that, under the Investigative Consumer Reporting Agencies Act ("ICRA"), California Civil Code Sections 1786 et seq., and the Consumer Credit Reporting Agencies Act ("CCRAA"), California Civil Code Sections 1785.1 et seq., if You are located in the State of California, and/or Your request for and/or use of Reports pertains to a California resident or worker, You certify to all of the following:

- (a) You will only request and use Reports solely for permissible purpose(s) identified under California Civil Code Sections 1785.11(3)(B) and 1786.12(d)(1).
- (b) When, at any time, Reports are sought for Employment Purposes other than suspicion of wrongdoing or misconduct by the Consumer who is the subject of the investigation, You have provided a clear and conspicuous disclosure in writing to the Consumer, which solely discloses: (1) that an Investigative Consumer Report may be obtained; (2) the permissible purpose of the Investigative Consumer Report; (3) that information on the Consumer's character, general reputation, personal characteristics and mode of living may be disclosed; and (4) the name, address, telephone number, and website of the Consumer Reporting Agency conducting the investigation; and (5) the nature and scope of the investigation requested, including a summary of the provisions of California Civil Code Section 1786.22.
- (c) When, at any time, Reports are sought for Employment Purposes other than suspicion of wrongdoing or misconduct by the Consumer who is the subject of the investigation, only request a Report if the applicable Consumer has authorized in writing the procurement of the Report.
- (d) In accordance with California Civil Code Section 1786.16(a)(5), You agree to provide the Consumer with a copy of the report, as provided in 1786.16(b).
- (e) In accordance with California Civil Code Section 1786.16(b), You agree to provide a means by which the Consumer may indicate on a written form, by means of a box to check, that he/she wishes to receive a copy of any Reports that are prepared. If the Consumer wishes to receive a copy of the Report, You shall send (or contract with another entity to send) a copy of the Report to the Consumer within three business days of the date that the Report is provided to You. The copy of the Report shall contain the name, address, and telephone number of Checkr, who issued the report, and how to contact Checkr.
- (f) Under all applicable circumstances, comply with California Civil Code Sections 1785.20 and 1786.40 in the taking of adverse action, which shall include, but may not be limited to, advising the Consumer against whom an adverse action has been taken that the adverse action was based in whole or in part upon information contained in the Report, informing the consumer in writing of Your name, address, and telephone number, and provide the Consumer of a written notice of his/her rights under the ICRA and the CCRAA.

**3.3 Massachusetts Criminal Record Information Policy.** As applicable to You or the Report that You request, You hereby certify that, under the Commonwealth's Criminal Offender Record Information ("CORI") law, if You are located in the State of Massachusetts, and/or Your request for and/or use of Reports pertains to a Massachusetts resident or worker, You certify to all of the following:

- (a) Before asking a Consumer about their criminal records, You will provide a Consumer with copies of these records if You are in possession of such records;
- (b) That before taking adverse action based, in whole or in part, on criminal history records, You will notify the Consumer of the potential adverse employment decision by sending required pre-adverse and adverse action notices and any other applicable notices. The pre-adverse action notice will include the criminal history records, the sources of the records, a copy of Your CORI policy, and a copy of information from the state agency about the process for correcting a criminal record; and
- (c) That You will also provide the Consumer with an opportunity to dispute the accuracy of the criminal history records by waiting at least five business days before taking final adverse action.

**3.4 Employment Purposes. If You use or request a Report for Employment Purposes, You certify and agree:**

- (a) You will not request a Report for Employment Purposes unless:
  - i. A clear and conspicuous disclosure has been made in writing to the Consumer by You before the Report is obtained, in a document that consists solely of the disclosure that a consumer report may be obtained for Employment Purposes;
  - ii. The Consumer has authorized in writing the procurement of the Report; and
  - iii. Information from the Report will not be used in violation of any employment opportunity Laws.
- (b) Unless You elect to utilize the Checkr Hosted Platform, You further certify that before taking adverse action in whole or in part based on a Report for Employment Purposes, you will provide the Consumer with:
  - i. A copy of the Report for Employment Purposes, as applicable; and
  - ii. A copy of the Consumer's rights, in the format approved by the Consumer Financial Protection Bureau; and
  - iii. The required pre-adverse action notice and any other assessment forms or notices required by applicable Law.
- (c) That each time You order a Report for Employment Purposes, You are reaffirming the certifications in 3.2, 3.4(a), 3.4(b), and 3.6 below.

- (d) That You understand that Checkr will not initiate a Report for Employment Purposes in the absence of a written authorization.
- (e) You will not discriminate against the Consumer or otherwise misuse the Report, as required by any applicable federal or state equal opportunity laws or regulations.
- (f) That before taking adverse action based on a criminal record the EEOC Criminal History Guidance recommends that You perform an individualized assessment and other considerations. To obtain a copy of the EEOC Criminal History Guidance please go to the following website: [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).
- (g) You shall request a Report for Employment Purposes pursuant to procedures prescribed by Checkr from time to time only when You are considering the individual inquired upon for employment, promotion, reassignment or retention as an employee or contractor, and for no other purpose. You must comply with any Laws that may restrict or ban the use of Report for Employment Purposes.
- (h) That You are not any of the following types of persons, entities and/or businesses: bail bondsmen, credit counseling firms, members of the media, resellers, financial counseling firms, credit repair clinics, pawn shops (except companies that do only title pawn), check cashing companies (except companies that do only loans, no check cashing), genealogical or heir research firms, dating services, massage or tattoo services, businesses that operate out of an apartment, individuals seeking information for their own private use, adult entertainment services of any kind, companies that locate missing children, companies that handle third party repossession, companies seeking information in connection with time shares, subscriptions companies, individuals involved in spiritual counseling or persons or entities that are not an end-user or decision maker.
- (i) That while Checkr shall make commercially reasonable efforts to notify You of a failure to deliver any notices, authorizations, disclosures, pre-adverse or adverse action letters, You understand that the use of Checkr's Platform, including without limitation, the adverse action features does not relieve You of Your responsibilities under Section 3.4.

### 3.5 MVR Purposes. If You request Moving Violation Reports (MVRs) and Driving Records, You certify and agree:

- (a) That You are ordering the Moving Violation Reports and/or Driving Records (MVRs) in strict compliance with the Driver Privacy Protection Act ("DPPA", at 18 U.S.C. § 2721 et seq.), if it applies, and any applicable state Laws.
- (b) You have the Consumer's written consent to obtain "driving records" and MVRs, and have provided it to Checkr or have otherwise satisfied this obligation (e.g., Consumer consent secured via the Platform).
- (c) You will only use this MVR in the normal course of business to obtain lawful information relating to the holder of a commercial driver's license or to verify information provided by the Consumer.
- (d) You will not transmit any data contained in the MVR via the public internet, email or any other unsecured means.

### 3.6 Investigative Reports. If You request an Investigative Consumer Report, You certify and agree:

- (a) That You have clearly and accurately disclosed to the Consumer, not later than three days after the date on which the Investigative Consumer Report was first requested, that
  - i. an Investigative Consumer Report including information as to his or her character, general reputation, personal characteristics and mode of living may be made; and
  - ii. the Consumer has the right to request a complete and accurate disclosure of the nature and scope of the investigation requested ("Investigative Report Disclosure").
- (b) The Investigative Report Disclosure shall include "A Summary of Your Rights Under the Fair Credit Reporting Act".
- (c) If the Consumer makes a written request within a reasonable amount of time after receipt of the Investigative Report Disclosure, You will make a complete and accurate written disclosure of the nature and scope of the investigation requested. This information will be provided to the Consumer no later than five (5) days after the request for such disclosure was received from the Consumer or such Report was first requested, whichever is the later.

### 3.7 Adjudication Criteria:

- (a) To the extent You elect to customize an Adjudication Criteria and to the extent permitted by Law, You authorize Checkr to adjudicate Background Checks on Your behalf, based on such Adjudication Criteria, and if applicable, send pre-adverse action and adverse action notices on Your behalf; provided that, You acknowledge and agree that You are solely responsible for Your Adjudication Criteria and Checkr shall not be liable for any decisions taken based on Your Adjudication Criteria.
- (b) You certify that, as of the time You enter into this Agreement, You have reviewed Your Adjudication Criteria to ensure that it complies with applicable Law, and that You will regularly update such criteria in order to ensure Your ongoing and continued compliance with applicable Law.
- (c) With each order for a Report, You reaffirm the statements in 3.4(a) and certification in 3.4(b) above.

### 3.8 Drug Tests. Omitted

**3.9 Not Legal Advice.** Checkr does not, and cannot, provide legal advice or other compliance related services to You or guarantee Your compliance with Laws in your use of the Platform or Reports. You understand that any documents, information, conversations or communication with Checkr's representatives regarding searches, verifications or other services offered by Checkr are not to be considered a legal opinion regarding such use. You agree to consult with your own legal counsel (1) about the use of background screening information, including but not limited to, the legality of using or relying on reported information, and (2) to review any forms as well as the content of prescribed notices, adverse or pre-adverse action letters and any attachments to this Agreement for compliance with all Laws. You agree that the provision of such notices, pre-adverse or adverse action letters and the contents thereof is Your sole responsibility.

**3.10 Notice of Penalty under the FCRA.** THE FCRA PROVIDES THAT ANY PERSON WHO KNOWINGLY AND WILLFULLY OBTAINS INFORMATION ON A CONSUMER FROM A CONSUMER REPORTING AGENCY UNDER FALSE PRETENSES SHALL BE FINED UNDER TITLE 18 OF THE UNITED STATES CODE OR IMPRISONED NOT MORE THAN TWO YEARS, OR BOTH.

## 4. DELIVERY TERMS AND LIMITATIONS

**4.1 International Criminal Records.** Checkr may use third party contractors to perform international background screenings. Because of differences in foreign laws, language, and the manner in which foreign records are maintained and reported, Checkr cannot insure or guarantee the accuracy of the information reported.

**4.2 National/Multi-State/County Database; Additional Costs.** Checkr recommends that You screen applicants at the county courthouse or online system, federal, and multi-state/nationwide database levels. If You choose not to conduct certain searches or searches at these levels, Checkr is not liable for any records that exist that are not included in the Report. Checkr will include any Variable Costs associated with this verification in Your invoice.

**4.3 Support.** You can request Platform support during Checkr's normal business hours via email sent to support@checkr.com. While Checkr makes commercially reasonable efforts to ensure continuous availability of the Platform, Checkr makes no representation, warranty or guarantee regarding the continuous availability or performance of the Platform.

**4.4 Updates.** Checkr may change the Platform features, and the production, support, delivery, layout or maintenance of the Reports from time to time, or discontinue the provision of a Report, in its sole discretion. For any material and adverse changes to Report features and details, Checkr will use commercially reasonable efforts to provide at least 30 days advance notice to You. You also acknowledge that within thirty (30) days of a Report completion date, Checkr may update the Report as part of our quality assurance purposes. In such cases, Checkr will provide You and the Consumer a copy of the updated Report.

## 5. YOUR SECURITY OBLIGATIONS

You represent and warrant that:

- (a) You will establish a robust security policy, system, and facility to protect the security and dissemination of Background Information and Reports, including but not limited to maintaining a privacy policy that is clearly and accurately disclosed to Consumers and complies with applicable Laws, and maintain strict procedures to ensure that Your personnel are not able to use the Platform or Reports for improper, illegal or unauthorized purposes, pursuant to requirements similar to the requirements of Section 6103(p)(4) of the Internal Revenue Code of 1986.
- (b) You are solely responsible for any Background Information You collect on behalf of Consumers.
- (c) You will designate a limited number of key personnel who have a need to know about Background Information and Reports and inform them of Your obligations under this Agreement.
- (d) Neither You nor Your personnel will give Your account credentials (login or password) to any unknown caller, even if the caller claims to be an employee of Checkr.
- (e) You agree that any system access software that You use, whether developed by Your company or purchased from a third party vendor, will keep your account number and password "hidden" or embedded and be known only by supervisory personnel. You will assign a unique logon password to each user of the system access software. You will strictly prohibit the sharing of passwords. If such system access software is replaced by different access software and therefore no longer is in use or, alternatively, the hardware upon which such system access software resides is no longer being used or is being disposed of, or if the password has been compromised or believed to be compromised in any way, You will change Your password immediately.
- (f) You and Your personnel will secure all hard or electronic copies of Background Information and Reports within Your offices and facilities so that unauthorized persons cannot easily access them.
- (g) You will place all terminal devices used to obtain Background Information and Reports in a secure location within Your facility so that unauthorized persons cannot easily access them.
- (h) You will shred or destroy all hard copy Reports, and delete or render unreadable any electronic files containing Reports, after it is no longer needed and when Laws permit destruction.
- (i) You are solely responsible for the activities of any person accessing the Platform using any credentials issued to You.
- (j) You and Your personnel must use reasonable and industry standard means to secure account credentials.
- (k) You will promptly notify Checkr if You suspect that any account, credentials, Background Information or Reports, have been compromised.

Checkr may review Your records and practices at any time upon reasonable prior notice during the Term, and for 5 years thereafter, to confirm Your compliance with this Agreement. Your breach of this Agreement or violation of Law discovered by Checkr may result in immediate suspension and/or termination of Your account, under Section 12 of this MSA, legal action and referral to regulatory agencies.

## 6. DATA

**6.1 Background Information.** You authorize Checkr and its contractors/providers to use Background Information provided to the Platform in accordance with Checkr's Privacy Policy. You agree that Checkr has no obligation to monitor or edit the Background Information, and that as between You and Checkr, You are solely responsible for the completeness and accuracy thereof. You acknowledge that: (i) the Platform uses the internet for data transfer and internet-connected servers to store Background Information, sometimes with third party providers, all using industry standard security measures; and (ii) no security measures are 100% effective. As such, Checkr makes no representations or warranties regarding the security of the Background Information.

**6.2 Public Records.** The data collected on Your behalf with respect to running Background Checks on Consumers, include without limitation, DMV records, criminal records, and other publicly available information is deemed to be "Public Records" that Checkr may retain, use, disclose, and delete in its sole discretion and as required or permitted by Law, provided that Checkr retains the Public Records in a manner that does not identify You.

**6.3 Usage Data.** Checkr owns all right, title and interest in and to all data collected by Checkr related to the operation of the Platform and Your use thereof ("Usage Data"). Usage Data may include Platform performance metrics and analysis, but does not include any Background Information or Public Records. Checkr will not disclose Usage Data to any third party in a manner that identifies You without Your consent other than (i) to Checkr's third party service providers who use it for the sole benefit of Checkr or as required to provide You the Platform; or (ii) as may be required by Law or legal process.

## 7. FEES AND PAYMENT

**7.1 Fees.** You will pay Checkr the Service Fees specified in each Order and any Variable Costs, in consideration for Your purchase of Reports and use of the Platform.



**7.2 Accepted Payment Methods.** You must provide valid credit card or ACH debit information to Checkr for Your account in the Customer Portal, before You can order any Background Checks. You are solely responsible for ensuring that Your payment information is complete and accurate at all times.

**7.3 Automatic Payment Terms.** After the close of each calendar month, You will receive an invoice for the Fees that You incurred that month. Immediately thereafter, Checkr will automatically charge or withdraw funds via Checkr's accepted payment methods for the Fees on each invoice. All payments must be made in the currency reflected in Your invoice. Any amounts due to Checkr under this Agreement not received by the date due will be subject to a late fee of 1.5% per month, or the maximum charge permitted by law, whichever is less. You are responsible for paying any withholding, sales, value added or other taxes, duties or charges applicable to this Agreement. You agree to pay any reasonable attorneys' fees required for collection of late payment.

## **8. OWNERSHIP; CONFIDENTIALITY**

**8.1** Checkr owns all right, title, interest, and Intellectual Property Rights, in and to the Platform and any software, technology, materials and information related to the Platform, whether currently existing or later developed.

**8.2** You own all right, title, interest, and Intellectual Property Rights, in and to the Apps (excluding any APIs or Checkr trademarks incorporated therein).

**8.3** You are not required to provide any ideas, feedback or suggestions regarding any of Checkr's products or services ("Feedback") to Checkr. If You do provide any Feedback to Checkr, You agree to assign all right, title and interest in and to such Feedback to Checkr and agree that Checkr may freely use and exploit such Feedback without compensation to You.

**8.4** Each party will keep confidential, all information and materials provided or made available, directly or indirectly, by the other party that is marked as confidential or proprietary, or is identified as confidential or proprietary at the time of disclosure, or the nature of the information and the manner of disclosure are such that a reasonable person would understand it to be confidential, including but not limited to, Background Information or other Consumer data (collectively, "Confidential Information"). Checkr's Confidential Information includes but is not limited to, the features, functionality and content of the Platform and any planned modifications or updates thereto, Fees and pricing information. Each party will maintain all Confidential Information in strict confidence by using at least the same level of care that is used for its own confidential information, but in no case less than a prudent and reasonable standard of care. Each party may use Confidential Information solely for the purposes of performing its obligations or exercising its rights hereunder. Information that either party can establish: (a) was lawfully in a party's possession before receipt from the other party; or (b) is or becomes a matter of public knowledge through no fault of the receiving party; or (c) was independently developed or discovered by a party without the benefit of any Confidential Information of the other party, shall not be considered Confidential Information under this Agreement. Each party may disclose Confidential Information solely to its employees and representatives that have a need to know to accomplish the purposes of this Agreement and each of whom are bound to protect the Confidential Information from unauthorized use and disclosure under the terms of a written agreement with terms as protective of the Confidential Information as those set forth in this Agreement. Each party may also disclose Confidential Information in response to a valid order of a court or other governmental body or as otherwise required by law to be disclosed; provided that, the responding party gives sufficient notice to the disclosing party to enable the disclosing party to take protective measures, and/or in any event only disclose the exact Confidential Information, or portion thereof, specifically requested. Except as otherwise expressly set forth in this Agreement, no rights or licenses to intellectual property in Confidential Information is granted by either party under this Agreement, whether express, implied or otherwise, to the other party. The obligations imposed on a receiving party shall survive until such time as the Confidential Information of the disclosing party becomes publicly available and/or made generally known through no action of the receiving party. All Confidential Information will be returned immediately to the disclosing party, or destroyed, after the receiving party's need for it has expired or upon request of the disclosing party or termination of this Agreement. Each party agrees that any violation of these confidentiality provisions will cause irreparable injury to the other party entitling the other party to injunctive relief or other equitable relief, in addition to, and not in lieu of, any other remedies such party may be entitled to. The disclosure of Confidential Information will be governed by this Agreement, which supersedes any previous confidentiality or nondisclosure agreement executed by or on behalf of the parties. Any such Confidential Information will be treated as if it were disclosed under this Agreement (and this Agreement were in effect) as of the date of such exchange.

## **9. WARRANTIES; DISCLAIMERS**

**9.1 Mutual.** Each party represents and warrants to the other party that: (i) it has the full corporate power and authority to enter into the Agreement; and (ii) the Agreement constitutes a legal, valid and binding obligation when executed and delivered.

**9.2 DISCLAIMER. YOU ACKNOWLEDGE THAT CHECKR OBTAINS THE INFORMATION IN ITS REPORTS FROM THIRD PARTY SOURCES "AS IS", AND THEREFORE PROVIDES THE INFORMATION TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS. CHECKR MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, OR IMPLIED WARRANTIES ARISING FROM THE COURSE OF DEALING OR A COURSE OF PERFORMANCE WITH RESPECT TO THE ACCURACY, VALIDITY, OR COMPLETENESS OF ANY REPORTS THAT THE REPORTS WILL MEET YOUR NEEDS, OR WILL BE PROVIDED ON AN UNINTERRUPTED BASIS; CHECKR EXPRESSLY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CHECKR EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE. CHECKR AND ITS SUPPLIERS, LICENSORS, PARTNERS AND SERVICE PROVIDERS DO NOT WARRANT THAT THE FUNCTIONALITY AND INFORMATION PROVIDED BY THE PLATFORM WILL BE CORRECT, UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS WILL BE CORRECTED.**

## **10. INDEMNIFICATION 12. TERMINATION**

**12.1 Suspension.** Checkr may suspend or limit Your access to or use of the Platform at any time if: (i) You do not timely pay all Fees due; (ii) in the sole discretion of Checkr such action is necessary to prevent material errors or harm, or to limit Checkr's liability; or (iii) You attempt to access or use the Platform or Reports in an unauthorized or unlawful manner.

**12.3 Outstanding Orders.** If applicable, any outstanding Orders and Your obligations under such Order and this MSA will survive any termination of this MSA until the Order is terminated or expires.

**13. GENERAL**

**13.1 Governing Law.** This Agreement is governed by California Law, excluding its choice of law rules. Each party submits to jurisdiction of the state and federal courts in San Francisco, California.

**13.2 Assignment.** You may not assign any of Your rights or obligations under this Agreement without the prior written consent of Checkr. Subject to the foregoing, this Agreement inures to the benefit of and is binding on the parties' permitted assignees, transferees and successors. Any attempted assignment in violation of this clause is void.

**13.3 Consumer Arbitration Provisions.** To the extent You have a Terms of Service, Terms of Use or similar document or agreement applicable to Consumers that includes an arbitration provision, You agree to add the following language (or language that is substantively the same) to that arbitration provision: 'Our rights and obligations under this arbitration provision shall inure to the benefit of the consumer reporting agency regardless of whether the consumer reporting agency is named as a co-defendant with us or named individually in a claim that would otherwise be subject to this arbitration provision if brought against us.'

**13.6 Integration.** This Agreement reflects the parties' entire agreement relating to its subject and supersedes any prior or contemporaneous agreements on that subject. This Agreement may only be modified in a writing executed by both parties.

**13.7 Force Majeure.** Checkr will not be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, internet or telecommunications failures, shortages of or inability to obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action, acts by hackers or other malicious third parties and problems with the Internet generally, and such performance shall be excused to the extent that it is prevented or delayed by reason of any of the foregoing.

**13.8 Misc.** The parties are independent contractors, and this Agreement does not create an agency, partnership or joint venture, or authority to bind the other party. There are no third-party beneficiaries to this Agreement. If any provision is found unenforceable, it and any related provisions will be interpreted to best accomplish the unenforceable provisions essential purpose. Any waiver of a provision of this Agreement will only be valid if provided in writing and applies only to the specific occurrence so waived. Failure to enforce any provision will not constitute a waiver. Nothing in this Agreement will limit a party's ability to seek equitable relief. Section headings are not to be used in the interpretation hereof. The following Sections survive any expiration or termination of the Agreement: 2.4, 3, and 5 to 13.

**13.9 Notices.** To give compliant notice under this Agreement:

From You to Checkr: Send the written notice via email to [legal@checkr.com](mailto:legal@checkr.com) and simultaneously via postal mail to One Montgomery Street, Suite 2000 San Francisco, CA 94104. Checkr will notify You via the Platform, email or postal mail if it updates either.

From Check to You: Checkr will notify You via the Platform, or to the postal or email address You provide in the Customer Portal. You can update that information in the Customer Portal at any time.