



## Hire Profile Talent Agreement

This **HIRE PROFILE TALENT AGREEMENT** (this "Agreement") is made as of \_\_\_\_\_, 20\_\_ by and between Hire Profile, Inc., ("Hire Profile" and "we," "us," or "our"), and the undersigned independent contractor ("you" or "your").

**Background.** Hire Profile desires to engage you to provide certain services to our clients, and you desires to contract with Hire Profile for the performance of services, all on the terms and conditions set forth in this Agreement. In consideration of the mutual covenants and agreements herein, Hire Profile and Contractor agree as follows.

### **1. Services and Obligations of the Independent Contractor; Work Product.**

(a) During the term of this Agreement and from time to time, you agree to perform certain services (the "Services") for Hire Profile or for clients of Hire Profile which are described in the applicable Assignment Terms Form or as otherwise provided upon acceptance of any work assignment. You shall personally provide the Services as an independent contractor. You shall be solely responsible for determining the method, details and means of performing the Services; however you agree to be available to and to consult with us concerning the performance of the Services.

(b) Except for certain materials or software that are expressly licensed or sublicensed by you to Hire Profile under this Agreement, if any, inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks or trade secrets, whether or not patentable or registrable under copyright or similar laws, which you may solely or jointly conceive or develop, or cause to be conceived or developed, in the course of your performance of the Services to our clients hereunder shall be referred to herein as the "Work Product."

(c) Nothing contained in this Agreement shall be construed as a right to continued engagement as an independent contractor of Hire Profile, or as a limitation of the right of Hire Profile or its clients to

discharge you with or without cause and/or to engage any other competitive contractors. You agree to release and hold Hire Profile harmless, and will not bring, any claims relating to your financial condition which may arise out of, relate to, or result from Hire Profile's termination of this Agreement or your discharge by a client of Hire Profile, except for claims resulting from a breach of Hire Profile's payment obligations hereunder.

(d) You covenant and agree (i) to notify us at once if you will be late or unable to complete any assigned Services, (ii) not to assign or delegate the performance of the Services to any other person or organization without our prior consent, (iii) not to perform other work while performing Services on site for a Hire Profile client, and (iv) to promptly return any equipment, software or other of our or our client's property utilized in performing Services.

### **2. Relationship between Hire Profile and You.**

(a) You agree and acknowledge that the Services hereunder are performed on an independent contractor basis, and that you are not an employee of Hire Profile or its clients for any purpose, including, but not limited to, purposes of federal, state or local tax or other laws, nor shall you hold yourself out to be an employee of Hire Profile or its clients. You agree that as an independent contractor, compensation paid hereunder is not subject to withholdings for social security or federal, state or local income taxes and you expressly acknowledge full responsibility for reporting of all said compensation and payment of all applicable taxes, including any self-employment taxes. You acknowledge and agree that you are in no way entitled to paid vacation, sick days, paid holidays or participation in any employee benefit plans or programs of Hire Profile. You further agree to indemnify and hold Hire Profile harmless to the extent that Hire Profile incurs any liability arising out of, or in any way related to, your being classified as an employee for any purpose. The indemnification obligations of this section shall survive termination of this Agreement.

(b) Pursuant to applicable Georgia law including, O.C.G.A. § 34-8-35(f) you agree and

acknowledges that (i) you are and shall be free from control or direction in performance of the Services, and are customarily engaged in an independently established trade, or occupation, profession or business, or (ii) your relationship with us and the services performed for wages are the subject of an SS-8 determination by the Internal Revenue Service, which decided against employee status. Upon the request by Hire Profile, Contractor agrees to fully cooperate and use his or her best efforts in evidencing his or her status as a non-employee pursuant to O.C.G.A. § 34-8-35(f), or other applicable law.

(c) You acknowledge and agree that you have no authority to act on behalf of Hire Profile or our clients, or to enter into any contract or to incur any liability on behalf of Hire Profile or our clients, except with written consent of Hire Profile or our clients, as applicable. You shall not under any circumstances represent that we are in any way responsible for your actions.

### **3. Representations.**

In addition to any other representations and warranties in this Agreement or in the Assignment Terms Form, you represent and warrant to us that:

(a) you have sufficient expertise, training and experience to satisfactorily accomplish the Services and will use your best efforts in performing the Services,

(c) the Services will be performed in a professional and workmanlike manner, and the Services and all Work Product will be as required by Hire Profile and suitable for Hire Profile's business purposes;

(c) No Proprietary Information (as such term is defined in Section 6(a) below) or intellectual property of third parties that you are prohibited from using or disclosing shall be used by you in the performance of the Services, or incorporated into any Work Product or licenses or sublicenses provided under this Agreement; and

(d) You will not violate any applicable laws or the rights of any third parties in performing under this Agreement.

### **4. Compensation; Worker's Comp Insurance.**

(a) During the term of this Agreement, Hire Profile will pay you the agreed upon hourly rate or fee specified in each Assignment Terms Form. Before beginning any of the Services, you will provide us with a completed W-9 form.

(b) Before beginning any of the Services, you will either (a) provide us with proof of coverage and a certificate confirming Hire Profile, Inc. as additional insured under your policy; or (b) advise us that you wish to be covered under Hire Profile's policy. If you wish to be covered under Hire Profile's policy premiums for your coverage will be deducted from your compensation at the current rate per \$100.00 earned.

(c) For all work performed, you must submit your time, fees or expenses to us weekly, no later than 12:00 noon on Monday for amounts due for Services performed during the prior week. All time entries must contain a daily description of the Services performed and appropriate labor code. All time, and fees must be entered electronically to our time tracking software. Expenses with receipts may be e-mailed to [billing@hire-profile.com](mailto:billing@hire-profile.com). Provided there is no dispute concerning the content or amount of such Services performed, you will be paid via direct deposit in accordance with our normal pay schedule no later than thirty (30) days from the date submitted. These payment terms and procedures are subject to change at our sole discretion.

### **5. Term and Termination.**

(a) This Agreement shall be effective from the date written above until terminated as hereinafter provided. We may terminate this Agreement immediately (i) upon the termination, reduction or modification of any contract, engagement or other arrangement or agreement between Hire Profile and one or more of its clients, which in our sole judgment, directly affects the Services, (ii) upon your breach of this Agreement, or (iii) without cause upon written notice. Failure to terminate this Agreement shall not constitute a waiver of rights under this section.

(b) Upon termination (i) you shall deliver to the client all Work Product and work-in-progress, if any, and will immediately cease use of and deliver to the client all tangible incidents of Proprietary Information (as defined below) in your possession, retaining no copies (ii) all licenses and sublicenses

granted to the client under this Agreement (if any) (including the right to sublicense to customers of Hire Profile) shall continue in perpetuity. Upon termination of this Agreement, our sole obligation shall be limited to the payment for Services rendered through the termination date.

## **6. Confidentiality.**

(a) Hire Profile, its clients and its strategic business allies have invested and will continue to invest considerable effort and expense in the development and creation of products, technologies and services and have taken steps and will continue to take steps necessary to protect the secrecy of the Confidential Information and Trade Secrets (as defined below) of Hire Profile, its customers and its strategic business allies (collectively, "Proprietary Information"). Work Product is included within the definition of Proprietary Information.

(b) You acknowledge and agree that your position will afford you an opportunity to access and acquire Proprietary Information which is not generally available to the public, and that the misappropriation, unauthorized use, or disclosure of Proprietary Information would cause irreparable harm to Hire Profile, its clients and/or its strategic business allies. You recognize and agree that these parties must take reasonable steps to safeguard the confidentiality of such information.

(c) You agree that, from the time that such information was first disclosed to you, and during the term of this Agreement and for a period of three (3) years thereafter, and with respect to Trade Secrets (as defined below) for as long as such information remains a Trade Secret, you have held and will hold such Proprietary Information in a fiduciary capacity for the benefit of Hire Profile, its customers and its strategic business partners, and has not and shall not directly or indirectly use, copy, reproduce, distribute, duplicate, report, publish, disclose or cause to be disclosed, reverse engineered, or otherwise transferred, such Proprietary Information to any third party, or utilize such information for any purpose (whether or not such information was developed or compiled by you, us, our customers or strategic allies), except as expressly contemplated by this Agreement or authorized by us.

(d) The term "Trade Secrets" means information, without regard to form, including, but not limited to, technical or nontechnical data,

formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, discoveries, developments, designs, financial data, financial plans, product plans, technical documentation and specifications, or lists of actual or potential clients, customer(s) or suppliers which: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(e) The term "Confidential Information" as used in this Agreement means confidential or proprietary information, other than Trade Secrets, of value to Hire Profile, our clients or our strategic business allies, including without limitation future business plans, licensing strategies, information regarding executives and employees, and the terms and conditions of this Agreement, as well as any data or information defined herein as a Trade Secret, but which is determined by a court of competent jurisdiction not to be a trade secret under applicable law.

(f) The rights specified in this Agreement are in addition to any and all other rights we have under applicable law.

(g) The foregoing obligations shall not apply if and to the extent that you establish that the information communicated (i) was already known to you, without obligation to keep such information confidential, at the time of your receipt from us or our clients, (ii) was received by you in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential, or (iii) was publicly known at the time of your receipt from us or our clients or became publicly known other than by breach of this Agreement.

(h) All customer information in possession of Hire Profile or our clients ("Customer Information") is and shall remain the confidential and proprietary information of Hire Profile or its clients, as applicable. You agree not to disclose any Customer Information to any person or entity, other than the employees, agents, contractors and affiliates of Hire Profile who have a need to know such information.<sup>5</sup>

and 12 of this Agreement, shall survive termination or expiration of this Agreement.

**7. Non-Solicitation and Survival.**

You agree that for a period of twelve (12) months immediately following the termination of this Agreement for any reason, you will not, either directly or indirectly (a) solicit, induce, recruit, call upon or encourage any of our employees, or any of our client's employees, to leave their employment, or (b) solicit or seek work or employment from any Hire Profile client with whom you had contact as a result of providing Services under this Agreement. The provisions of this Section 7 shall survive the termination of this Agreement.

**8. Reasonableness; Remedies.**

The restrictions contained in Sections 6 and 7 of this Agreement are considered by the parties hereto to be (i) fair and reasonable in all respects and necessary for the protection of Hire Profile's and its client's legitimate business interests in this arm's length commercial transaction; (ii) material and bargained for terms of this Agreement; (iii) are a material inducement for Hire Profile's decision to enter into this Agreement and Hire Profile is relying thereon; and (iv) are necessary to prevent the inevitable disclosure and improper use of Hire Profile's, or its client's Proprietary Information. In the event Contractor is in breach, or threatens to breach any covenants of this Agreement, Contractor acknowledges and agrees that Hire Profile will be greatly damaged and such damage(s) will be irreparable and difficult to quantify; therefore, Hire Profile will be entitled to injunctive or other equitable relief to restrain such breach or threat of breach, without impairing, invalidating, negating or voiding Hire Profile's rights to relief in either law or equity. In the event that any or all of the covenants hereunder are determined by a court of competent jurisdiction to be invalid or unenforceable, by reason that the breadth of restrictions is too great or for any other reason, these covenants shall be modified and interpreted to extend over the maximum geographic area, period of time, range of activities or other restrictions to which they may be enforceable.

**9. Survival.**

Any section of this Agreement which requires survival after the termination hereof, including but not limited to Sections 1(c), 2(a), 3, 6, 7, 8, 9, 10, 11

**10. Assignment of Intellectual Property.**

You agree to and hereby assign to us, or to our designee, all your right, title, and interest in and to any and all Work Product. You further acknowledge that all original works of authorship which are made by you (solely or jointly with others) in the course of the performance of the Services and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act.

**11. Indemnification.**

In addition to any other indemnification covenants herein. You will indemnify, defend and hold us or any of our directors, officers, and representatives, and their successors, assigns, distributors, dealers, employees, agents, subsidiaries, affiliates and customers harmless, from all claims, allegations, demands, liabilities, penalties, losses, damages, administrative proceedings, lawsuits, causes of action or injuries, together with costs and expenses, including reasonable attorneys' fees, asserted against or incurred by foregoing parties, arising out of, or in any way connected with or resulting from:

(i) Your breach of any representation, obligation or warranty hereunder, preparation of any Work Product, or performance of Services under this Agreement; or

(ii) Your use of intellectual property or confidential information of another in the performance of the obligations hereunder; or

(iii) Injuries or damages of any kind, including but not limited to personal injury, death, property damage or theft, arising out of or resulting from your acts, including negligent or willful acts or omissions, performed in connection with this Agreement, or resulting from the use of the Work Product or Services furnished hereunder, or resulting from your failure to perform its obligations hereunder.

**12. Arbitration.**

(a) Except with respect to equitable remedies and disputes related to the ownership and protection of intellectual property, the parties agree that any dispute, claim or controversy arising hereunder or relating in any way to this Agreement, shall be settled

by binding arbitration in Fulton County, Atlanta, Georgia, in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”), with judgment upon the award rendered by the arbitrator to be entered and enforced in a court of competent jurisdiction. The arbitral award shall be in writing and shall set forth the basis of the arbitrator’s decision and be final and binding on the parties.

(b) The party that does not substantially prevail will pay the fees and expenses of the arbitrators and the AAA. The award shall include an award of other costs, including reasonable attorneys’ fees and disbursements which are attributable to the other party’s assertion of legally frivolous claims or defenses or engagement in bad faith tactics in the arbitration, if any. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the parties or their assets. The arbitrator shall apply the substantive law of the State of Georgia, without giving effect to its conflict of laws rules.

(c) EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTER-CLAIM (WHETHER IN CONTRACT, STATUTE, TORT (SUCH AS NEGLIGENCE)), OR OTHERWISE RELATING TO THIS AGREEMENT.

### 13. Miscellaneous.

(a) As this is an agreement for your personal services, you shall not delegate your obligations nor assign or transfer this Agreement in whole or part to any party without the prior written consent of Hire Profile. We may freely assign any of our rights or obligations under this Agreement. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except with respect to the rights of our clients as expressly provided in this Agreement.

(b) The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. Any such invalid provision shall be subject

to partial enforcement to the extent necessary to protect our interests.

(c) This Agreement has been made and delivered in the State of Georgia in which state the offices of Hire Profile are located. Any action related to or arising out of this Agreement shall be brought exclusively in the State or Federal courts of Georgia, and the parties irrevocably commit to the jurisdiction of said courts.

(d) The headings and captions used in this Agreement are for convenience of reference only and shall in no way define, limit, expand or otherwise affect the meaning or construction of any provision of this Agreement.

(e) Any notice required or permitted to be given pursuant to this Agreement shall be deemed sufficiently given when delivered in person, at the time of delivery, or, two (2) business days after deposit in the United States mail, certified, postage prepaid, addressed to the respective party at the address set forth herein or such other address as a party shall provide in writing to the other party.

(g) This Agreement may be executed in one or more counterparts, each of which will for all purposes be deemed to be an original and all of which will constitute the same instrument. This Agreement may be executed and delivered by facsimile and the parties agree that such facsimile execution and delivery will have the same force and effect as delivery of an original document with original signatures, and that each party may use such facsimile signatures as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Hire Profile Talent Agreement as of the date set forth above.

HIRE PROFILE, INC.

INDEPENDENT CONTRACTOR

By: \_\_\_\_\_  
Nancy Bailey  
President

\_\_\_\_\_  
*[Print Legal Name Above only if Contractor is a LLC or Corporation, otherwise please leave blank]*

Address for Notices:

2225 Laurel Mill Way  
Roswell, Georgia 30076

By: \_\_\_\_\_  
*[Sign Above]*

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_  
*[Include only if Contractor is a LLC or Corporation]*

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_

**Please complete the section below:**

- Sole Proprietor
- Corporation
- LLC

**Check Box Below if Applicable:**

I can provide proof of my own Worker's Comp Policy:

For Internal Use only: <input type="checkbox"/> W-9 <input type="checkbox"/> WC <input type="checkbox"/> QB <input type="checkbox"/> CV <input type="checkbox"/> BT <input type="checkbox"/> NC
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