

Caliber Public Safety Embedded Accurant Query Application

The information submitted on this Application and accompanying Permissible Use Certification will be used to determine the Applicant's eligibility for accessing the services and products of Colossus, Incorporated (herein referred to as "Caliber Public Safety", "Caliber", or "CPS"). To avoid delay, please provide all information requested. By submitting this Application, the Applicant hereby authorizes Caliber to independently verify the information submitted. Acceptance of this Application does not automatically create a business relationship between Caliber and the Applicant. Caliber reserves the right to reject this Application with or without cause and to request additional information. Applicant acknowledges and understands that Caliber will only allow Applicant access to the embedded query services if Applicant's credentials can be verified in accordance with Caliber's internal credentialing procedures, which includes an independent site visit by a nationwide credit bureau approved company.

Section I – Agency Information – please do not use abbreviations			
Full legal name of Agency:		Main phone number for address*:	
		*If this is a cell, additional documents may be required	
Agency ORI (Originating Agency Identifier) #:		Fax number:	
Physical Address of Agency: P.O. Box/Mail Drops cannot be accepted (street, city, state, zip):		Previous address if at the current address less than 6 months:	
Agency County:		Caliber Product(s) (Check): <input type="checkbox"/> RMS	
Website address:		External Agency IP Address (https://www.whatismyip.com):	
External Agency IP Range – From:		External Agency IP Range – To:	
Agency information (Authorized User – check only one):			
<input type="checkbox"/> Federal Law Enforcement		<input type="checkbox"/> State Law Enforcement	
		<input type="checkbox"/> Local/Municipal Law Enforcement	
<input type="checkbox"/> Other Entity with Law Enforcement Responsibilities (explain):			
Number of Users Requesting Access:			
Section II – Administrator and Main Contact Information (for additional administrators, please provide additional sheets) Responsible for Agency End-User Audits as requested by Caliber Public Safety			
Product Administrator or Main Contact (first & last name):		Title:	
E-Mail Address:		Admin IP Address:	
Administrator Home Address (street, city, state, zip):		Main phone number	
Section III – Billing Information			
Billing Contact (first & last name): check here if same as Administrator		Title:	
Billing Address (street, city, state, zip):			
E-Mail Address:		Telephone:	

Section IV – Site Visits

Site visits may be required to assure Applicant eligibility for Caliber Public Safety products or services. By submitting this Application, Applicant agrees to authorize a site visit by Caliber or its approved third-party, and agrees to cooperate in its completion. If the contact for coordinating the site visit at the Applicant's physical location is not identified above as the Administrator, please provide the site visit contact's information below:

Contact Name:	Contact Phone:
Contact Email Name:	

Section V – NON-FCRA Permissible Use Certification

Definitions: Gramm-Leach-Bliley Act, (15 U.S.C. § 6801, et seq.) and related state laws (collectively, the "GLBA")
Drivers Privacy Protection Act, (18 U.S.C. § 2721 et seq.) and related state laws (collectively, the "DPPA")

Qualified Access: Full social security numbers (nine (9) digits) and driver's license numbers (collectively, "QA Data"), will return through Caliber's embedded Query Services. By signing this document, Customer certifies that its business is federal, state or local government agency with law enforcement responsibilities and below and its use of QA Data is within official law enforcement purposes as permitted by law for identity verification and/or to locate suspects, persons of interest, or other involved parties, vehicles, organizations, locations, or property.

Death Master File (DMF): Access to Limited Access DMF Data only.

1) **Definitions.** For purposes of this Certification, these terms are defined as follows:

- (I) **DMF Agreement:** The Limited Access Death Master File Non-federal Licensee Agreement for Use and Resale. The DMF Agreement form is found at <https://classic.ntis.gov/assets/pdf/dmf-licenseeagrmt.pdf>.
- (II) **Certification Form:** The Limited Access Death Master File Subscriber Certification Form. The Certification Form is found at <https://classic.ntis.gov/assets/pdf/subscribercertificationform-FM161.pdf>.
- (III) **DMF: The federal Death Master File.**
- (IV) **NTIS:** National Technical Information Service, U.S. Department of Commerce
- (V) **Open Access DMF:** The DMF product, which obtains the data from NTIS, and which does not include DMF with respect to any deceased individual at any time during the three-calendar-year period beginning on the date of the individual's death. Open Access DMF data should not be accessed pursuant to this Certification but should be accessed pursuant to a customer contract for such DMF data that is not Limited Access DMF.
- (VI) **Limited Access DMF:** Limited Access DMF includes DMF data with respect to any deceased individual at any time during the three-calendar-year period beginning on the date of the individual's death. Limited Access DMF is made available, by NTIS. This Certification governs Customer's access to Limited Access DMF, whether full or partial Limited Access DMF records or indicators of deceased status, and via any format, including online, XML feed, or in-house file processing.

2) **Certification.**

Customer's access to the Limited Access DMF requires certification of purpose, as required by 15 CFR Part 1110 and section 1001 of Title 18, United States Code. Customer hereby certifies that it has the indicated permissible purpose(s) under part (a) of this Section II ("Certification") and that it meets the requirements of part (b) of this Section II:

- (I) Such Customer has a legitimate fraud prevention interest, or has a legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty, will use the Limited Access DMF only for such purpose(s), and specifies the basis for so certifying as (choose applicable purposes that apply to Customer's use): and
- (II) Customer has systems, facilities, and procedures in place to safeguard Limited Access DMF, and experience in maintaining the confidentiality, security, and appropriate use of such information, pursuant to requirements similar to the requirements of section 6103(p)(4) of the Internal Revenue Code of 1986, and
- (III) Customer agrees to satisfy the requirements of such section 6103(p)(4) as if such section applied to Customer.

3) **Flow-down Agreement Terms and Conditions**

The Parties agree that the following terms and conditions are applicable to Recipient and ordering, access to, and use of Limited Access DMF:

- (I) **Compliance with Terms of Agreement and CFR.** Recipient of Limited Access DMF must comply with the terms of the Agreement and the requirements of 15 CFR Part 1110, as though set forth as a Subscriber therein, and Recipients may not further distribute the Limited Access DMF.
- (II) **Change in Status.** Should Recipient's status change such that it would no longer have a permissible purpose to access Limited Access DMF under this Addendum, Recipient agrees to immediately notify Caliber in writing in the manner and format required for notices under the Contract. Should Recipient cease to have access rights to Limited Access DMF, Recipient shall destroy all Limited Access DMF, and will certify to Caliber in writing that it has destroyed all such DMF.

- (III) **Security and Audit.** Recipient will at all times have security provisions in place to protect the Limited Access DMF from being visible, searchable, harvestable or in any way discoverable on the World Wide Web. Recipient understands that any successful attempt by any person to gain unauthorized access to or use of the Limited Access DMF provided by Caliber may result in immediate termination of Recipient's access and this Addendum. In addition, any successful attempt by any person to gain unauthorized access may under certain circumstances result in penalties as prescribed in 15 CFR § 1110.200 levied on Recipient and the person attempting such access. Recipient will take appropriate action to ensure that all persons accessing the Limited Access DMF it obtains from Caliber are aware of their potential liability for misuse or attempting to gain unauthorized access. Any such access or attempted access is a breach, or attempted breach, of security and Recipient must immediately report the same to NTIS at dmfcert@ntis.gov; and to Caliber by written notification to Caliber by email (support@caliberpublicsafety.com) and by phone (1-800-274-2911). Recipient agrees to be subject to audit by Caliber and/or NTIS to determine Recipient's compliance with the requirements of this Addendum, the Agreement, and 15 CFR Part 1110. Recipient agrees to retain a list of all employees, contractors, and subcontractors to which it provides Limited Access DMF and to make that list available to NTIS and/or Caliber as part of any audits conducted hereunder. Recipient will not resell or otherwise redistribute the Limited Access DMF.
- (IV) **Penalties.** Recipient acknowledges that failure to comply with the provisions of paragraph (3) of the Certification Form may subject Recipient to penalties under 15 CFR § 1110.200 of \$1,000 for each disclosure or use, up to a maximum of \$250,000 in penalties per calendar year, or potentially uncapped for willful disclosure.
- (V) **Law, Dispute Resolution, and Forum.** Recipient acknowledges that this Addendum is governed by the terms of federal law. Recipient acknowledges that the terms of Section 14 of the Agreement govern disagreement handling, and, without limitation to the foregoing, that jurisdiction is federal court.
- (VI) **Liability.** The U.S. Government/NTIS and Caliber (a) make no warranty, express or implied, with respect to information provided under the Agreement, including but not limited to, implied warranties of merchantability and fitness for any particular use; (b) assume no liability for any direct, indirect or consequential damages flowing from any use of any part of the Limited Access DMF, including infringement of third party intellectual property rights; and (c) assume no liability for any errors or omissions in Limited Access DMF. The Limited Access DMF does have inaccuracies and NTIS and the Social Security Administration (SSA), which provides the DMF to NTIS, and Caliber do not guarantee the accuracy of the Limited Access DMF. SSA does not have a death record for all deceased persons. Therefore, the absence of a particular person in the Limited Access DMF is not proof that the individual is alive. Further, in rare instances, it is possible for the records of a person who is not deceased to be included erroneously in the Limited Access DMF. Recipient specifically acknowledges the terms of Attachment B to the Agreement, which terms apply to Recipient.
- (VII) **Indemnification.** To the extent not prohibited by law, Recipient shall indemnify and hold harmless Caliber and NTIS and the Department of Commerce from all claims, liabilities, demands, damages, expenses, and losses arising from or in connection with Recipient's, Recipient's employees', contractors', or subcontractors' use of the Limited Access DMF. This provision will include any and all claims or liability arising from intellectual property rights.
- (VIII) **Survival.** Provisions hereof related to indemnification, use and protection of Limited Access DMF, audit, disclaimer of warranties, and governing law shall survive termination of this Addendum.
- (IX) **Conflict of Terms.** Recipient acknowledges that the terms of this Addendum, in the event of conflict with the terms of the Contract, apply in addition to, and not in lieu of, such Contract terms, with respect to the Limited Access DMF only.

Master Terms

- 1) **RESTRICTED LICENSE.** Caliber hereby grants to Customer a restricted license to use the Caliber Services and any data contained therein, subject to the restrictions and limitations set forth below:
 - (I) **Generally.** Caliber hereby grants to Customer a restricted license to use the Caliber Services solely for Customer's own internal government purposes. Customer represents and warrants that all of Customer's use of the Caliber Services shall be for only legitimate government purposes, including those specified by Customer in connection with a specific information request, relating to fraud prevention in connection with applications for homestead exemptions and as otherwise governed by the Agreement. Customer shall not use the Caliber Services for marketing purposes or resell or broker the Caliber Services to any third party and shall not use the Caliber Services for personal (non- government) purposes. Customer shall not use the Caliber Services to provide data processing services to third-parties or evaluate the data of or for third-parties. Customer agrees that if Caliber determines or reasonably suspects that continued provision of Caliber Services to Customer entails a potential security risk, or that Customer is engaging in marketing activities, reselling, brokering or processing or evaluating the data of or for third-parties, or using the Caliber Services for personal (non- government) purposes or using the Caliber Services' information, programs, computer applications, or data, or is otherwise violating any provision of this Agreement, or any of the laws, regulations, or rules described herein, Caliber may take immediate action, including, without limitation, terminating the delivery of, and the license to use, the Caliber Services. Customer shall not access the Caliber Services from Internet Protocol addresses located outside of the United States and its territories without Caliber's prior written approval. Customer shall comply with all laws, regulations and rules which govern the use of the Caliber Services and information

provided therein. Caliber may at any time mask or cease to provide Customer access to any Caliber Services or portions thereof which Caliber may deem, in Caliber's sole discretion, to be sensitive or restricted information.

- (II) **GLBA Data.** Some of the information contained in the Caliber Services is "nonpublic personal information," as defined in the Gramm-Leach-Bliley Act (15 U.S.C. § 6801, et seq.) and related state laws, (collectively, the "GLBA"), and is regulated by the GLBA ("GLBA Data"). Customer shall not obtain and/or use GLBA Data through the Caliber Services, in any manner that would violate the GLBA, or any similar state or local laws, regulations and rules. Customer acknowledges and agrees that it may be required to certify its permissible use of GLBA Data falling within an exception set forth in the GLBA at the time it requests information in connection with certain Caliber Services and will recertify upon request by Caliber. Customer certifies with respect to GLBA Data received through the Caliber Services that it complies with the Interagency Standards for Safeguarding Customer Information issued pursuant to the GLBA.
- (III) **DPPA Data.** Some of the information contained in the Caliber Services is "personal information," as defined in the Drivers Privacy Protection Act (18 U.S.C. § 2721, et seq.) and related state laws, (collectively, the "DPPA"), and is regulated by the DPPA ("DPPA Data"). Customer shall not obtain and/or use DPPA Data through the Caliber Services in any manner that would violate the DPPA. Customer acknowledges and agrees that it may be required to certify its permissible use of DPPA Data at the time it requests information in connection with certain Caliber Services and will recertify upon request by Caliber.
- (IV) **Social Security and Driver's License Numbers.** Caliber may in its sole discretion permit Customer to access QA Data (as previously defined). If Customer is authorized by Caliber to receive QA Data, and Customer obtains QA Data through the Caliber Services, Customer certifies it will not use the QA Data for any purpose other than as expressly authorized by Caliber policies, the terms and conditions herein, and applicable laws and regulations. In addition to the restrictions on distribution otherwise set forth in Paragraph 2 below, Customer agrees that it will not permit QA Data obtained through the Caliber Services to be used by an employee or contractor that is not an Authorized User with an Authorized Use. Customer agrees it will certify, in writing, its uses for QA Data and recertify upon request by Caliber. Customer may not, to the extent permitted by the terms of this Agreement, transfer QA Data via email or ftp without Caliber's prior written consent. However, Customer shall be permitted to transfer such information so long as: 1) a secured method (for example, sftp) is used, 2) transfer is not to any third-party, and 3) such transfer is limited to such use as permitted under this Agreement. Caliber may at any time and for any or no reason cease to provide or limit the provision of QA Data to Customer.
- (V) **Copyrighted and Trademarked Materials.** Customer shall not remove or obscure any trademarks, copyright notices or other notices contained on materials accessed through the Caliber Services.
- (VI) **National Change of Address Database.** Caliber is a licensee of the United States Postal Service's NCOALINK database ("NCOA Database"). The information contained in the NCOA Database is regulated by the Privacy Act of 1974 and may be used only to provide a mailing list correction service for lists that will be used for preparation of mailings. If Customer receives all or a portion of the NCOA Database through the Caliber Services, Customer hereby certifies to Caliber that it will not use such information for any other purpose. Prior to obtaining or using information from the NCOA Database, Customer agrees to complete, execute and submit to Caliber the NCOA Processing Acknowledgement Form.
- (VII) **Additional Terms.** Certain materials contained within the Caliber Services are subject to additional obligations and restrictions. Without limitation, these services include news, business information (e.g., Dun & Bradstreet reports), and federal legislative and regulatory materials. To the extent that Customer receives such materials through the Caliber Services, Customer agrees to comply with the Supplemental Terms and Conditions for Use of Caliber Services contained at the following website: <http://www.lexisnexis.com/terms/supplemental.aspx> (the "Supplemental Terms"). The General Terms are hereby incorporated into this Agreement by reference.
- (VIII) **Fair Credit Reporting Act.** The Caliber Services provided pursuant to this Agreement are not provided by "consumer reporting agencies," as that term is defined in the Fair Credit Reporting Act, (15 U.S.C. §1681, et seq.), (the "FCRA"), and do not constitute "consumer reports" as that term is defined in the FCRA. Accordingly, the Caliber Services may not be used in whole or in part as a factor in determining eligibility for credit, insurance, employment or another purpose in connection with which a consumer report may be used under the FCRA. Further, (A) Customer certifies that it will not use any of the information it receives through the Caliber Services to determine, in whole or in part an individual's eligibility for any of the following products, services or transactions: (1) credit or insurance to be used primarily for personal, family or household purposes; (2) employment purposes; (3) a license or other benefit granted by a government agency; or (4) any other product, service or transaction in connection with which a consumer report may be used under the FCRA or any similar state statute, including without limitation apartment rental, check-cashing, or the opening of a deposit or transaction account; (B) by way of clarification, without limiting the foregoing, Customer may use, except as otherwise prohibited or limited by this Agreement, information received through the Caliber Services for the following purposes: (1) to verify or authenticate an individual's

identity; (2) to prevent or detect fraud or other unlawful activity; (3) to locate an individual; (4) to review the status of a legal proceeding; (5) to collect a debt, provided that such debt collection does not constitute in whole or in part, a determination of an individual consumer's eligibility for credit or insurance to be used primarily for personal, family or household purposes; or (6) to determine whether to buy or sell consumer debt or a portfolio of consumer debt in a commercial secondary market transaction, provided that such determination does not constitute in whole or in part, a determination of an individual consumer's eligibility for credit or insurance to be used primarily for personal, family or household purposes; (C) specifically, if Customer is using the Caliber Services in connection with collection of a consumer debt on its own behalf, or on behalf of a third-party, Customer shall not use the Caliber Services: (1) to revoke consumer credit; (2) to accelerate, set or change repayment terms; or (3) for the purpose of determining a consumer's eligibility for any repayment plan; provided, however, that Customer may, consistent with the certification and limitations set forth in this section (viii), use the Caliber Services for identifying, locating, or contacting a consumer in connection with the collection of a consumer's debt or for prioritizing collection activities; and (D) Customer shall not use any of the information it receives through the Caliber Services to take any "adverse action," as that term is defined in the FCRA.

(IX) **MVR Data.** If Customer is permitted to access Motor Vehicle Records ("MVR Data") from Caliber, without in any way limiting Customer's obligations to comply with all state and federal laws governing use of MVR Data, the following specific restrictions apply and are subject to change:

- (a) Customer shall not use any MVR Data provided by Caliber, or portions of information contained therein, to create or update a file that Customer uses to develop its own source of driving history information.
- (b) As requested by Caliber, Customer shall complete any state forms that Caliber is legally or contractually bound to obtain from Customer before providing Customer with MVR Data.
- (c) Caliber (and certain Third-Party vendors) may conduct reasonable and periodic audits of Customer's use of MVR Data. Further, in response to any audit, Customer must be able to substantiate the reason for each MVR Data order.

(X) **Retention of Records.** For uses of GLB Data, DPPA Data and MVR Data, as described in Sections 1(ii), 1(iii) and 1(ix), Customer shall maintain for a period of five (5) years a complete and accurate record (including consumer identity, purpose and, if applicable, consumer authorization) pertaining to every access to such data.

(XI) **Economic Sanctions Laws.** Customer acknowledges that Caliber is subject to economic sanctions laws, including but not limited to those enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the European Union, and the United Kingdom. Accordingly, Customer shall comply with all economic sanctions laws of the United States, the European Union, and the United Kingdom. Customer shall not provide access to Caliber Services to any individuals identified on OFAC's list of Specially Designated Nationals ("SDN List"), the UK's HM Treasury's Consolidated List of Sanctions Targets, or the EU's Consolidated List of Persons, Groups, and Entities Subject to EU Financial Sanctions. Customer shall not take any action which would place Caliber in a position of non-compliance with any such economic sanctions laws.

2) **SECURITY.** Customer acknowledges that the information available through the Caliber Services may include personally identifiable information and it is Customer's obligation to keep all such accessed information confidential and secure. Accordingly, Customer shall (a) restrict access to Caliber Services to those employees who have a need to know as part of their official duties; (b) ensure that none of its employees shall (i) obtain and/or use any information from the Caliber Services for personal reasons, or (ii) transfer any information received through the Caliber Services to any party except as permitted hereunder; (c) keep all user identification numbers, and related passwords, or other security measures (collectively, "User IDs") confidential and prohibit the sharing of User IDs; (d) immediately deactivate the User ID of any employee who no longer has a need to know, or for terminated employees on or prior to the date of termination; (e) in addition to any obligations under Paragraph 1, take all commercially reasonable measures to prevent unauthorized access to, or use of, the Caliber Services or data received therefrom, whether the same is in electronic form or hard copy, by any person or entity; (f) maintain and enforce data destruction procedures to protect the security and confidentiality of all information obtained through Caliber Services as it is being disposed; (g) unless otherwise required by law, purge all information received through the Caliber Services and stored electronically or on hard copy by Customer within ninety (90) days of initial receipt; (h) be capable of receiving the Caliber Services where the same are provided utilizing "secure socket layer," or such other means of secure transmission as is deemed reasonable by Caliber; (i) not access and/or use the Caliber Services via mechanical, programmatic, robotic, scripted or other automated search means, other than through batch or machine-to-machine applications approved by Caliber; and (j) take all steps to protect their networks and computer environments, or those used to access the Caliber Services, from compromise. Customer agrees that on at least a quarterly basis it will review searches performed by its User IDs to ensure that such searches were performed for a legitimate business purpose and in compliance with all terms and conditions herein. Customer will implement policies and procedures to prevent unauthorized use of User IDs and the Caliber Services and will immediately notify Caliber, in writing to the Caliber if Customer suspects, has reason to believe or confirms that a User ID or the Caliber Services (or data derived directly or indirectly therefrom) is or has been lost, stolen, compromised, misused or used, accessed or acquired in

an unauthorized manner or by any unauthorized person, or for any purpose other than legitimate business reasons. Customer shall remain solely liable for all costs associated therewith and shall further reimburse Caliber for any expenses it incurs due to Customer's failure to prevent such impermissible use or access of User IDs and/or the Caliber Services, or any actions required as a result thereof. Furthermore, in the event that the Caliber Services provided to the Customer include personally identifiable information (including, but not limited to, social security numbers, driver's license numbers or dates of birth), the following shall apply: Customer acknowledges that, upon unauthorized acquisition or access of or to such personally identifiable information, including but not limited to that which is due to use by an unauthorized person or due to unauthorized use (a "Security Event"), Customer shall, in compliance with law, notify the individuals whose information was potentially accessed or acquired that a Security Event has occurred, and shall also notify any other parties (including but not limited to regulatory entities and credit reporting agencies) as may be required in Caliber's reasonable discretion. Customer agrees that such notification shall not reference Caliber or the product through which the data was provided, nor shall Caliber be otherwise identified or referenced in connection with the Security Event, without Caliber's express written consent. Customer shall be solely responsible for any other legal or regulatory obligations which may arise under applicable law in connection with such a Security Event and shall bear all costs associated with complying with legal and regulatory obligations in connection therewith. Customer shall remain solely liable for claims that may arise from a Security Event, including, but not limited to, costs for litigation (including attorneys' fees), and reimbursement sought by individuals, including but not limited to, costs for credit monitoring or allegations of loss in connection with the Security Event, and to the extent that any claims are brought against Caliber, shall indemnify Caliber from such claims. Customer shall provide samples of all proposed materials to notify consumers and any third-parties, including regulatory entities, to Caliber for review and approval prior to distribution. In the event of a Security Event, Caliber may, in its sole discretion, take immediate action, including suspension or termination of Customer's account, without further obligation or liability of any kind.

- 3) **PERFORMANCE.** Caliber will use commercially reasonable efforts to deliver the Caliber Services requested by Customer and to compile information gathered from selected public records and other sources used in the provision of the Caliber Services; provided, however, that Customer accepts all information "AS IS." Customer acknowledges and agrees that Caliber obtains its data from third-party sources, which may or may not be completely thorough and accurate, and that Customer shall not rely on Caliber for the accuracy or completeness of information supplied through the Caliber Services. Without limiting the foregoing, the criminal record data that may be provided as part of the Caliber Services may include records that have been expunged, sealed, or otherwise have become inaccessible to the public since the date on which the data was last updated or collected. Customer understands that Customer may be restricted from accessing certain Caliber Services which may be otherwise available. Caliber reserves the right to add materials and features to, and to discontinue offering any of the materials and features that are currently a part of, the Caliber Services. In the event that Caliber discontinues a material portion of the materials and features that Customer regularly uses in the ordinary course of its business, and such materials and features are part of a flat fee subscription plan to which Customer has subscribed, Caliber will, at Customer's option, issue a prorated credit to Customer's account.
- 4) **INTELLECTUAL PROPERTY; CONFIDENTIALITY.** Customer agrees that Customer shall not reproduce, retransmit, republish, or otherwise transfer for any commercial purposes the Caliber Services' information, programs or computer applications. Customer acknowledges that Caliber (and/or its third party data providers) shall retain all right, title, and interest under applicable contractual, copyright, patent, trademark, Trade Secret and related laws in and to the Caliber Services and the data and information that they provide. Customer shall use such materials in a manner consistent with Caliber's interests and the terms and conditions herein, and shall notify Caliber of any threatened or actual infringement of Caliber's rights. Notwithstanding anything in this Agreement to the contrary, Caliber or Caliber's data provider shall own Customer's search inquiry data used to access the Caliber Services (in the past or future) and may use such data for any purpose consistent with applicable federal, state and local laws, rules and regulations. Customer and Caliber acknowledge that they each may have access to confidential information of the disclosing party ("Disclosing Party") relating to the Disclosing Party's business including, without limitation, technical, financial, strategies and related information, computer programs, algorithms, know-how, processes, ideas, inventions (whether patentable or not), schematics, Trade Secrets (as defined below) and other information (whether written or oral), and in the case of Caliber's information, product information, pricing information, product development plans, forecasts, data contained in Caliber Services, and other business information ("Confidential Information"). Confidential Information shall not include information that: (i) is or becomes (through no improper action or inaction by the Receiving Party (as defined below)) generally known to the public; (ii) was in the Receiving Party's possession or known by it prior to receipt from the Disclosing Party; (iii) was lawfully disclosed to Receiving Party by a third-party and received in good faith and without any duty of confidentiality by the Receiving Party or the third-party; or (iv) was independently developed without use of any Confidential Information of the Disclosing Party by employees of the Receiving Party who have had no access to such Confidential Information. "Trade Secret" shall be deemed to include any information which gives the Disclosing Party an advantage over competitors who do not have access to such information as well as all information that fits the definition of "trade secret" set forth in the Official Code of Georgia Annotated § 10-1-761(4). Each receiving party ("Receiving Party") agrees not to divulge any Confidential Information or information derived therefrom to any third-party and shall protect the confidentiality of the Confidential Information with the

same degree of care it uses to protect the confidentiality of its own confidential information and trade secrets, but in no event less than a reasonable degree of care. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information solely to the extent required by subpoena, court order or other governmental authority, provided that the Receiving Party shall give the Disclosing party prompt written notice of such subpoena, court order or other governmental authority so as to allow the Disclosing party to have an opportunity to obtain a protective order to prohibit or restrict such disclosure at its sole cost and expense. Confidential Information disclosed pursuant to subpoena, court order or other governmental authority shall otherwise remain subject to the terms applicable to Confidential Information. Each party's obligations with respect to Confidential Information shall continue for the term of this Agreement and for a period of five (5) years thereafter, provided however, that with respect Trade Secrets, each party's obligations shall continue for so long as such Confidential Information continues to constitute a Trade Secret.

- 5) **WARRANTIES/LIMITATION OF LIABILITY.** Neither Caliber, nor its subsidiaries and affiliates, nor any third-party data provider (for purposes of indemnification, warranties, and limitations on liability, Caliber, its subsidiaries and affiliates, and its data providers are hereby collectively referred to as "Caliber") shall be liable to Customer (or to any person claiming through Customer to whom Customer may have provided data from the Caliber Services) for any loss or injury arising out of or caused in whole or in part by Caliber's acts or omissions in procuring, compiling, collecting, interpreting, reporting, communicating, or delivering the Caliber Services. If, notwithstanding the foregoing, liability can be imposed on Caliber, then Customer agrees that Caliber's aggregate liability for any and all losses or injuries arising out of any act or omission of Caliber in connection with anything to be done or furnished under this Agreement, regardless of the cause of the loss or injury, and regardless of the nature of the legal or equitable right claimed to have been violated, shall never exceed One Hundred Dollars (\$100.00); and Customer covenants and promises that it will not sue Caliber for an amount greater than such sum even if Customer and/or third parties were advised of the possibility of such damages and that it will not seek punitive damages in any suit against Caliber. Caliber does not make and hereby disclaims any warranty, express or implied with respect to the Caliber Services. Caliber does not guarantee or warrant the correctness, completeness, merchantability, or fitness for a particular purpose of the Caliber Services or information provided therein. In no event shall Caliber be liable for any indirect, incidental, or consequential damages, however arising, incurred by Customer from receipt or use of information delivered hereunder or the unavailability thereof. Due to the nature of public record information, the public records and commercially available data sources used in Caliber Services may contain errors. Source data is sometimes reported or entered inaccurately, processed poorly or incorrectly, and is generally not free from defect. Caliber Services are not the source of data, nor are they a comprehensive compilation of the data. Before relying on any data, it should be independently verified.

- 6) **INDEMNIFICATION.** To the extent permitted by applicable law, Customer hereby agrees to protect, indemnify, defend, and hold harmless Caliber from and against any and all costs, claims, demands, damages, losses, and liabilities (including attorneys' fees and costs) arising from or in any way related to (a) use of information received by Customer (or any third party receiving such information from or through Customer) furnished by or through Caliber; (b) breach of any terms, conditions, representations or certifications in this Agreement; and (c) any Security Event. Caliber hereby agrees to protect, indemnify, defend, and hold harmless Customer from and against any and all costs, claims, demands, damages, losses, and liabilities (including attorneys' fees and costs) arising from or in connection with any third-party claim that the Caliber Services or data contained therein, when used in accordance with this Agreement, infringe a United States patent or United States registered copyright, subject to the following: (i) Customer must promptly give written notice of any claim to Caliber; (ii) Customer must provide any assistance which Caliber may reasonably request for the defense of the claim (with reasonable out of pocket expenses paid by Caliber); and (iii) Caliber has the right to control the defense or settlement of the claim; provided, however, that the Customer shall have the right to participate in, but not control, any litigation for which indemnification is sought with counsel of its own choosing, at its own expense. Notwithstanding the foregoing, Caliber will not have any duty to indemnify, defend or hold harmless Customer with respect to any claim of infringement resulting from (1) Customer's misuse of the Caliber Services; (2) Customer's failure to use any corrections made available by Caliber; (3) Customer's use of the Caliber Services in combination with any product or information not provided or authorized in writing by Caliber; or (4) any information, direction, specification or materials provided by Customer or any third-party. If an injunction or order is issued restricting the use or distribution of any part of the Caliber Services, or if Caliber determines that any part of the Caliber Services is likely to become the subject of a claim of infringement or violation of any proprietary right of any third-party, Caliber may in its sole discretion and at its option (A) procure for Customer the right to continue using the Caliber Services; (B) replace or modify the Caliber Services so that they become non-infringing, provided such modification or replacement does not materially alter or affect the use or operation of the Caliber Services; or (C) terminate this Agreement and refund any fees relating to the future use of the Caliber Services. The foregoing remedies constitute Customer's sole and exclusive remedies and Caliber's entire liability with respect to infringement claims or actions.

- 7) **AUDIT.** Customer understands and agrees that, in order to ensure compliance with the FCRA, GLBA, DPPA, other applicable state or federal laws, regulations or rules, regulatory agency requirements, this Agreement, and Caliber's obligations under its contracts with its data providers and Caliber's policies, Caliber may conduct periodic reviews of Customer's use of the Caliber Services and may, upon reasonable notice, audit Customer's records, processes and procedures related to Customer's use,

storage and disposal of Caliber Services and information received therefrom. Customer agrees to cooperate fully with any and all audits and to respond to any such audit inquiry within ten (10) business days, unless an expedited response is required. Violations discovered in any review and/or audit by Caliber will be subject to immediate action including, but not limited to, suspension or termination of the license to use the Caliber Services, reactivation fees, legal action, and/or referral to federal or state regulatory agencies.

- 8) **SURVIVAL OF AGREEMENT.** Provisions hereof related to release of claims; indemnification; use and protection of information, data and Caliber Services; payment for the Caliber Services; audit; Caliber's use and ownership of Customer's search inquiry data; disclaimer of warranties; security; customer data and governing law shall survive any termination of the license to use the Caliber Services.
- 9) **EMPLOYEE TRAINING.** Customer shall train new employees prior to allowing access to Caliber Services on Customer's obligations under this Agreement, including, but not limited to, the licensing requirements and restrictions under Paragraph 1 and the security requirements of Paragraph 2. Customer shall conduct a similar review of its obligations under this Agreement with existing employees who have access to Caliber Services no less than annually. Customer shall keep records of such training.
- 10) **TAXES.** The charges for all Caliber Services are exclusive of any state, local, or otherwise applicable sales, use, or similar taxes. If any such taxes are applicable, they shall be charged to Customer's account.
- 11) **CUSTOMER CHANGES.** Customer shall notify Caliber immediately of any changes to the information on Customer's account for the Caliber Services.
- 12) **RELATIONSHIP OF PARTIES.** None of the parties shall, at any time, represent that it is the authorized agent or representative of the other.
- 13) **CHANGE IN AGREEMENT.** By receipt of the Caliber Services, Customer agrees to, and shall comply with, changes to the Restricted License granted Customer in Paragraph 1 herein, changes in pricing, and changes to other provisions of this Agreement as Caliber shall make from time to time by written notice to Customer. Caliber may, at any time, impose restrictions and/or prohibitions on the Customer's use of the Caliber Services or certain data. Customer understands that such restrictions or changes in access may be the result of a modification in Caliber policy, a modification of third-party agreements, a modification in industry standards, a Security Event or a change in law or regulation, or the interpretation thereof. Upon written notification by Caliber of such restrictions, Customer agrees to comply with such restrictions.
- 14) **PUBLICITY.** Customer will not name Caliber or refer to its use of the Caliber Services in any press releases, advertisements, promotional or marketing materials, or make any other third-party disclosures regarding Caliber or Customer's use of the Caliber Services.
- 15) **FORCE MAJEURE.** The parties will not incur any liability to each other or to any other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement (except for payment obligations) to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control, and without the negligence of, the parties. Such events, occurrences, or causes include, without limitation, acts of God, telecommunications outages, Internet outages, power outages, any irregularity in the announcing or posting of updated data files by the applicable agency, strikes, lockouts, riots, acts of war, floods, earthquakes, fires, and explosions.
- 16) **PRIVACY PRINCIPLES.** With respect to personally identifiable information regarding consumers, the parties further agree as follows: Caliber has adopted the "Caliber Data Privacy Principles" ("Principles"), which may be modified from time to time, recognizing the importance of appropriate privacy protections for consumer data, and Customer agrees that Customer (including its directors, officers, employees or agents) will comply with the Principles or Customer's own comparable privacy principles, policies, or practices. The Principles are available at: [http: \[RESELLER WEB PAGE or LN's page at http://www.lexisnexis.com/privacy/data-privacy-principles.aspx\]](http://www.lexisnexis.com/privacy/data-privacy-principles.aspx).
- 17) **ENTIRE AGREEMENT.** Except as otherwise provided herein, this Agreement constitutes the final written agreement and understanding of the parties and is intended as a complete and exclusive statement of the terms of the agreement, which shall supersede all other representations, agreements, and understandings, whether oral or written, which relate to the use of the Caliber Services and all matters within the scope of this Agreement. Without limiting the foregoing, the provisions related to confidentiality and exchange of information contained in this Agreement shall, with respect to the Caliber Services and all matters within the scope of this Agreement, supersede any separate non-disclosure agreement that is or may in the future be entered into by the parties hereto. Any new, other, or different terms supplied by the Customer beyond the terms contained herein, including those contained in purchase orders or confirmations issued by the Customer, are specifically and expressly rejected by

Caliber unless Caliber agrees to them in a signed writing specifically including those new, other, or different terms. The terms contained herein shall supersede and govern in the event of a conflict between these terms and any new, other, or different terms in any other writing. This Agreement can be executed in counterparts and faxed or electronic signatures will be deemed originals.

- 18) **MISCELLANEOUS.** If any provision of this Agreement or any exhibit shall be held by a court of competent jurisdiction to be contrary to law, invalid or otherwise unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and in any event the remaining provisions of this Agreement shall remain in full force and effect. The headings in this Agreement are inserted for reference and convenience only and shall not enter into the interpretation hereof.

Section VI – Applicant Signature

I HEREBY CERTIFY that I am authorized to execute this Application on behalf of the Agency listed above and that I have direct knowledge of the facts stated above.

Applicant Signature:	Date Signed:
Applicant Name:	Title: