

FFL GUARDSM

*Offered By: The Chiafullo Group, LLP
Attorneys-at-Law*

Legal Services for Participants
PROGRAM DESCRIPTION
4th Amended Version

(As amended through February 10, 2011)

FFLGuard is a program for legal services run by a law firm, The Chiafullo Group, LLP.

**THIS IS NOT INSURANCE OR PRE-PAID LEGAL SERVICES; THIS IS ACTIVE REPRESENTATION
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PROGRAM DESCRIPTION

FFLGuard is a program (“the Program”) offered, administered and overseen by a law firm, The Chiafullo Group, LLP (“the Group”), whereby the Group acts as national coordinating counsel (both counsel and its office personnel referred to as “NCC”) on behalf of multiple Federal Firearms Licensees by providing cooperative and active legal representation pursuant to an executed engagement agreement (“Agreement”) and payment of a non-refundable, yearly engagement fee (“the Fee”), and wherein the client (“the Participant” or “Participants”) participates in the Program pursuant to its terms. Part of the Fee is immediately realized by the Group for its oversight role as NCC (currently 22% of the Fee), and the remainder of the Fee is voluntarily set aside, in concept, as part of a fictional “rainy day fund” (“the Fund”) for later use by the Group to pay for legal services on behalf of qualifying clients in the Program.

As with all legal services, the Group does not guarantee any results of *FFLGuard* Attorneys or Professionals in their defense of Participants pursuant to the Program or otherwise.

Section 1. DEFINITIONS. As used in this Program Description:

- A. “Program” means the plan for legal services offered, administered and overseen by The Chiafullo Group, LLP (“the Group”), a law firm based in New Jersey, and as amended from time to time by the Group.
- B. “Fund” means the amount of the Fee voluntarily set aside by the Group, in concept, whereby the Participant expressly authorizes the Group, without limitation, (i) to utilize Fund to pay for Legal Defense Fees of any Participant, subject to the terms and conditions of the Program, including but not limited to compliance with the *FFLGuard Law Plus Guidelines* (“the Guidelines”) and/or associated point plan considerations; (ii) to apportion and spend the money in the Fund to administer, market, advertise, and promote the Program and/or pay a third-party administrator to handle the administration, marketing, advertising, and promotion of the Program; (iii) to retain or otherwise compensate like-minded counsel or professionals to act on any client’s behalf as part of the Program, now or in the future, including but not limited to retention of the Group itself; and (iv) to invest, re-invest, encumber, loan or otherwise use the Fund to increase it for future use.
- C. “Supporter” means those firearms manufacturers, distributors and trade groups who support *FFLGuard* and or the Group, either financially or through in-kind services, as identified by *FFLGuard* to be such a supporter.
- D. “Participant” means a client of the Group approved to participate in the Program, and in good standing with the Group and/or the Program.

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- E. “Fee” or “Engagement Fee” means the yearly, non-refundable amount paid by each Participant to engage the Group and to apportion at the Group’s discretion.
- F. “Retainer” means the amount of money, **non-inclusive of the Fee**, paid by participant for certain services, including but not limited to Additional Services, and subject to refund for any amount unused.
- G. “FFL” means Federal Firearms License or Federal Firearms Licensee.
- H. “*FFLGuard* Attorney” means any attorney, and/or his/her law firm, designated by the Group as approved counsel to handle any legal services for a Participant, whose name appears on the list of such attorneys as provided by the Group.
- I. “*FFLGuard* Professional” means any non-attorney, working as an agent of an *FFLGuard* Attorney, and specifically approved by the Group to work with *FFLGuard* Attorneys.
- J. “Legal Defense Fees” means expenses a Participant incurs for legal fees incurred by an *FFLGuard* Attorney or an *FFLGuard* Professional under the Program, not to exceed the applicable limits of the Program or the Program’s liability. **These Legal Defense Fees are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance if Participant does not qualify for access to the Fund as set forth in this Program Description.**
- K. “Legal Services” include advice, consultation and representation rendered by an *FFLGuard* Attorney, and/or an *FFLGuard* Professional as an agent of an *FFLGuard* Attorney, including the usual fees and office charges incurred for paralegal assistance, telephone, mailing, copying, telefaxing, and other similar office expenses, but not including Reimbursable Travel Costs attributable to and payable by the Participant. **These Legal Services are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance if Participant does not qualify for access to the Fund as set forth in this Program Description.**
- L. “Reimbursable Travel Costs” include all travel and travel-related costs, including but not limited to transportation costs, hotel costs, and other commonly known travel expenses, incurred by *FFLGuard* Attorneys or *FFLGuard* Professionals which are wholly attributable to and payable by the Participant. **These Reimbursable Travel Costs are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the Group incurring such costs.**

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- M. “Non-Covered Costs and Expenses” means legal or litigation costs and/or expenses not paid by the Fund or under the Program, including but not limited to payment or indemnification for any loss or damages incurred by way of judicial or administrative proceeding, whether said proceeding is/was/will be handled by *FFLGuard* Attorneys/Professionals or not; any loss incurred as a result of any administrative proceedings, legal action, judgment, award of damages (including but not limited to punitive damages), settlement, fine or penalty of any kind; expert fees for expert testimony; court reporting fees; photocopies and facsimiles; electronic legal research fees; and any other such ancillary litigation expenses as the Group may designate from time to time. **These Non-Covered Costs and Expenses are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the Group incurring such costs.**
- N. “*FFLGuard Law Plus Guidelines*” (sometimes referred to as “Guidelines”) are the Program’s written policies and advice under which all Participants must comply to remain eligible for access to the Fund. Failure to comply with the Guidelines does not preclude the Participant’s access to legal services from *FFLGuard* Attorneys at a rate equal to 1/3 less than the *FFLGuard* Attorney’s normal and customary rate. **Legal services not paid by the Fund subject those affected Participants to payment of a Retainer – over and above the Fee – to the Group in advance of the rendering of any legal services.** The Guidelines may be amended globally or on a case-by-case basis at the sole discretion of the Group.
- O. “Notice” means reporting information as required by this Program Description. Notice to the Group shall be effective on the date that *FFLGuard* actually receives it.
- P. “Welcome Packet” includes all such material distributed to new Participants, including but not limited to *FFLGuard Law Plus Guidelines*, Client Identification card, Certificate of Participation, *FFLGuard* marketing materials, if any, and other such materials as may change from time to time.
- Q. “Legal HelpDesk” means the accessibility of *FFLGuard* Attorneys or *FFLGuard* Professionals to Participants *via* telephone or e-mail to respond to legal questions or research legal issues.
- R. “ATF Audit Response Unit” means the *FFLGuard* Attorneys and/or Professionals that handle all ATF audits of Participants and the proceedings and or actions that stem therefrom.

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- S. “Civil Litigation Defense Unit” means the *FFLGuard* Attorneys and/or Professionals that handle all civil complaints filed against Participants citing causes of action that focus on the Participants business practices, and seeking relief that includes the oversight and/or control of the Participants business practices, its *FFLGuard* Attorneys and/or Professionals.
- T. “Engagement Agreement” (sometimes referred to as “Agreement”) is the governing and controlling agreement between the Participant and the Group, which incorporates other documents by reference into it, including but not limited to this Program Description.
- U. “Matter Opening Fee” is the charge issued by the group, and passed through *FFLGuard* Attorneys to the Participant, in lieu of continually billing the Participant for oversight of matters that fall outside the purview of the Fund.
- V. “Interruption Fee” is the amount assessed to Participants who drop out of the Program, and rejoin the Program at a future date.
- W. “National Coordinating Counsel” (both counsel and its office personnel referred to as “NCC”) is responsible for serving as the main point-of-contact between *FFLGuard* clients and counsel; for hand-picking and engaging lawyers in both the Special Operations and Field Operations segments of the Program; for insuring the sanctity of the attorney-client privilege among all parties; for disseminating information to *FFLGuard* clients without breaking anonymity; for collection of all participation fees from clients; for disbursement of *FFLGuard* client fees to “promote, market, advertise and administer the Program”; for determining the policies and overall direction of the Program; for maintaining the Description and Overview of the Program with accuracy; for being the ultimate arbiter of which *FFLGuard* clients have complied adequately with the *FFLGuard* Law Plus Guidelines and thus qualifying them for *pro bono* legal service through the Program; and to generally direct and guide all lawyers and clients involved in *FFLGuard* in such a fashion so as to grow the client participation in the Program.
- X. “Special Operations” handles *FFLGuard* clients in what the NCC has determined to be in critical or compromised condition, and does so through connections established within the industry (NRA, NSSF, other state run firearms organizations and third-party advocate groups), within the Federal Government (BATF, ICE, TTB, etc.), within State Governments (AG offices, State Police, etc.), within Gun Control groups (Brady Center, Mayors Against Illegal Guns, etc.), with *FFLGuard’s* Field Operations Group and its Professionals, and with any other organization, group, or individual that may benefit *FFLGuard* clients. The Director of

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Special Operations also handles all high-profile risk management and damage control scenarios for *FFLGuard* clients designated by the Office of the NCC as critical/compromised; works with other Special Operations counsel to further the Program's goals; and accomplishes whatever tasks may be issued from the Office of the NCC.

- Y. "Field Operations" serves as a conduit between (1) the NCC and (2) clients participating in the Program who are involved in any way with BATF or a BATF inspection – or – who have any questions or concerns related to any areas of the law that would be enforced by BATF, and (3) specialized counsel (or para-professionals) acting on their behalf.
- Z. "ATF" means the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and their officials, agents, inspectors, etc.
- AA. "Basic Services" are as defined in Section 10, below, and as priced in the Fee Schedule made a part of both the Program Description and Program Overview.
- BB. "Additional Services" are as defined in Section 10, below, and as priced in the Fee Schedule made a part of both the Program Description and Program Overview. **These Additional Services are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the Group incurring such costs.**

Section 2. FINANCIAL.

- A. *Fee*: Also known as the "Engagement Fee," this is the **YEARLY, non-refundable** amount each Participant pays pursuant to the Agreement to participate in the Program and obtain Basic Services as set forth in Section 10, below. If the Fee is split into installments, each Participant shall pay the equivalent of twelve (12) installments before such time as it can cancel any obligations of the Program.
- B. *Additional Retainer*: This amount is NOT the same as the Fee, and is not always required from a Participant. It is an **ADDITIONAL, fully refundable** amount a Participant pays if it joins the Program with an existing problem or issue that requires immediate legal attention, if a Participant seeks Additional Services under the Program, or if the Participant is subject to pay for Reimbursable Travel Costs or Non-Covered Costs and Expenses as set forth in Section 13, below. This Retainer must be replenished as dictated by any Agreement with *FFLGuard*.
- C. *Payment on behalf of Participants by the Fund*: The Program provides for the payment of Legal Defense Fees on behalf of its Participants as provided in the Program. Specifically, Participants expressly authorize the Group, without limitation, (i) to utilize the money set aside in the Fund to

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pay for Legal Defense Fees of any Participant, subject to the terms and conditions of the Program, including but not limited to compliance with the *FFLGuard Law Plus Guidelines* and/or any additional point plan considerations; (ii) to apportion and spend the money in the Fund to administer, market, advertise, and promote the Program and/or pay a third-party administrator to handle the administration, marketing, advertising, and promotion of the Program; (iii) to retain or otherwise compensate like-minded counsel or professionals to act on any client's behalf as part of the Program, now or in the future, including but not limited to retention of the Group itself; and (iv) to invest, re-invest, encumber, loan or otherwise use the Fund to increase it for future use. Any donations to the Fund by Supporters shall be utilized first to pay Legal Defense Fees on behalf of any qualifying Participant. All Legal Defense Fees paid from the Fund are limited to the amounts in the Fund and any pre-determined caps set by the Group.

Section 3. CHANGES TO PROGRAM. The NCC may modify, amend or terminate the Program at any time. Any change shall become effective for all Fees due, legal services accruing and requests for legal services made by Participants or reported to *FFLGuard* on or after the effective date of the change.

Section 4. ELIGIBILITY. All firearms dealers holding a valid Federal Firearms License are eligible to be a Participant, subject to the completion of the prerequisites for participation set forth in Section 5, below.

Section 5. PREREQUISITES FOR PARTICIPATION AND CONTINUED PARTICIPATION. Participation in, and the right to legal services under the Program, arises only upon the receipt by the NCC of a Client Information Statement ("CIS"), an executed Agreement with the NCC, and the Participant's delivery of the agreed upon Fee (and Retainer, if applicable). Continued participation in the Program shall be based on Participant's compliance with *FFLGuard Law Plus Guidelines*, with the level of Participant compliance in the sole discretion of the NCC, and the Participant's continued payment of Fees as a client of the Group.

Section 6. EFFECTIVE DATE OF PARTICIPATION. The effective date for any Participant to utilize the Fund shall be the first day of the first full month ninety (90) days after: (i) an Agreement is executed between the Group and a client; (ii) the Office of NCC receives the Participant's CIS and FFL, and (iii) the Group receives the applicable Fee from that Participant. During that ninety (90) day "cooling off" period, Participants will be entitled to legal services at cost that equals a 33% reduced rate by the *FFLGuard* Attorney or Professional from their normal and customary rates. **These legal services are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the rendering of such legal services.**

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Section 7. WELCOME PACKET - CERTIFICATE OF PARTICIPATION.

- A. Upon receipt of (i) an executed Agreement and (ii) the appropriate Fee, the Group shall issue a Welcome Packet that includes a Certificate of Participation containing the following information:
1. the client identification number of the Participant;
 2. the name of each Participant; and
 3. the date on which participation takes effect.
- B. Each Participant shall be issued a Client Identification card, which shall contain such information as the Group shall determine from time to time.
- C. The Welcome Letter also details how the Participant gains access to the Group's "CLIENTS ONLY" website (www.fflguard.org): the primary means for Participants' staying in constant contact with the Group.

Section 8. PARTICIPANT'S TERMINATION FOR NON-PAYMENT OF FEES.

- A. Engagement Fees must be timely paid each year in order for a Participant to be entitled to legal services under the Program. All Fees shall be set forth in the Fee Schedule part of the Program Overview and Program Description, as supplemented, modified or amended from time to time by the Group.
- B. Engagement Fees shall be payable on an annual basis and such additional bases as the Group shall prescribe from time to time. The initial Engagement Fee payment shall be submitted simultaneous to the submission of an executed Agreement. Thereafter Engagement Fees shall be paid on or before any scheduled due date in the amounts billed by the Group. Notices of renewal shall be mailed at least thirty (30) and not more than sixty (60) days prior to the applicable due date.
- C. If any Fee is not timely made as required in subsection B of this section, the payment shall be delinquent and participation in the Program shall cease effective as of 12:01 a.m. on the day after the applicable due date. If all delinquent amounts are received by *FFLGuard* within thirty (30) days following the due date, participation shall be reinstated automatically, retroactive to the day after the due date. If any payment is delinquent thirty-one (31) days or more, participation shall be deemed to have terminated effective as of 12:01 a.m. on the day after the applicable due date, a newly executed Agreement shall be required, and Interruption Fees as set forth herein may apply.

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Section 9. TERMINATION OF PARTICIPATION AND OF ENTITLEMENT TO LEGAL SERVICES.

- A. Except as provided otherwise in subsection B of this section, a Participant's participation in, and entitlement to legal services under, the Program shall terminate upon:
1. non-payment of the yearly Fee when due;
 2. voluntary withdrawal from participation, pursuant to Section 14E, below;
 3. voluntary termination of the Participant's FFL; or
 4. involuntarily termination of the Participant's FFL, if the Participant also failed to comply with the Guidelines.
- B. Termination shall affect the right to legal services which have accrued prior to the date of termination at the Group's discretion.

Section 10. BASIC and ADDITIONAL SERVICES FOR PARTICIPANTS.

- B. *Basic Services:* Subject to Section 12, below, and the terms of the Program, all Participants are afforded the Guidelines plus the following Basic Services:
1. ***ATF Audit Response Unit-*** should a Participant be subject to an ATF compliance audit, an *FFLGuard* Attorney (or *FFLGuard* Professional working as an agent to the *FFLGuard* Attorney) will be assigned to intervene in the audit, chronicle and memorialize the proceedings, centralize the results in a database for use by/for *FFLGuard* and its Participants, interface with the inspecting ATF (and other) officials as the audit develops, and advise as to the potential for a warning conference or revocation hearing. The *FFLGuard* Attorney (or *FFLGuard* Professional working as an agent to the *FFLGuard* Attorney) will avail him/herself to draft attorney/client reports, attend any warning conferences or revocation hearings, handle appeals to Federal Court as a result of revocation, and work directly with ATF to draft dealer-specific Memoranda of Understanding to short-circuit revocations. Participant will be solely responsible for all Reimbursable Travel Costs incurred by the *FFLGuard* Attorney and/or *FFLGuard* Professional working at the *FFLGuard* Attorney's direction. The Participant will further be responsible, pursuant to the Program and the engagement agreement, for all Non-Covered Costs and Expenses as set forth in the Program.
 2. ***Civil Litigation Defense Unit-*** upon the filing of a civil Complaint against any Participant designed to call its business practices into

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scrutiny, the Program will defend the Participant for one hundred (100) professional hours, which, for the purposes of this section includes all partners, associates, para-professional, and other such professional time customarily afforded by a law firm to a client. Participant will be solely responsible for all Reimbursable Travel Costs incurred by the *FFLGuard* Attorney (or *FFLGuard* Professional working as an agent to the *FFLGuard* Attorney). The Participant will further be responsible, pursuant to the engagement agreement and the Program, for all Non-Covered Costs and Expenses as set forth in the Program. Once the Participant exceeds the initial one hundred (100) hours afforded under the Program, the Participant will be solely responsible for all fees expended thereafter by the *FFLGuard* Attorney, as well as any retainer amount(s) necessary for the *FFLGuard* Attorney's going forward services, at a rate for legal services discounted 33% from the *FFLGuard* Attorney's normal and customary rates.

3. ***Legal HelpDesk***- each Participant will be afforded the opportunity to interface (by telephone or e-mail) for up to one (1) hour per year with *FFLGuard* approved counsel/professionals on any and all ATF of firearms-specific legal questions, with the opportunity to purchase additional "HelpDesk time" in one-hour increments at *FFLGuard* exclusive Participant rates. All queries and results will be vetted and, if appropriate, posted on the *FFLGuard* website for all Participants' review.
4. ***Store Video Walk-Through***- each Participant will receive video equipment from *FFLGuard* with directions on what to film outside and inside the Participant's store, which will be reviewed and analyzed by our Counsel and Professionals with a critical eye assessing risks, strengths and weaknesses of the operation.
5. ***NCC Video Conference***- each Participant will receive video conferencing equipment from *FFLGuard* for an hour-long, face-to-face discussion via SKYPE on the Participant's implementation of the Guidelines on premises, and risk-assessment of the Participant's operation based on the Store Video Walk-Through.
6. ***eBlasts***- each Participant is placed on a clients-only, joint defense privileged email chain that updates and informs the Participant of current legal and compliance related happenings and events.
7. ***CLIENTS-ONLY Website (www.fflguard.org) Access***- All *FFLGuard* and relevant documents, both from the ATF and from *FFLGuard* Counsel and Professionals, are at the fingertips of every Participant, including but not limited to important FFL

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Newsletters, all *FFLGuard* created documents for any Participant (including an eBLAST and CLIENT UPDATE archive), and other information that *FFLGuard* only shares with its clients.

8. ***Internet Explorer Toolbar with ATF Inspector Alerts-*** Participants can upload an incredible Internet Explorer toolbar that will give the Participant fast access to the CLIENTS-ONLY website, quick hyperlinks to firearms law-related websites, live feeds (“RSS feeds”) from content providers that *FFLGuard* deems relevant, a scroll ticker with constant *FFLGuard* updates, and the ability to receive mobile alerts from *FFLGuard* when the ATF is inspecting the site of another *FFLGuard* Participant.

- C. ***Additional Services:*** each Participant will be offered various services at an extra charge (but at a 33% reduction of *FFLGuard* Attorney normal and customary rates), including mock ATF audits, half-day staff seminars, document reviews and assessments (both on-site and via fax), development of Standard Operating Procedure manuals, pay-per-view training videos, and other legal services not normally included in the Basic Services in the Program. All Additional Services afford Participants with “points” for use with the Participant’s point requirement under the Guidelines. **These Additional Services are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the rendering of such services.**

- D. ***Participant Discounted Rates on Legal Services and Possible Access to Fund:*** subject to Section 13, below, all Participants are afforded legal services at rates discounted 1/3 from the normal and customary rates billed by each *FFLGuard*-approved counsel. Depending on the Participant’s compliance with the Guidelines, the Participant may be able to access the Fund to pay its Legal Defense Fees. Otherwise, all other Participant legal needs related to its FFL or its business will be billed by *FFLGuard* attorneys at 1/3 off of their normal and customary rate. All Reimbursable Travel Costs are paid by the Participant. **These Legal Defense Fees and Reimbursable Travel Costs are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the rendering of such legal services.**

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Section 11. REQUEST FOR LEGAL SERVICES – DATES – NOTICE.

This Program applies only to requests for legal services that are first made by the Participant and reported to the NCC on or after the Participant's effective date of participation, and on or before the date of termination of the applicable privileges with respect to that Participant. In addition, for access to the Fund, a request for legal services must arise out of a firearms sale that occurred between the same dates. For purposes of determining the respective dates on which a request for legal services is made and reported:

1. a request for legal services must be made by the Participant when the Participant is first on notice by any person of information suggesting the possibility of a request for legal services, as set forth in Section 14(A), below;
2. a request for legal services shall be deemed reported to the NCC when notice of such request for legal services is first received by the NCC; and
3. all requests for legal services by a Participant arising out of the same occurrence, actions or events shall be deemed made and reported on the respective dates the first request for legal services is made to the Participant and reported to the Program.

Section 12. ELIGIBILITY TO ACCESS THE FUND.

- A. Participants may gain access to the Fund to pay for Legal Defense Fees for both the ATF Audit Response Unit and Civil Litigation Defense Unit by complying with 90 out of 100 points assessed to the Guidelines (as determined in the NCC's sole discretion, or as determined by counsel delegated authority to make such determination by the NCC), subsequent to the Participant's Effective Date of Participation as set forth in Section 6, above. Points earned by the Participant for Additional Services rendered shall be included as part of the 90 point requirement.
- B. Participants will not be eligible to access to the Fund, and the Group shall in no way whatsoever be liable to or for any Participant:
 1. where they seek legal services to defend activities that include criminal charges (either brought independently, or contemporaneous to civil/administrative charges otherwise covered under the Program) by a law enforcement body, other than those charges that may be brought by the ATF consistent with that which would emanate from an ATF audit, as set forth in various sections throughout the Program;
 2. where legal services are available under insurance policies, collective bargaining, workers' compensation, occupational health and safety, unemployment compensation, disability legal services, or similar laws, insurances, or programs;

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3. where the Participant seeks reimbursement or indemnification for any loss or damages incurred by way of judicial (civil or criminal) or administrative proceeding or its outcome, whether said proceeding is/was/will be handled by *FFLGuard* Attorneys/Professionals or not, including but not limited to any loss incurred as a result of any administrative proceedings, civil action, judgment, award of damages (including but not limited to punitive damages), settlement, fine or penalty of any kind;
 4. where compensation for legal counsel is available to defend the Participant under any liability insurance policy or other insurance, as provided in subsection B of this section;
 5. where the Participant is named as a defendant in a civil or criminal lawsuit that seeks damages for liability, including but not limited to personal injuries or wrongful death, and/or does not only scrutinize the Participant's business practices and/or only seek to regulate the Participant's business over and above the laws current in place in the Participant's state and across the country;
 6. where the Participant fails to follow the *FFLGuard Law Plus Guidelines*, which determination of compliance is at the sole discretion of the NCC and/or counsel delegated such authority by the NCC;
 7. where a Participant's sale(s) of firearms, or the recording of said firearms sales pursuant to law governing the Participant's FFL, occurs on or before the Effective Date of Engagement as set forth above; upon the Participant's third (3rd) anniversary in the Program, without interruption, this exclusion will only apply to firearms sales, or the recording of said firearms sales pursuant to law governing the Participant's FFL, occurring on or before the date ten (10) years prior to the Effective Date of Engagement; this exclusion shall be null, void and inapplicable upon the Participant's fifth (5th) anniversary in the Program without interruption. Any interruption in legal services shall reset all counters as to the determination of the Participant's anniversary date; or
 8. where the Participant fails to meet the "Effective Date" criteria as set forth in Section 6, above.
- C. If any other valid and collective insurance is available to cover and/or available to the Participant to cover legal services otherwise covered under this Program, then the legal services provided under such other insurance shall be considered primary coverage. Legal services under this Program shall apply only in excess to insurance, unless agreed to in advance by the Group on the occurrence of a Participant seeking legal services from the NCC under the Program, and shall not be considered as "additional insurance" or contribute with such insurance in any way except to provide excess legal services after the available limits of all insurance plans have been exhausted. As used in this section, the term "insurance" includes but is not limited to insurance or self-insurance or legal services provided by

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or through a Participant's employer, other groups or associations, insurance coverage or legal services covering and/or provided by a Participant; coverage or legal services provided by self-insurance, trusts, pools, risk retention, groups or captive insurance companies; any insurance or self-insurance plan or agreement of risk assumption; and any obligation to defend, pay or indemnify under any statute, ordinance, regulation or agreement.

- D. Prior to seeking legal service pursuant to the Program, the Participant agrees to:
- a. submit any and all requests for legal services otherwise covered by the Program to all available insurance plans and, if requested by the Group, to undertake and pursue such requests for legal services with his insurance carrier naming NCC as his preferred counsel. The Participant's obligation under this paragraph shall exist regardless of whether the request for legal services against the Participant is brought in the Participant's official capacity, individually, or is a claim for punitive damages;
 - b. execute and deliver instruments and other documents and do whatever else is necessary to pursue such request for legal services from its insurance carrier; and
 - c. do nothing to prejudice the rights of the Group to recover money or legal services due the Participant in connection with such requests for legal services. The Program shall pay all expense for the pursuit of such requests for legal services, and reserves the right to assume the legal representation of the Participant for that purpose.

Failure to abide by this Section may result in the termination of the Participant from the Program, and reimbursement by the Participant of all fees, costs and expenses incurred by the Group to provide legal services through an FFLGuard Attorney or an FFLGuard Professional.

- E. If a Participant's request for legal services is excluded under the Program, the Participant will nevertheless be eligible to engage an *FFLGuard* Attorney at the exclusive *FFLGuard* Participant rates equal to a 33% reduction in the *FFLGuard* Attorney's normal and customary rates. **These legal services are subject to the payment of a Retainer – over and above the Fee – to the Group by Participant in advance of the Group's rendering of those legal services.**

Section 13. REIMBURSABLE TRAVEL COSTS and NON-COVERED COSTS AND EXPENSES NOT COVERED BY THE PLAN. Subject to the terms of the Program, all Legal Defense Fees and Legal Services as described in the Program, shall be paid from the Fund, subject to compliance with the *FFLGuard Law Plus Guidelines* and the Exclusions set forth in Section 12(A), above, only to *FFLGuard* Attorneys or Professionals identified by the Group. ALL Reimbursable Travel Costs

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and Non-Covered Costs and Expenses are not are covered by the Program. **All Reimbursable Travel Costs and Non-Covered Costs and Expenses are subject to payment of a Retainer – over and above the Fee – by Participant to the Group in advance of the Group incurring such costs.** *However, upon (i) an FFLGuard Participant's third (3d) anniversary date with the Program (the "tenured Participant"), (ii) the tenured Participant's referral of one (1) other active Participant in the Program, and (iii) assuming all other conditions set forth in the Program are met, including but not limited to compliance with the Guidelines, all Reimbursable Travel Costs and Legal Defense Fees incurred by FFLGuard Attorneys or Professionals in response to an ATF audit of the tenured Participant's premises will be fully reimbursable from the Fund.*

Section 14. MISCELLANEOUS TERMS AND CONDITIONS.

- A. Notice of Occurrence. When an occurrence takes place which may result in a request for legal services pursuant to the Program, the Participant shall give emailed notice to the NCC as soon as practicable. Such notice shall specify particulars sufficient to identify the Participant and all reasonably obtainable information respective the time, place and circumstances of the occurrence.
- B. Assistance and Cooperation of the Participant. The Participant shall assist and cooperate with *FFLGuard* Attorneys and/or Professionals toward the resolution of any request for legal services, including but not limited to assisting with discovery and appearing for depositions, hearings and trial. Failure to cooperate may result in termination as set forth in Section 9, above.
- C. Subrogation. In the event of any payment under the Program, the Program shall be subrogated by to the extent of payment to the Participant's right of recovery against any person, agency, organization, political subdivision or any other entity. The Participant shall execute and deliver instruments and other documents and do whatever else is necessary to secure and pursue such rights. The Participant shall do nothing to prejudice such rights. In the event that subrogation is not permitted for any reason, and the Participant is entitled to receive or receives payment as the result of any such right of recovery, the Participant shall reimburse *FFLGuard* for all amounts paid by the Program on behalf of the Participant, up to the amount which the Participant receives.
- D. Changes and Amendments to Program Only by Written Amendment. Notice to or knowledge possessed by any agent or other person shall not affect a waiver or change in any part of the Program Description, its attachments or any certificate of participation or estop the Program from asserting any right under the terms of same. The terms of this Program Description, its attachments or any certificate of participation shall not be waived or changed, except by written amendment or endorsement approved by the Group and issued to form a part of same.

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- E. Cancellation.
1. A Participant may cancel participation in the Program for any reason, by:
 - a. giving written notice (which includes but is not limited to an email) to the NCC directly, by email, no less than thirty (30) days prior to the anniversary of the Participant's effective date of participation; and
 - b. completing the *FFLGuard* Online Exit Interview.
 2. A Certificate of Participation, or the participation of an individual Participant, may be canceled by the Group for non-payment of Fees, discontinuation of the Program, or because of the Participant's ineligibility. Notice shall be given by email to a canceled Participant at the email address provided by the Participant stating the effective date and time of cancellation. The effective date and time of cancellation state in the notice shall be the date and time of termination.
 3. Emailing of such written notice of cancellation either by the Participant or by the Program shall be equivalent to mailing.
 4. If the Group cancels a certificate of participation, or an individual Participant cancels a certificate of participation, all Fees shall be deemed earned. Any unearned retainer for additional legal services shall be returned to the cancelled Participant. Refunds may be made either on the date cancellation is effective or as soon as practicable thereafter.
- F. Nonrenewal. If the NCC declines to renew a Participant's participation in the Program, the NCC shall mail or deliver to the Participant at the address shown in the declarations written notice of the nonrenewal not less than thirty (30) days before the expiration date of the Certificate of Participation. The mailing of notice shall be sufficient proof of notice.
- G. Automatic Renewal. If the NCC agrees to renew a Participant's participation in the Program, the Participant will be automatically re-billed for the subsequent year's Fee on a date no more than thirty (30) days before the Participant's anniversary date of joining the Program.
- H. Non-assignments. The interest of any Participant in the Program is and the Program's legal services are not assignable without written permission by the NCC.
- I. Death or Incompetency. If a Participant dies or is adjudged incompetent, the Program shall terminate on the date of death or incompetency as to that Participant. The Program shall pay legal services to or on behalf to the Participant's legal representative with respect to covered Legal Defense Fees incurred to the date of death or incompetency.
- J. Conformity to Statute. Terms of a certificate of participation which are in conflict with applicable statutes are hereby amended to conform to such statutes.
- K. Matter Opening Fee. In lieu of continued billing by the NCC in its oversight capacity over *FFLGuard*-approved counsel for matters that fall

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outside the Fund, the NCC may, at its discretion, invoice the client for a one-time fee.

- L. Interruption Fee. Participants who no longer participate in the Program after participating for any amount of time are subject to additional fees payable to the Fund to account for the Participant's absence from the Program. Additionally, upon joining the Program for a second (or subsequent) time, any matter that requires immediate attention will not be billed at the *FFLGuard* Attorney or Professional's 1/3 discounted rate.

Section 15. PROGRAM TERRITORY. The legal services afforded by this Program apply only to Legal Defense Fees for suits or proceedings brought within the United States of America.

Section 16. PROGRAM'S AUTHORITY OVER COUNSEL. The NCC shall have sole authority to approve, contract with and list *FFLGuard* Attorneys and Professionals, and to render legal services to Participants. Participants are free to select counsel other than *FFLGuard* Attorneys. However, the Program is not obligated to utilize the Fund to pay for, and shall not pay for, such representation except on the terms and conditions arranged by *FFLGuard*, at *FFLGuard's* sole discretion.

Section 17. INTERPRETATION OF THE PROGRAM. The construction and interpretation of the Program provisions are vested with the NCC in its absolute discretion, including but not limited to the determination of acts, privilege legal services, eligibility and all other Program provisions. The NCC shall endeavor to act, whether by general rules or by particular decisions, so as to treat all persons in similar circumstances without discrimination. The Group's constructions, interpretations, determinations and decisions shall be final, conclusive and binding upon all persons having an interest in the Program.

Section 18. REQUESTS FOR LEGAL SERVICES.

- A. A Participant shall promptly notify *FFLGuard* of:
1. any occurrence the Participant has reason to believe may result in a request for legal services for legal services under the Program;
 2. any communication the Participant receives concerning a pending or threatened request for legal services, action or proceeding which may result in a request for legal services for legal services under the Program; and
 3. any request for legal services for legal services under the Program.

Notice must be emailed to *FFLGuard* within seventy-two (72) hours of any foregoing event.

- B. The Group shall make a decision on any request for legal services for legal services promptly, including whether or not access to the Fund is available to the Participant, unless special circumstances require an extension of the

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time for processing. In such a case, a decision shall be made as soon as possible, but not later than seventy-two (72) hours after receipt of the request for legal services. If the Group denies access to the Fund pursuant to a request for legal services, in whole or in part, *FFLGuard* shall send the Participant and the Group a written notice, prepared in a manner calculated to be understood by the Participant, setting forth:

1. the specific reasons for the denial;
2. specific reference to pertinent Program provisions on which the denial is based;
3. if applicable, a description of any additional material or information necessary for the Participant to perfect the request for legal services and an explanation of why such material or information is necessary; and
4. an explanation of the Program's review and appeal procedure.

Section 19. SEVERABILITY. If any provision of this Program Description or attachments is found to be invalid, unlawful or unenforceable, all other provision shall remain in full force and effect.

Section 20. ENTIRE AGREEMENT. This Program Description, along with any further terms set forth in the Retainer Letter executed with this Program Description represent the entire agreement of the Group and Participant. No other purported terms and conditions shall be controlling.

Section 21. GENERAL INFORMATION.

Nat'l Coordinating Counsel
and Agent for Service of
Process:

Christopher M. Chiafullo, Esq.
The Chiafullo Group, LLP
382 Belleville Ave., 2d Floor
Belleville, New Jersey 07109
Phone and Fax: 1-888-335-4731

FEE SCHEDULE (Already Includes *FFLGuard* Discount)

Individual Participant Engagement Fee*†		\$2495.00
Matter Opening Fee		\$150.00
Add'l HelpDesk Time		\$150.00 per hour
Interruption Fee		\$995.00 per year/FFL
Mock ATF Audit*	(5 points)	\$150.00 per hour/person
Half-Day Staff Training Seminar*	(5 points)	\$1495.00
Half-Day On-Site Document Review*	(5 points)	\$1495.00
Development of S/O/P for Participant	(4 points)	TBD
Training Video PPV	(1 point)	\$175.00 each
Fax Document Review and Assessment	(1 point)	\$300.00

* Does not include Reimbursable Travel Costs and Non-Covered Costs and Expenses. †The Group reserves the right to adjust the Fee to encourage participation from prospective clients as may positively affect the Fund and/or the Program.

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All legal services, privileges, terms and conditions of the Program are governed by the Agreement, plus the Agreement's attachments, which include but are not limited to this Program Overview and Description, as executed by the Group and the Participant. Interpretation of the Program, including legal services available, Participant access to the Fund, and the cost of legal services, is vested exclusively with the Group as NCC, in its absolute discretion. Program legal services are EXCESS over all other insurance plans and/or similar such coverage held by the Participant. The Program is subrogated to all rights to recover against any person or entity and has a right of payment from any such recovery.

Effective dates for participation in the Fund shall be the first day of the first full month ninety (90) days after a Participant's Client Information Statement ("CIS") is received, the Fee is paid, and the Agreement between the Group and the client is executed. Applications to participate in the Program that are not fully and accurately completed cannot be processed and may result in ineligibility for, and non-payment of, FFLGuard sponsored legal services through the Fund. Any person or entity who is subsequently determined not to be eligible to participate or to receive legal services paid for by the Program as of the date that a client's need for legal services arises, will not receive payment of legal services by the Program.

THE FFLGUARD PROGRAM OFFERED BY THE CHIAFULLO GROUP, LLP, IS NOT AN INSURANCE POLICY AND IS NOT PRE-PAID LEGAL SERVICES; THE CHIAFULLO GROUP, LLP IS A LAW FIRM OFFERING ACTIVE LEGAL REPRESENTATION, AND DOES NOT OPERATE AS A NOT-FOR-PROFIT ORGANIZATION; THE FFLGUARD PROGRAM OFFERED BY THE CHIAFULLO GROUP, LLP OFFERS CERTAIN LEGAL SERVICES TO ITS MEMBERS BY DISCOUNTING AND VOLUNTARILY RESERVING PART OR ALL OF THE LEGAL FEES GENERATED BY THE REPRESENTATION OF ITS CLIENTS, AND IS AUTHORIZED BY THE PARTICIPANT TO UTILIZE THOSE FEES AS SET FORTH IN THE CLIENT'S ENGAGEMENT AGREEMENT WITH THE CHIAFULLO GROUP, LLP.

For questions and information on enrollment procedures, requests for legal services, FFLGuard Attorneys or Professionals, and HelpDesk inquiries, please contact:

www.fflguard.com

-OR-

Phone and Fax: 1-888-FFL-GRD1
335-4731

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Office of Nat'l Coordinating Counsel - Executive Director, FFLGuard Program

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FFLGuard ATF Special Agent Attaché

Michael Bouchard
Security Dynamics Group, LLC

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