SAMPLE PRELIMINARY ADVERSE ACTION NOTIFICATION NEW YORK

<Date>

<Applicant/Employee Name/Volunteer Name>

<Address>

<City>, <State> <Zip Code>

Dear <Applicant/Employee/Volunteer Name>

You recently authorized **[INSERT NAME OF COMPANY]** (the “Company”)to obtain consumer reports and/or investigative consumer reports about you from a consumer reporting agency. The Company is considering taking action in whole or in part based on information in such report(s).

We will evaluate the information in your report on an individualized case-by-case basis in accordance with applicable law. If you believe that there is additional information that may help us better evaluate your fitness for this position, including evidence of rehabilitation or mitigating circumstances, please contact **<name of individual/department and phone number within your business/organization that the applicant can contact >** immediately.

Enclosed please find (1) a copy of the report we obtained from **IntelliCorp, 3000 Auburn Drive, Suite 410, Beachwood, Ohio 44122; Tel. No. 1.866.202.1436; E-mail** **reinvestigation@intellicorp.net****;** [**www.intellicorp.net**](http://www.intellicorp.net); (2) A Summary of Your Rights Under the Fair Credit Reporting Act.

If you wish to dispute the accuracy of the information in the report directly with the consumer reporting agency (i.e., the source of the information contained in the report), you should contact the agency identified above directly.

If we do not hear from you within **< X number of business days (recommended 10 day window)>** days, we will make our employment decision based on the information currently available to us.

In the event that an adverse employment action is taken based upon information contained in the pre-employment background screen, the Company will provide you notice of such action.

Sincerely,

<Company Representative Name>

<Title>

Enclosures:
A Summary of Your Rights Under the FCRA
Consumer Report

Article 23-A of the New York Correction Law

**NEW YORK CORRECTION LAW**

**ARTICLE 23-A**

**LICENSURE AND EMPLOYMENT OF PERSONS PREVIOUSLY**

**CONVICTED OF ONE OR MORE CRIMINAL OFFENSES**

**Section 750. Definitions.**

**751. Applicability.**

**752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited.**

**753. Factors to be considered concerning a previous criminal conviction; presumption.**

**754. Written statement upon denial of license or employment.**

**755. Enforcement.**

§**750. Definitions**. For the purposes of this article, the following terms shall have the following meanings:

(1) "Public agency" means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

(2) "Private employer" means any person, company, corporation, labor organization or association which employs ten or more persons.

(3) "Direct relationship" means that the nature of criminal conduct for which the person was convicted has a direct bearing on his fitness or ability to perform one or more of the duties or responsibilities necessarily related to the license, opportunity, or

job in question.

(4) "License" means any certificate, license, permit or grant of permission required by the laws of this state, its political subdivisions or instrumentalities as a condition for the lawful practice of any occupation, employment, trade, vocation, business, or profession. Provided, however, that "license" shall not, for the purposes of this article, include any license or permit to own, possess, carry, or fire any explosive, pistol, handgun, rifle, shotgun, or other firearm.

(5) "Employment" means any occupation, vocation or employment, or any form of vocational or educational training. Provided, however, that "employment" shall not, for the purposes of this article, include membership in any law enforcement agency.

§**751. Applicability.** The provisions of this article shall apply to any application by any person for a license or employment at any public or private employer, who has previously been convicted of one or more criminal offenses in this state or in any other jurisdiction, and to any license or employment held by any person whose conviction of one or more criminal offenses in this state or in any other jurisdiction preceded such employment or granting of a license, except where a mandatory forfeiture, disability or bar to employment is imposed by law, and has not been removed by an executive pardon, certificate of relief from disabilities or certificate of good conduct. Nothing in this article shall be construed to affect any right an employer may have with respect to an intentional

misrepresentation in connection with an application for employment made by a prospective employee or previously made by a current employee.

**§752. Unfair discrimination against persons previously convicted of one or more criminal offenses prohibited**. No application for anylicense or employment, and no employment or license held by anindividual, to which the provisions of this article are applicable,shall be denied or acted upon adversely by reason of theindividual's having been previously convicted of one or more criminaloffenses, or by reason of a finding of lack of "good moral character"when such finding is based upon the fact that the individual haspreviously been convicted of one or more criminal offenses, unless:

(1) There is a direct relationship between one or more of the previous criminal offenses and the specific license or employment sought or held by the individual; or

(2) the issuance or continuation of the license or the granting or continuation of the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

**§753. Factors to be considered concerning a previous criminal conviction; presumption.**

1. In making a determination pursuant tosection seven hundred fifty-two of this chapter, the public agency orprivate employer shall consider the following factors:

(a) The public policy of this state, as expressed in this act, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses.

(b) The specific duties and responsibilities necessarily related to the license or employment sought or held by the person.

(c) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more such duties or responsibilities.

(d) The time which has elapsed since the occurrence of the criminal offense or offenses.

(e) The age of the person at the time of occurrence of the criminal offense or offenses.

(f) The seriousness of the offense or offenses.

(g) Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.

(h) The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

2. In making a determination pursuant to section seven hundred fifty-two of this chapter, the public agency or private employer shall also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which certificate shall create a presumption of rehabilitation in regard to the offense or offenses specified therein.

**§754. Written statement upon denial of license or employment.** At the request of any person previously convicted of one or more criminal offenses who has been denied a license or employment, a public agency or private employer shall provide, within thirty days of a request, a written statement setting forth the reasons for such denial.

**§755. Enforcement.**

1. In relation to actions by public agencies, the provisions of this article shall be enforceable by a proceeding brought pursuant to article seventy-eight of the civil practice law and rules.

2. In relation to actions by private employers, the provisions of this article shall be enforceable by the division of human rights pursuant to the powers and procedures set forth in article fifteen of the executive law, and, concurrently, by the New York city commission on human rights.

*Para información en español, visite* [*www.consumerfinance.gov/learnmore*](http://www.consumerfinance.gov/learnmore) *o escribe a la Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.*

**A Summary of Your Rights Under the Fair Credit Reporting Act**

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under FCRA. **For more information, including information about additional rights, go to** [**www.consumerfinance.gov/learnmore**](http://www.consumerfinance.gov/learnmore) **or write to: Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.**

* **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
* **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
	+ a person has taken adverse action against you because of information in your credit report;
	+ you are the victim of identity theft and place a fraud alert in your file;
	+ your file contains inaccurate information as a result of fraud;
	+ you are on public assistance;
	+ you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for additional information.

* **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
* **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer

reporting agency, the agency must investigate unless your dispute is frivolous. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for an explanation of dispute procedures.

* **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete, or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.
* **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
* **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
* **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore.](http://www.consumerfinance.gov/learnmore)
* **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-888-5-OPTOUT (1-888-567-8688).
* The following FCRA right applies with respect to nationwide consumer reporting agencies**:**

**CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE**

**You have a right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization.** The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent.

However, you should be aware that using a security freeze to take control over who gets access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan, credit, mortgage, or any other account involving the extension of credit.

As an alternative to a security freeze, you have the right to place an initial or extended fraud alert on your credit file at no cost. An initial fraud alert is a 1-year alert that is

placed on a consumer’s credit file. Upon seeing a fraud alert display on a consumer’s credit file, a business is required to take steps to verify the consumer’s identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert, which is a fraud alert lasting 7 years.

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity, with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

* **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
* **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.consumerfinance.gov/learnmore.](http://www.consumerfinance.gov/learnmore)

**States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:**

|  |  |
| --- | --- |
| **TYPE OF BUSINESS:** | **CONTACT:** |
| 1.a. Banks, savings associations, and credit unions with total assets of over $10 billion and their affiliatesb. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the CFPB: | 1. Consumer Financial Protection Bureau 1700 G Street NW

Washington, DC 205521. Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue NW Washington, DC 20580

(877) 382-4357 |
| 2. To the extent not included in item 1 above:1. National banks, federal savings associations, and federal branches and federal agencies of foreign banks
2. State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and Insured State Branches of Foreign Banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.
3. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations
4. Federal Credit Unions
 | a. Office of the Comptroller of the Currency Customer Assistance GroupP.O. Box 53570 Houston, TX 77052b. Federal Reserve Consumer Help CenterP.O. Box 1200 Minneapolis, MN 554801. Division of Depositor and Consumer Protection National Center for Consumer and Depositor Assistance Federal Deposit Insurance Corporation

1100 Walnut Street, Box #11 Kansas City, MO 641061. National Credit Union Administration Office of Consumer Financial Protection 1775 Duke Street

Alexandria, VA 22314 |
| 3. Air carriers | Assistant General Counsel for Office of Aviation Protection Department of Transportation1200 New Jersey Avenue SE Washington, DC 20590 |
| 4. Creditors Subject to the Surface Transportation Board | Office of Public Assistance, Governmental Affairs, and Compliance Surface Transportation Board395 E Street SW Washington, DC 20423 |
| 5. Creditors Subject to the Packers and Stockyards Act, 1921 | Nearest Packers and Stockyards Division Regional Office |
| 6. Small Business Investment Companies | Associate Administrator, Office of Capital Access United States Small Business Administration409 Third Street SW, Suite 8200Washington, DC 20416 |
| 7. Brokers and Dealers | Securities and Exchange Commission 100 F Street NEWashington, DC 20549 |
| 8. Institutions that are members of the Farm Credit System | Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090 |
| 9. Retailers, Finance Companies, and All Other Creditors Not Listed Above | Federal Trade Commission Consumer Response Center 600 Pennsylvania Avenue NW Washington, DC 20580(877) 382-4357 |

**Statement of Consumer Rights under New York Law**

In addition to the enclosed summary of consumer rights under the federal Fair Credit Reporting Act, this notice provides a summary of consumer rights regarding file disclosures under New York’s Fair Credit Reporting Act, NY Gen. Bus. Law §§ 380 *et. seq*.

**Disclosures to Consumers**

Upon request and proper identification provided by you, IntelliCorp is required to advise you of its obligation to provide you with a disclosure of your consumer file, to the extent that IntelliCorp has any such files. IntelliCorp customarily only collects consumer report information when it has been asked to furnish a consumer report, so we may not have any information on file for you if we have not previously been asked to prepare a consumer report about you. IntelliCorp must provide disclosure of your files in person, by mail or by telephone; and must provide you a decoded written version of the file or a written copy of the file with an explanation of any code used, if you so request.

Once you have provided proper identification, IntelliCorp will disclose to you:

1. all information in its files at the time of the request concerning such consumer;  and
2. the sources of the information;  except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose.

In the event you choose to bring legal action, then such sources shall be available to you under appropriate discovery procedures in the court in which the action is brought;  and

1. the recipients of any consumer report on the consumer which it has furnished;
	1. for employment purposes within the two-year period preceding the request, and
	2. for any other purpose within the six month period preceding the request.

**Charges for File Disclosures**

IntelliCorp may impose a reasonable fee for a file disclosure request under certain circumstances. Except:

* If you have been denied credit in the past thirty days you are entitled to receive a written copy of your complete file, at no charge whatsoever, should you choose to request such a copy.
* The file disclosure is also made available free of charge to any consumer that receives a notification of adverse action pursuant to New York’s Fair Credit Reporting Act, or receives notification from a debt collection agency affiliated with such consumer reporting agency stating the consumer’s credit rating may be or has been adversely affected—if the consumer requests the file disclosure within thirty days of receipt of such notification.

IntelliCorp may require a written statement from you before processing the file disclosure, under one of the aforementioned circumstances, without charge.

Even though IntelliCorp is permitted to charge a fee for file disclosures in some situations, it is IntelliCorp’s policy not to charge consumers for file disclosures even in cases where a fee is permitted by law.

**Requesting a File Disclosure**

If you would like to receive a copy of a particular consumer report IntelliCorp has furnished about you or a copy of all of the information in IntelliCorp’s consumer file about you, you may request this information by contacting IntelliCorp at:

INTELLICORP

5000 Coporate Court Suite 203

Holtsville, NY 11742

Toll Free #: 1-866-202-1436

reinvestigation@intellicorp.net

[www.intellicorp.net](http://www.intellicorp.net/)

**NEW YORK CONSUMERS HAVE THE RIGHT TO OBTAIN A SECURITY FREEZE**.

YOU HAVE A RIGHT TO PLACE A “SECURITY FREEZE” ON YOUR CREDIT REPORT, WHICH WILL PROHIBIT A CONSUMER CREDIT REPORTING AGENCY FROM RELEASING INFORMATION IN YOUR CREDIT REPORT WITHOUT YOUR EXPRESS AUTHORIZATION. A CONSUMER CREDIT REPORTING AGENCY IS PROHIBITED FROM CHARGING YOU A FEE FOR THE PLACEMENT, REMOVAL, OR TEMPORARY LIFT OF A SECURITY FREEZE, OR FOR THE ISSUANCE OF A REPLACEMENT PERSONAL IDENTIFICATION NUMBER (PIN) OR PASSWORD IN THE EVENT THAT YOU FAIL TO RETAIN THE ORIGINAL PIN OR PASSWORD PROVIDED TO YOU BY SUCH CONSUMER CREDIT REPORTING AGENCY. A SECURITY FREEZE MUST BE REQUESTED IN WRITING DELIVERY CONFIRMATION REQUESTED OR VIA TELEPHONE, SECURE ELECTRONIC MEANS, OR OTHER METHODS DEVELOPED BY THE CONSUMER CREDIT REPORTING AGENCY. THE SECURITY FREEZE IS DESIGNED TO PREVENT CREDIT, LOANS, AND SERVICES FROM BEING APPROVED IN YOUR NAME WITHOUT YOUR CONSENT. HOWEVER, YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO TAKE CONTROL OVER WHO GETS ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN YOUR CREDIT REPORT MAY DELAY, INTERFERE WITH, OR PROHIBIT THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION YOU MAKE REGARDING A NEW LOAN, CREDIT, MORTGAGE, GOVERNMENT SERVICES OR PAYMENTS, INSURANCE, RENTAL HOUSING, EMPLOYMENT, INVESTMENT, LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN EXTENSION OF CREDIT AT POINT OF SALE. WHEN YOU PLACE A SECURITY FREEZE ON YOUR CREDIT REPORT, YOU WILL BE PROVIDED A PERSONAL IDENTIFICATION NUMBER OR PASSWORD TO USE IF YOU CHOOSE TO REMOVE THE FREEZE ON YOUR CREDIT REPORT OR AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT TO A SPECIFIC PARTY OR FOR A PERIOD OF TIME AFTER THE FREEZE IS IN PLACE. TO PROVIDE THAT AUTHORIZATION YOU MUST CONTACT THE CONSUMER CREDIT REPORTING AGENCY AND PROVIDE ALL OF THE FOLLOWING:

1. THE PERSONAL IDENTIFICATION NUMBER OR PASSWORD;
2. PROPER IDENTIFICATION TO VERIFY YOUR IDENTITY; AND
3. THE PROPER INFORMATION REGARDING THE PARTY OR PARTIES WHO ARE TO RECEIVE THE CREDIT REPORT OR THE PERIOD OF TIME FOR WHICH THE REPORT SHALL BE AVAILABLE TO USERS OF THE CREDIT REPORT; AND

A CONSUMER CREDIT REPORTING AGENCY MUST AUTHORIZE THE RELEASE OF YOUR CREDIT REPORT NO LATER THAN THREE BUSINESS DAYS AFTER RECEIVING THE ABOVE INFORMATION. EFFECTIVE SEPTEMBER FIRST, TWO THOUSAND NINE, A CONSUMER CREDIT REPORTING AGENCY THAT RECEIVES A REQUEST VIA TELEPHONE OR SECURE ELECTRONIC METHOD SHALL RELEASE A CONSUMER’S CREDIT REPORT WITHIN FIFTEEN MINUTES WHEN THE REQUEST IS RECEIVED.

A SECURITY FREEZE DOES NOT APPLY TO CIRCUMSTANCES IN WHICH YOU HAVE AN EXISTING ACCOUNT RELATIONSHIP AND A COPY OF YOUR REPORT IS REQUESTED BY YOUR EXISTING CREDITOR OR ITS AGENTS OR AFFILIATES FOR CERTAIN TYPES OF ACCOUNT REVIEW, COLLECTION, FRAUD CONTROL OR SIMILAR ACTIVITIES.

IF YOU ARE ACTIVELY SEEKING CREDIT, YOU SHOULD UNDERSTAND THAT THE PROCEDURES INVOLVED IN LIFTING A SECURITY FREEZE MAY SLOW YOUR APPLICATION FOR CREDIT. YOU SHOULD PLAN AHEAD AND LIFT A FREEZE, EITHER COMPLETELY IF YOU ARE SHOPPING AROUND, OR SPECIFICALLY FOR A CERTAIN CREDITOR, BEFORE APPLYING FOR NEW CREDIT. WHEN SEEKING CREDIT OR PURSUING ANOTHER TRANSACTION REQUIRING ACCESS TO YOUR CREDIT REPORT, IT IS NOT NECESSARY TO RELINQUISH YOUR PIN OR PASSWORD TO THE CREDITOR ORBUSINESS; YOU CAN CONTACT THE CONSUMER CREDIT REPORTING AGENCY DIRECTLY. IF YOU CHOOSE TO GIVE OUT YOUR PIN OR PASSWORD TO THE CREDITOR OR BUSINESS, IT IS RECOMMENDED THAT YOU OBTAIN A NEW PIN OR PASSWORD FROM THE CONSUMER CREDIT REPORTING AGENCY.