

# **NORTH AMERICAN BACKGROUND SCREENING CONSORTIUM**

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## - NORTH AMERICAN BACKGROUND SCREENING CONSORTIUM

### 1 OBJECTIVE

The participating industrial facility Owners recognize the benefits of Contractor Employee background screening in identifying individuals who may pose a risk to Owner financial assets and the people working at Owner facilities through behavior that may cause serious safety incidents, workplace violence, domestic terrorist acts, and theft of materials, equipment or technology.

The target population for the Program includes Contractor Employees providing maintenance, construction and operational support services at petrochemical facilities such as chemical plants and refineries, energy production and utility facilities, and other industrial manufacturers. However, Owners shall define the target workforce at their facilities. This program does not address foreign workers.

A fair and objective standardized Contractor background screening process that includes identity verification, criminal background review and terrorist watch list screen will promote a safe and secure working environment for both Owner and Contractor personnel, and minimize incidents that may affect the surrounding community.

### 2 KEY BENEFITS

The Program will yield the following benefits:

- Establishes standardized background screen criteria; Contractor Employers do not have to comply with multiple Owner requirements
- Includes multiple professional background screening Consortium Third Party Administrators (Consortium TPAs) to perform the background checks, giving Contractor Employers a choice, providing competition and controlling costs
- Allows participating Owners flexibility to determine which contract companies will be included in the Program
- Graded security levels allows participating Owners flexibility to establish their own site access requirements
- Provides Owners and Contractor Employers with ready access to a Contractor Employee's background screen security status (**Active** or **Inactive**), for each participating Owner via the NABSC Program Lookup Application
- A Contractor Employee's background screen grade will be portable if they change employers or begin working at another Owner facility, reducing repetitious background screening and related costs
- Program can be easily audited to ensure compliance
- A decreased number of safety and security related incidents

### 3 PROGRAM CONTENT AND OWNERSHIP

The requirements of the North American Background Screening Consortium (herein after referred to as "the Program") are developed and controlled by volunteer Owner personnel and Owner User Council representatives on the North American Background Screening Consortium Steering Committee (herein after referred to as "the Consortium Steering Committee"). All affected participants in the Program must comply with applicable requirements of Fair Credit Reporting Act (FCRA) and other governing state and federal laws.

The Houston Area Safety Council (HASC) is the "Program Custodian". The Program Custodian is responsible for implementing the Program in accordance with the Program requirements and maintaining a Program Lookup Application to determine a Contractor Employee's background screen status (**Active** or **Inactive**). The Program Custodian shall not have access to any Contractor Employee's background screen grade or underlying background screen report details.

The Program may be modified at any time by the Consortium Steering Committee. Participating Owners, Contractor Employers and Consortium TPAs shall be notified of any modification before implementation.

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Alliances or associations with equivalent background screening programs and different industrial area Owner associations may be developed if approved by the Consortium Steering Committee.

### **4 OVERVIEW OF THE BACKGROUND SCREENING CONSORTIUM PROCESS**

An overview of the information flow and significant elements of the Program is provided in Appendix E "Overview of Background Screening Consortium Process".

### **5 PROGRAM APPLICATION**

Industrial facility Owners will voluntarily decide if their site(s) will participate in the Program. Owners that choose to participate in the Program accept the validity of the background screens developed under the Program.

Participating Owners will determine which contract companies (including subcontractors) will be included in the Program, and establish their own site background screening security requirements (maximum background screen grade). Participating Owners will communicate their decision to participate in the Program to affected Contractor Employers.

Contractor Employers shall select one or more of the participating Consortium TPAs approved by the Program Custodian and the Consortium Steering Committee to conduct background screens. A list of approved Consortium TPAs is available at [www.nabsc.com](http://www.nabsc.com). Contractor Employers will be required to enter into a User Agreement with the selected Consortium TPA(s).

Contractor Employers shall authorize one or more of their employees or agents to interface with the selected Consortium TPA(s) on their behalf to obtain background screen consent forms from Contractor Employees, schedule background screens, assist in the Pre-Adverse and Adverse Action process, and monitor Contractor Employee background screen expiration dates.

Each Consortium TPA must maintain a minimum of \$3 million of "Errors and Omissions Insurance". Each Consortium TPA shall determine their own pricing structure that includes all costs associated with performing background screens under the Program.

It is the responsibility of the Contractor Employer to ensure that a background screen is performed on all Contractor Employees considered for assignment to participating Owner facilities. A Contractor Employer must not assign a Contractor Employee to an Owner's facility if the individual has an **Inactive** status for that Owner's site.

The Contractor Employer and its selected Consortium TPA(s) have full responsibility for compliance with all applicable legal requirements regarding privacy rights related to obtaining background screens under the Program and must comply with all legal requirements that may apply in the jurisdictions in which the Owner facilities are located, the background checks are performed and the residence of the applicant. To the extent there is any conflict between the requirements described in the Program and applicable laws and regulations, the latter controls.

The Contractor Employer has full responsibility for compliance with all legal requirements regarding authorization to work, visas, work permits or any related documentation in all jurisdictions in which Contractor Employees are assigned to work.

Owners shall not direct or in any manner be involved in hiring decisions Contractor Employers may make regarding a screened Contractor Employee. The background screen status (**Active** or **Inactive**) shall only be used by the Owner to determine a Contractor Employee's eligibility for access to the Owner's site. All hiring and assignment decisions are the sole responsibility of the Contractor Employer. If a Contractor Employer uses background screen information from the Program to determine an individual's employment

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eligibility, the Contractor Employer must follow all applicable FCRA and state requirements, including notifying the TPA of this change prior to the background screen being done.

Contractor Employers shall hold the Owners harmless regarding any litigation that might arise from any hiring or assignment decision made by the Contractor Employer regarding a background screening report.

If legal requirements and customary practices in non-United States jurisdictions limit the implementation of the Program by a Contractor Employer, the Contractor Employer shall work with the affected Owner to identify reasonable alternatives to accomplish the intent of the Program. Any alternative methods agreed to by an Owner and Contractor Employer are not a part of the Program unless approved by the Consortium Steering Committee and incorporated into the Program.

**6 CONSENT FOR BACKGROUND CHECKS AND RELEASE OF INFORMATION**

Contractor Employees must consent, in writing, to allow a background screen to be performed under the Program by a Consortium TPA and allow the release of the information. At a minimum, each consent shall include the information included in Appendix B "Sample Background Screen Consent Form".

**7 BACKGROUND SCREEN REPORTS AND GRADES**

Background screens shall be administered by Consortium TPAs participating in the Program. If a Consortium TPA utilizes the services of background screen investigation firms, subcontractors or other third parties to perform background screens for the Program, the Consortium TPA must verify their qualification and periodically audit their compliance with the Program requirements. The Consortium TPA must also provide the third parties with training on the Program requirements and the Consortium TPA's business practices.

Prior to performing background screens under the Program, the Consortium TPA must verify that the Contractor Employer requesting background screens has a permissible purpose under the FCRA for obtaining the information. Consortium TPAs must obtain appropriate written consent from the Contractor Employee before the background screen is performed.

Background screens shall be performed using the best available commercial and national/state resources, databases and methods, and the grading criteria identified in Appendix C, "Background Screening Search and Grading Criteria". The list of relevant criminal convictions in Appendix C was specifically designed to identify those persons with the potential to endanger people and assets.

Each background screen completed under the Program shall result in the assignment of a background screen grade for the Contractor Employee as documented in Appendix C. . If a Contractor Employee refuses a background screen under the Program, no background screen will be performed and no grade will be established.

Each Consortium TPA is responsible for the delivery of accurate background screen reports performed under the Program and the resulting background screen grade, to the extent the information obtained from the resources identified in Appendix C is correct. Consortium TPAs shall hold participating Owner Companies and Safety Councils harmless from any and all litigation arising from the contents of background screening reports the Consortium TPAs prepare and issue.

Access to background screen information will be limited as follows:

|  |                                  |                         |   |
|--|----------------------------------|-------------------------|---|
|  | Background Screen Report Details | Background Screen Grade | Background Screen Status (Active or Inactive) for an Owner's Site |
|--|----------------------------------|-------------------------|---|

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|  |            |            |            |
|--|------------|------------|------------|
| Contractor Employer who Ordered the Background Screen<br><br>(Contractor Employer is Participating in Program) | <b>Yes</b> | <b>Yes</b> | <b>Yes</b> |
| Contractor Employers <u>not</u> Participating in the Program   | No *       | No         | No         |
| Subject Contractor Employee  | <b>Yes</b> | <b>Yes</b> | No         |
| Owners Participating in the Program  | No *       | No         | <b>Yes</b> |
| Owners <u>not</u> Participating in the Program   | No *       | No         | No         |
| Reciprocal Safety Councils Participating in the Program  | No         | No         | <b>Yes</b> |
| Safety Councils <u>not</u> Participating in the Program  | No         | No         | No         |
| Program Custodian  | No         | No         | <b>Yes</b> |

\* May be allowed access to background screen report details only with written authorization by the subject Contractor Employee

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Background screens completed on Contractor Employees outside of the Program can be included in the Program only if all of the following conditions are met:

- Previous background screen was completed by a Consortium TPA currently participating in the Program;
- The Consortium TPA has appropriate consent from the Contractor Employee to release the information
- Previous background screen includes all criteria identified in Appendix C;
- Previous background screen is less than two (2) calendar years old; and
- The Consortium TPA converts previous background screen results into a background screen grade per criteria in Appendix C.

Contractor Employers have an ongoing duty to advise Contractor Employees to immediately inform the Contractor Employer of any conviction record or other “hits” (as identified in the first paragraph of Appendix "C") arising after the establishment of the Contractor Employee's background screen grade in the Program. If the Contractor Employer becomes aware of any conviction, and the conviction would result in a background screen grade that is excluded by the Owner where the Contractor Employee is currently working, it must inform any affected Owners in writing, order a new background screen on the Contractor Employee and take appropriate actions based on the new background screen grade. A participating Owner may restrict the Contractor Employee's access to it's facility while the new background screen is being performed, unless the Owner agrees to continuation of the assignment pending results of the new background screen.

If a conviction has been removed from a Contractor Employee's record after a background screen has been completed under the Program, or if a conviction is no longer within the relevant time frames established in Appendix C, the Contractor Employee may request his/her Contractor Employer to have a Consortium TPA perform a new background screen to update his/her background screen grade in the Program. The decision to order a new background screen is at the discretion of the Contractor Employer.

### 8 ELIGIBILITY FOR ACCESS TO OWNER FACILITIES

Each participating Owner shall determine their background screen security level for the Program. The background screen security level selected by an Owner shall designate the maximum background screen grade that will be allowed for a Contractor Employee to be eligible for access to the Owner's site. This information will be used by the NABSC Program Lookup Application.

When a participating Owner, Contractor Employer or reciprocal Safety Council uses the NABSC Program Lookup Application to determine if a Contractor Employee meets an Owner's background screen security requirements, the Program Lookup Application will compare the Owner's requirements to the background screen grade provided by the Consortium TPA and classify the Contractor Employee with either an **Active** or **Inactive** status for that Owner's site.

- Any Contractor Employee who does not have a current background screen grade in the Program or has a background screen grade that has expired will be classified as **Inactive** for all participating Owner sites;
- Any Contractor Employee who does not meet a particular Owner's background screen security requirements will be classified as **Inactive** for that Owner's site;
- Any Contractor Employee who meets a particular Owner's background screen security requirements will be classified as **Active** for that Owner's site.

Owners may deny access to their property to any Contractor Employee whose background screen grade does not meet the Owner's background screen security requirements (**Inactive** status) and to Contractor Employees who refuse to comply with the requirements of the Program. A Contractor Employee with a background screen grade that meets a participating Owner's background screen security requirements (**Active** status) is eligible for access to a participating Owner's property. However, any Owner reserves the right to allow or deny access without regard to background screening eligibility.

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For example, if an Owner selects a background screen grade of "03" (Lesser Felonies) as its maximum background screen grade, then Contractor Employees with background screen grades of "04" through "07" WOULD NOT meet that Owner's background screen security requirements and therefore would have an **Inactive** status for that Owner's site. Conversely, Contractor Employees with background screen grades of "00" through "03" WOULD meet that Owner's background screen security requirements and would have an **Active** status for that Owner's site. (This example is for illustration purposes only and is not intended to reflect any Owner's actual requirements.)

It is the Contractor Employer's responsibility to not assign a Contractor Employee with a background screen grade above an Owner's background screen security level to work at the Owner's site. Participating Contractor Employers shall not knowingly use the services of any individual on Owner's premises who does not meet the Owner's site background screen security requirements without written approval from the Owner (see Section 9 "Waivers and Exemptions").

If a Contractor Employee who does not meet an Owner's background screen security requirements arrives at that Owner's site, the Owner will inform the Contractor Employee to contact his/her Contractor Employer for an explanation.

### **9 WAIVERS AND EXEMPTIONS**

If business needs warrant, a Contractor Employer may petition an Owner for a waiver or exemption for a Contractor Employee who is not active in the Program or did not receive a background screen grade that meets the Owner's security requirements. The Owner may, at its sole discretion, grant waivers or exemptions to Contractor Employers and/or all or part of its Contractor Employees from the requirements of the Program.

Each Owner shall maintain its own background screen waiver or exemption criteria and process. If the Owner's waiver or exemption process requires the Owner to have access to the Contractor Employee's background screen report, the Consortium TPA must obtain appropriate release/disclosure from the Contractor Employee.

Waivers or exemptions shall be executed at the discretion of the Owner on a case by case basis and will have no impact on the background screen grade developed by the Consortium TPA. The Consortium TPA shall not alter or amend a background screen report or resulting background screen grade developed under the Program based on a waiver or exemption provided by any Owner.

Contractor Employers shall not construe an exemption or waiver as a promise of any future exemptions or waivers. An Owner may revoke any waiver or exemption granted to a Contractor Employer and/or its Contractor Employees at any time.

### **10 CONFIDENTIALITY**

Consortium TPAs shall maintain the confidentiality of all Contractor Employee background screen results, except as authorized by a Contractor Employee's consent, or as required by law. No background screen report details or grade shall be sent to participating Owners, the Program Custodian or participating reciprocal Safety Councils. The Contractor Employee's background screen report and grade shall not be available for public viewing.

### **11 TRAINING**

Each participating Contractor Employer shall advise all Contractor Employees, in writing, of their rights and responsibilities under the Program.

Contractor Employer Representatives (CER's) authorized by the Contractor Employer must receive training from the selected Consortium TPA on the Program requirements and the Consortium TPA's business practices prior to administering any background screens.

## 12 PROGRAM AUDIT

Consortium TPAs must maintain all records related to background screen performed under the Program as long as they are participating in the Program. Contractor Employers must follow applicable state laws regarding retention of records.

Upon request of the Program Custodian, Consortium TPAs shall be required to provide statistical data related to background screens for the purpose of determining the effectiveness of the Program. No personal identifier information of any Contractor Employee may be included.

The Consortium TPAs participating in the Program shall be audited, at their own expense, by an independent third party selected by the Program Custodian, with input from the Consortium Steering Committee, to assure compliance and Program effectiveness. Auditing of Consortium TPAs will be random, not to exceed three years between audits. Any Consortium TPA may be audited by the Program Custodian at any time. The scope of the audit shall be determined by the Program Custodian with input from the Consortium Steering Committee.

The Program Custodian shall ensure appropriate corrective actions are taken in a timely manner on any deficiencies discovered in an audit.

Any Owner participating in the Program may audit a Contractor Employer's records at any time.

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### APPENDIX A

#### DEFINITIONS OF KEY TERMS

**NORTH AMERICAN BACKGROUND SCREENING CONSORTIUM** -- a program established by participating Owners and Owner User Groups and used by participating Owners, Contractor Employers, and Contractor Employees to protect the Owners assets and the people working at the Owner's facilities (herein after referred to as the Program).

**OWNER** -- owner of an industrial facility who utilizes the services of Contractors and chooses to participate in the Program and accepts the Program screen as a valid background screen.

**CONTRACTOR EMPLOYER** -- a Contractor company that assigns Contractor Employees to work at participating Owner facilities.

**CONTRACTOR EMPLOYEE** -- an employee of a participating Contractor Employer who has consented to allow the backgrounds screens provided by the Program as a condition of access to participating Owner facilities.

**CONSORTIUM STEERING COMMITTEE** -- a working committee of volunteers made up of Owner personnel and Owner User Council representatives. The committee is responsible for the Program content and working to continuously improve the Program.

**PROGRAM CUSTODIAN** -- The Houston Area Safety Council (HASC) is the Program Custodian and is responsible for implementing the Program in accordance with the Program requirements, approving Consortium Third Party Administrators (TPAs), maintaining a Program Lookup Application, and auditing the Program to assure compliance and effectiveness.

**PRE-ADVERSE ACTION** -- preliminary notice given to an applicant indicating information contained in his/her background screening report, if accurate, may restrict their eligibility for access to some participating Owner facilities or may cause employment to be denied.

**ADVERSE ACTION** -- final notice, after issuance of Pre-Adverse Action letter, given to applicant notifying them that their eligibility for access to some participating Owner facilities may be restricted, or they are no longer being considered for employment for the position in question.

**CONSORTIUM THIRD PARTY ADMINISTRATOR (Consortium TPA)** -- a company authorized by the Program Custodian that is responsible for conducting (or utilizing qualified background screen investigation firms, subcontractors or other third parties to conduct) background screens and report the results per the criteria set forth by the Program, managing the Pre-Adverse Action process to ensure the integrity of the background screen grade, making background screen grades available to the NABSC Program Lookup Application, and managing the Adverse Action process. A list of approved Consortium TPAs is available at [www.nabsc.com](http://www.nabsc.com).

**CONTRACTOR EMPLOYER REPRESENTATIVE (CER)** -- Contractor Employee(s) authorized by the Contractor Employer to interface with a Consortium TPA on the Contractor Employer's behalf to obtain background screen consent forms from Contractor Employees, schedule background screens, assist in the Pre-Adverse and Adverse Action process, and monitor Contractor Employee background screen expiration dates.

**BACKGROUND SCREEN INVESTIGATORS** - a firm, subcontractor or other third party qualified and authorized by a Consortium Third Party Administrator to conduct background screens per the criteria set forth by the Program.

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### APPENDIX B

### SAMPLE BACKGROUND SCREEN CONSENT FORM

#### NOTICE AND ACKNOWLEDGMENT

[IMPORTANT -- PLEASE READ CAREFULLY BEFORE SIGNING ACKNOWLEDGMENT]

#### NOTICE REGARDING BACKGROUND INVESTIGATION

**[Contractor employer]**, your employer, may obtain information about you from a consumer reporting agency for employment or other permissible purposes. Thus, you may be the subject of a “consumer report” and/or an “investigative consumer report” which may include information about your character, general reputation, personal characteristics, and/or mode of living, and which can involve personal interviews with sources such as your neighbors, friends, or associates. These reports may include employment history and reference checks, motor vehicle history (“driving records”), sex offender status, Social Security Verification/Trace, national criminal database searches, and Terrorist Watch list information. These reports may be obtained at any time after receipt of your authorization and, if you are hired, throughout your employment.

These reports will be reported to **[Contractor employer]**. Information in these reports may result in restricting your access to some Owner's facilities who are participating in the North American Background Screening Consortium (NABSC). **For more information on the NABSC Program, refer to the NABSC program description.**

The information in the consumer report will be used to generate a background screen grade.. Each Owner participating in the NABSC will provide the NABSC Program Custodian with the maximum background screen grade that will be allowed for Contractor Employees to be eligible for access to that Owner's site. The NABSC Program Lookup Application will compare the Owner's requirements to the background screen grade provided by **[Consortium TPA]** to classify you with either an **Active** or **Inactive** status for that Owner's site.

- If you do not meet a particular Owner's background screen security requirements, you will be classified as **Inactive** for that Owner' site;
- If you meet a particular Owner's background screen security requirements, you will be classified as **Active** for that Owner's site.

If you have an **Active** status for an Owner's site, you will be eligible for access to that Owner's property. However, any Owner reserves the right to allow or deny access without regard to background screening eligibility.

You have the right, upon written request made within a reasonable time after receipt of this notice, to request disclosure of the nature and scope of any investigative consumer report. Please be advised that the nature and scope of the most common form of investigative consumer report obtained with regard to applicants or employees is an investigation into your employment history conducted by **[Consortium TPA name, address, and telephone number – including toll-free number]** or another outside organization. The scope of this notice and authorization is all-encompassing, however, allowing **[Name of Contractor Employer]** to obtain from any outside organization all manner of consumer reports and investigative consumer reports now and, throughout the course of your employment with **[Name of Contractor Employer]** to the extent permitted by law.. As a result, you should carefully consider whether to exercise your right to request disclosure of the nature and scope of any investigative consumer report.

Owners, Contractor Employers and reciprocal Safety Councils participating in the NABSC Program will have access to the NABSC Program Lookup Application to verify your background screen security status (**Active** or **Inactive**) for a particular Owner's site. **Participating Owners and reciprocal Safety Councils will not have access to the details of the background report without additional authorization by you.**

#### ACKNOWLEDGMENT AND AUTHORIZATION

I acknowledge receipt of the NOTICE REGARDING BACKGROUND INVESTIGATION and A SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT and certify that I have read and understand both of those documents. I hereby authorize the obtaining of “consumer reports” and/or “investigative consumer reports” at any time after receipt of this authorization and, for a period of two years from the

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completion of the background screen. I further authorize and direct **[Consortium TPA]** to make available my subsequent background screen grade to the NABSC Program Lookup Application for the purpose of determining my eligibility for access to Owner's facilities. To these ends, I hereby authorize, without reservation, any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, insurance company, or any other source to furnish any and all background information requested by **[Consortium TPA]**, another outside organization acting on behalf of **[Consortium TPA]**, the NABSC Program Custodian, and/or **[Name of Contractor]** itself. I agree that a facsimile ("fax"), electronic or photographic copy of this Authorization shall be as valid as the original.

Print Name:

Current Address:

Street:

City:

State:

Zip Code:

:

Drivers License State:

License Number:

***The following is for identification purposes only to perform the background check and will not be used for any other purpose:***

Social Security Number:

Date of Birth (MM/DD/YYYY):

Other Names Known by or Former Names:

List all States and Counties you have resided in during the past seven (7) years:

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

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

The Consortium TPA will include:

- "A Summary of Your Rights Under the Fair Credit Reporting Act"
- Any state specific consent requirements

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### APPENDIX C

#### **BACKGROUND SCREENING SEARCH AND GRADING CRITERIA**

The background screen for Contractor Employees shall include a criminal record check of federal, state and county/parish (or equivalent) records, as allowed by law, for both misdemeanors and felonies where the disposition is a:

- Conviction
- Pending or adjudication withheld
- Deferred adjudication
- No contest plea or any other disposition (such as probation) where an individual must complete some criteria before a final disposition is determined
- Open warrant

The background screen shall take place in all jurisdictions in which the individual has lived and worked during the previous seven (7) years based upon the disposition date and additionally, any jurisdictions found while searching national, state and other sources that are required to be used.

Background screens shall be performed using the best available commercial and national/state resources, databases and methods. The Consortium TPA must perform due diligence to verify the Contractor Employee's identity (using available key identifiers such as name, SSN, date of birth, , etc.) associated with any criminal history discovered during the background screening process before reporting a background screen grade for the Program.

Each background screen search shall consist of the following:

#### **1. COLLECTION OF INFORMATION FROM CONTRACTOR EMPLOYEES REGARDING PLACES OF RESIDENCE AND EMPLOYMENT**

The Consortium TPA shall obtain employment data for the previous seven (7) years from the Contractor Employee's background screen application. The Consortium TPA shall verify relevant places of residence for the previous seven (7) years from the application, and the Social Security Number Trace and Motor Vehicle History – all three must be used in conjunction to determine past resident history. In the case of military personnel who have served overseas, the military person's U.S. permanent duty station(s) shall be used.

An Owner has the option to designate that certain Contractor Employers will need to adhere to more stringent background check requirements when performing "Security Sensitive Services". For those designated Contractor Employers, the following shall apply: The Consortium TPA shall verify and identify both relevant places of residence and employment for the previous seven (7) years from the Contractor Employee's background screen application, and the Social Security Number Trace and Motor Vehicle History (if available) – all three must be used in conjunction to determine past employment and resident history. In the case of military personnel who have served overseas, the military person's U.S. permanent duty station(s) shall be used.

#### **2. SOCIAL SECURITY NUMBER (SSN) TRACE**

Prior to initiating any criminal background check, a Social Security Number (SSN) trace shall be made by the Consortium TPA to confirm the Contractor Employee's identity (using available key identifiers such as legal name, maiden name, AKA name and SSN) and to determine relevant places of residence for the previous seven (7) years.

The SSN trace report is derived from credit bureau records. The sources include, but are not limited to, applications for utilities, credit checks for loans and credit cards, and qualification for rental agreements. Each Consortium TPA shall include within its search the above listed data along with capabilities to search AKA/Maiden Names, alerts for fraudulent patterns relating to the SSN, and verify the SSN is valid in accordance with time and state of issuance.

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If the SSN cannot be verified, the Consortium TPA shall notify the Contractor Employer who ordered the background screen to assist in resolving the issue. If the SSN still cannot be verified, the background screening process stops and no background screen grade shall be reported.

### 3. DEPARTMENT OF MOTOR VEHICLE RECORDS/STATE IDENTIFICATION SEARCH

If a valid SSN verification is made, then a check of the State Department of Motor Vehicle Records (DMV) shall be made to check for a valid state identification and to examine the Contractor Employee's driving record. If available, the driving record is used to corroborate address information, and obtain certain criminal convictions. If the Consortium TPA is unable to verify state identification, a Pre-Adverse Action Letter shall be issued to the Contractor Employee and Contractor Employer. The background screening process stops until resolution of the state identification issue. If the state identification issue is not resolved, the Consortium TPA shall notify the Contractor Employer and no background screen grade shall be reported.

### 4. SEVEN (7) YEAR CRIMINAL HISTORY SEARCH (COUNTY or PARISH LEVEL / STATE LEVEL / FEDERAL DISTRICT LEVEL)

The Consortium TPA shall complete a seven (7) year Criminal History Search in all counties, states (if available), and federal jurisdictions derived from the resident history and any employment jurisdiction given by the Contractor Employee as allowable by law. The Consortium TPA shall utilize field investigators, and/or the most up-to-date data source available to provide a complete background screen that is current in accordance with the FCRA and state law.

### 5. NATIONAL CRIMINAL DATABASE SEARCH

The National Criminal Database Search is a supplemental search to capture possible records that may exist within current states of residence, or records that are existent in jurisdictions outside current states of residence. Records should derive from not only county and state repositories, but shall also include a search of records readily available from each state's:

- Administration Office of the Courts
- Department of Corrections
- Prison Release Data (State and Federal)
- Office of Parole Boards
- Sex Offender Registries

### 6. PATRIOT ACT / TERRORIST WATCH LIST SEARCH

This search covers information from numerous publicly available federal agencies. These agencies compile the names of persons who are wanted by federal law enforcement, barred from the United States, illegal immigrants, specially designated nationals, terrorists, narcotics traffickers, blocked persons, etc. by checking the following sources:

- Denied Persons List
- Fugitive List
- Office of Foreign Assets Control (OFAC)
- Terrorist Watch List

## RELEVANCE OF CRIMINAL CONVICTIONS

All criminal convictions discovered during the background screening process that occurred within the previous seven (7) years, based upon the disposition date, shall be considered relevant for the Consortium TPA to develop and report the background screen grade under the Program, unless prohibited by law.

In addition, any criminal convictions related to a prison release date within the last seven (7) years shall be considered relevant for developing and reporting the background screen grade, as allowed by law, **without regard to the criminal conviction disposition date**. For example, if a criminal conviction with a disposition date over seven (7) years ago resulted in a prison sentence, the conviction would still be relevant for

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developing a background screen grade under the Program if the prison release date was within the last seven (7) years.

### EXAMPLES:

Scenario 1 - Individual has completed a prison sentence WITHIN last 7 years for a conviction with a disposition date WITHIN last 7 years.

Scenario 2 - Individual has completed a prison sentence WITHIN last 7 years for a conviction with a disposition date OVER 7 years ago.

Scenario 3 - Individual completed a prison sentence OVER 7 years ago.

**Scenarios 1 and 2 WILL be considered relevant for developing a background screen grade for NABSC. Scenario 3 WILL NOT be relevant for developing a background screen grade for NABSC.**

Scenario 4 - Individual is CURRENTLY on probation for a crime committed/conviction WITHIN last 7 years.

Scenario 5 - Individual is CURRENTLY on probation for a crime committed/conviction OVER 7 years ago.

Scenario 6 - Individual has COMPLETED probation WITHIN last 7 years for a crime committed/conviction WITHIN last 7 years.

Scenario 7 - Individual has COMPLETED probation WITHIN last 7 years for a crime committed/conviction OVER 7 years ago.

Scenario 8 - Individual has COMPLETED probation OVER 7 years ago.

**Scenarios 4-7 WILL be considered relevant for developing a background screen grade for NABSC. Scenario 8 WILL NOT be relevant for developing a background screen grade for NABSC.**

### BACKGROUND SCREEN GRADE DESIGNATION

For each background screen completed under the Program, the Consortium TPA shall identify the type(s) of convictions or other "hits" (as identified in the first paragraph of Appendix "C") found during the relevant time frame and designate a background screen grade related to these "hits". The background screen grade shall indicate that conviction(s) or "hit(s)" **were not found (grade 00)** or **were found (grades 01 through 07)** as defined below.

A background screen may find "hits" in more than one conviction type. The highest background screen grade defined shall be the designated grade. For example, if a **lesser felony (03) and a higher felony (05)** were both found, the grade would be **05**. In another case, if a **violent misdemeanor (02) and a higher felony (05)** were both found, the grade for the screen would be **06** because that is the grade if both of these conviction types are found in the same background screen.

. **Initial background screen grades of 01 through 07 shall be considered "provisional". See "Pre-Adverse and Adverse Action Communications and Provisional Background Screen Grades" paragraph below.**

### Background Screen Grade Definitions

|    |   |
|----|---|
| 00 | Clear Record, nothing found.  |
| 01 | One or more " <b>non-violent misdemeanors</b> " were found. This includes any misdemeanor not shown on the list of violent misdemeanors (02) below. |
| 02 | One or more " <b>violent misdemeanors</b> " were found. These misdemeanors are any conviction type shown on the list below.                         |
| 03 | One or more " <b>lesser felonies</b> " were found. This includes any felony not shown on the list of higher felonies (05) below.                    |
| 04 | One or more " <b>violent misdemeanors</b> " and one or more " <b>lesser felonies</b> " were found.  |

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|           |   |
|-----------|---|
| <b>05</b> | One or more “ <b>higher felonies</b> ” were found. These felonies are any conviction type shown on the list below.  |
| <b>06</b> | One or more “ <b>higher felonies</b> ” and one or more “ <b>violent misdemeanors</b> ” were found.  |
| <b>07</b> | The person was found to be on the current <b>Patriot Act List</b> (specially designated nationals, terrorists, narcotics traffickers, blocked persons, etc.). |

**Violent Misdemeanor Crimes (02)**

The following list *represents a selected list of misdemeanor conviction types* to be used for the purposes of assigning a numeric “graded” value.

|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Assault</li> <li>• Battery</li> <li>• Bodily Injury</li> <li>• Cruelty to a Juvenile</li> <li>• Deadly Conduct</li> <li>• Disorderly Conduct</li> <li>• Disorderly Person</li> <li>• Escape</li> </ul> | <ul style="list-style-type: none"> <li>• Harassment</li> <li>• Resisting arrest</li> <li>• Resisting Public Officer</li> <li>• Robbery</li> <li>• Terrorist Threats</li> <li>• Throwing a deadly missile</li> <li>• Violation of restraining order</li> <li>• Weapon</li> </ul> |
|---|---|

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**Higher Felony Crimes (05)**

The following list **represents a selected list of felony conviction types** to be used for the purposes of assigning a numeric “graded” value.

|  |  |
|--|--|
| <ul style="list-style-type: none"> <li>• Transportation security incident (i.e. Security incident involving a significant loss of life, environmental damage, transportation system disruption, or economic disruption)</li> <li>• Aiding others in terrorism</li> <li>• Aircraft piracy outside the special aircraft jurisdiction of the United States, 49 U.S.C. 46502*</li> <li>• Arson</li> <li>• Assault (including aggravated and or sexual)</li> <li>• Battery</li> <li>• Bribery</li> <li>• Burglary (breaking and entering)</li> <li>• Carjacking</li> <li>• Carrying a weapon or explosive aboard aircraft, 49 U.S.C. 46505*</li> <li>• Commission of certain crimes aboard aircraft in flight, 49 U.S.C. 46506*</li> <li>• Computer crimes (hacking, fraud, damage to property)</li> <li>• Conveying false information and threats, 49 U.S.C. 46507*</li> <li>• Credit card fraud</li> <li>• Criminal anarchy</li> <li>• Denied or removed under the Immigration And Nationality Act (8 U.S.C. 1182 Et Seq)*</li> <li>• Kidnapping</li> <li>• Lighting violations involving transporting controlled substances, 49 U.S.C. 46315*</li> <li>• Misprision of treason</li> <li>• Monetary instrument abuse</li> <li>• Perjury and false swearing</li> <li>• Purse snatching</li> <li>• Racketeering and RICO violations</li> <li>• Rape</li> <li>• Robbery</li> <li>• Sedition</li> <li>• Sex crimes</li> <li>• Smuggling</li> <li>• Tax evasion</li> </ul> | <ul style="list-style-type: none"> <li>• Destruction of an aircraft or aircraft facility, 18 U.S.C. 32*</li> <li>• Drug offenses</li> <li>• Embezzlement</li> <li>• Espionage</li> <li>• Explosive offenses (devices, fake explosive devices, incendiary devices, dangerous articles, importation, manufacture, distribution, storage)</li> <li>• Extortion</li> <li>• False imprisonment - armed or hostage taking</li> <li>• False personating (peace officer, public official)</li> <li>• Forgery and counterfeiting</li> <li>• Fraud (including dishonesty and misrepresentation)</li> <li>• Homicide / murder / manslaughter / including solicitation to murder (excluding negligent manslaughter)</li> <li>• Identity theft</li> <li>• Immigration violations</li> <li>• Improper transportation of a hazardous material, 49 U.S.C. 46312*</li> <li>• Interference with air navigation, 49 U.S.C. 46308*</li> <li>• Interference with flight crew members or flight attendants, 49 U.S.C. 46504*</li> <li>• Terrorism</li> <li>• Theft-larceny (including felony shoplifting)</li> <li>• Treason</li> <li>• Unlawful entry into an aircraft or airport area that serves air carriers or foreign air carriers contrary to established security requirements, 49 U.S.C. 46314*</li> <li>• Weapons (any offense-carrying a concealed weapon, weapon on premises, illegal use, manufacture, store, sell, distribute, discharge, etc.)</li> <li>• Traffic offenses i.e., traffic homicide, hit and run (excluding DWI/DUI convictions)</li> </ul> |
|--|--|

\*United States Code is offered as a reference to the nature of the crime. Similar state laws are also considered disqualifying.

**PRE-ADVERSE AND ADVERSE ACTION COMMUNICATIONS AND PROVISIONAL BACKGROUND SCREEN GRADES**

Any initial background screen grade between “01” and “07” (any grade other than “00”) shall initially be identified as a “provisional” grade. (The provisional grade is considered a valid background screen grade in the Program and can be used by the Contractor Employer for placement of Contractor Employees at participating Owner sites that accept the assigned background screen grade. Completion of the Pre-Adverse Action process may result in a final background screen grade that is lower than the provisional background screen grade.)

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When a provisional background screen grade is identified, the Consortium TPA shall issue a Pre-Adverse Action Letter to the Contractor Employee and Contractor Employer who ordered the background screen, along with a copy of the background screen report and grade, and a copy of the Consumer Notification Rights, informing the individual of their right to dispute the background screen report and notifying the individual that the provisional background screen grade may restrict their eligibility for access to some participating Owner facilities.

If the Contractor Employee does not dispute the results of the background screen search within five (5) business days after receipt of the results, the Consortium TPA shall remove the provisional status from the background screen grade. This grade shall be considered the final background screen grade.

If the Contractor Employee finds a discrepancy in the initial background screen report, he/she shall inform the Consortium TPA for dispute resolution. Disputes of criminal history findings shall be reinvestigated by the Consortium TPA according to all applicable laws. Resolution of disputes must be completed within thirty (30) calendar days. After this time, the Consortium TPA shall remove the provisional status from the background screen grade. This grade shall be considered the final background screen grade.

The Consortium TPA shall investigate and modify the provisional background screen report and grade if new information is discovered that warrants the change. If the initial background screen grade was accurate, the Consortium TPA shall remove the provisional status from the background screen grade. If the final background screen grade is different than the initial provisional background screen grade, the Consortium TPA shall revise the initial provisional background screen grade. If modified, the Consortium TPA shall also send a copy of the background screen report and resulting grade to the Contractor Employee and the Contractor Employer who ordered the background screen along with another Pre-Adverse Action letter.

If the final background screen grade is between "01" and "07" (any grade other than "00"), the Consortium TPA shall issue an Adverse Action Letter to the Contractor Employee indicating the background screen grade may restrict their eligibility for access to some participating Owner facilities.

All Pre-Adverse and Adverse Actions and any communications with the Contractor Employee are the responsibility of the Contractor Employer and their chosen Consortium TPA. The Contractor Employer and their chosen Consortium TPA shall further assume full responsibility for complying with all local, state and federal laws related to Pre-Adverse and Adverse Action requirements on behalf of itself and any obligations participating Owner facilities may have.

The Contractor Employer and their chosen Consortium TPA shall indemnify and hold participating Owners harmless from any and all claims, losses, damages and any costs (including attorneys fees) that may be related to or arise from any adverse action requirements.

### **BACKGROUND SCREEN FREQUENCY**

All background screen grades assigned under the Program shall be considered valid and current for a period of two (2) years in the Program. A new background screen must be ordered by the current Contractor Employer prior to the expiration of the background screen.

**- NORTH AMERICAN BACKGROUND SCREENING CONSORTIUM**

**APPENDIX D**

**SAMPLE PRE-ADVERSE AND ADVERSE ACTION LETTERS**

**Sample Pre-Adverse Action Letter**

Date

Dear \_\_\_\_\_:

Based on your prior consent, a background screen was conducted on you by a consumer reporting agency for the purpose of determining your eligibility for access to Owner facilities participating in the North American Background Screening Consortium (NABSC).

Information contained in the background screen report, a copy which is being given to you, from **[Consortium TPA, address and toll-free phone number]** (a consumer reporting agency), may restrict you being assigned to some Owner's facilities. **[Consortium TPA]** has not made this decision and is not able to explain why the decision was made.

**[Consortium TPA]** is enclosing a copy of the report and a copy of your rights under the federal Fair Credit Reporting Act. You have the right to obtain a free copy of your file from **[Consortium TPA]** if you request the report within 60 days. **You also have the right to dispute with the [Consortium TPA] the accuracy or completeness of any information in the report.**

**If you believe the information listed above is not accurate, please contact [insert name, telephone number of contact] within five business days of receipt of this letter.**

Sincerely,

**[Consortium TPA Representative's Name]**  
**[Consortium TPA Representative's Title]**

Encl: FTC Summary of Rights

**Sample Final Notice of Adverse Action Letter**

**- NORTH AMERICAN BACKGROUND SCREENING CONSORTIUM**

Date \_\_\_\_\_

Dear \_\_\_\_\_:

Please be advised that at this time your North American Background Screening Consortium (NABSC) background screen grade may restrict your eligibility for access to some Owner's facility participating in the NABSC).

This decision was based in whole or in part on information contained in a report from **[Consortium TPA, address and toll-free phone number]** (a consumer reporting agency), a copy of which was previously given to you. The agency did not make this decision and is unable to supply you with specific reasons why the decision was made.

You have the right to obtain a free copy of your file from the consumer-reporting agency if you make a request with the agency within 60 days. Enclosed with our letter to you dated **[Date of Pre-Adverse Notice]**, you were provided with a copy of the background screen report from **[Consortium TPA]**. You also have the right to obtain from the consumer reporting agency, free of cost, an additional copy of the report.

You also must be provided with a copy of the Federal Trade Commission's summary of Consumer Rights, which is attached to this letter. The summary was also included with our letter to you dated **[Date of Pre-Adverse Notice]**. For New Jersey, Washington, and Massachusetts consumers, enclosed is a state summary of your rights [Note: include this sentence as appropriate].

You have the right to dispute directly with the consumer reporting agency the accuracy or completeness of any information provided by the consumer reporting agency.

Sincerely,

[Contractor Employer]

Encl: FTC Summary of Rights.  
For NJ, MA, & WA: State Summary of Rights