

CONSUMER REPORT USER AGREEMENT

This Agreement is made and entered into by and between PERSONNEL PROFILES EMPLOYMENT SCREENING, A DIVISION OF MERCHANTS INFORMATION SOLUTIONS, INC., an Arizona corporation ("Personnel Profiles"), having a mailing address at P.O. Box 2070, Phoenix, Arizona 85001, and _____ (its employees, affiliates, subsidiaries and contractors authorized to conduct background screening, collectively "Subscriber"), having a mailing address at _____.

This Agreement shall be effective when it is signed by both parties. The parties agree as follows:

1. **PERSONNEL PROFILES' SERVICES:** Personnel Profiles is a consumer-reporting agency and provides, among other things, consumer reports and investigative consumer reports ("Screening Reports") as defined by the Fair Credit Reporting Act ("FCRA"). Subject to the terms and conditions of this Agreement, Personnel Profiles agrees to furnish Subscriber with Screening Reports in connection with, among other things, pre-employment background screening of job applicants and employees (collectively, "Applicant").

2. **SOFTWARE LICENSE:** Subscriber understands that Personnel Profiles, as a part of its services, may allow Subscriber non-exclusive access to certain software created and owned by Personnel Profiles ("Software"). All Software is the proprietary property of Personnel Profiles. The Software is protected by United States and international copyright laws and may not be used, copied, modified or distributed by Subscriber unless explicitly provided under the terms of this Subscriber Agreement or Personnel Profile's Software License Agreement that accompanies the Software ("Software License"). Subscriber must restrict any access to the Software only to authorized employees of Subscriber. Any use of the Software by Subscriber must be only for legitimate purposes. Subscriber is liable for any illegitimate, illegal or unauthorized use of the Software. Subscriber's use of the Software will be further governed by the Software License.

3. **INFORMATION SECURITY.** Subscriber acknowledges and understands its obligation to maintain the confidentiality and integrity of any information and Subscriber identification numbers and passwords requested or received from or through Personnel Profiles.

4. **SUBSCRIBER'S REPRESENTATIONS AND WARRANTIES :** Subscriber represents and warrants that:

(a) That the information contained in the Subscriber Application submitted to Personnel Profiles with this Agreement is true, complete and correct.

(b) It will be responsible for identifying and taking all steps necessary to comply with all applicable federal, state and local laws in connection with the procurement and use of Screening Reports, including, but not limited to, Subscriber's obligations under the equal employment opportunity ("EEO") laws and regulations and FCRA sections 604(b)(2) ("Disclosure to consumer") and 606(a)(2) ("Disclosure of investigative consumer report");

(c) *Each* time it requests a Screening Report from Personnel Profiles, Subscriber is (i) representing and warranting to Personnel Profiles that it has, with regard to the particular Applicant, complied with Subscriber's obligations under the EEO laws and the FCRA and other fair credit reporting laws; and (ii) agreeing that it will do so at all times in the future with regard to the use of the Applicant's Screening Report, including, but not limited to, adhering to the "adverse action" procedures prescribed by applicable law;

(d) It will assume sole responsibility for the final verification of the Applicant's identity;

(e) It will base all hiring decisions and actions on its own policies and procedures and acknowledges that Personnel Profiles' employees will not (and are not authorized to) render any opinions regarding the use of Screening Reports for employment or any other purpose;

5. **SUBSCRIBER GENERAL OBLIGATIONS:** Subscriber agrees that:

(a) It will promptly pay for all services rendered hereunder the standard charges of Personnel Profiles from time to time in effect for those services, and it acknowledges that the current standard charges for the services of Personnel Profiles are set forth in the Schedules of Fees which are posted on the company's website;

(b) Personnel Profiles payment terms are 30 days. If all payments due pursuant to the Schedule of Fees are not received by Personnel Profiles within 30 days after the date of the billing statement, Personnel Profiles may charge interest of 1.5% per month and/or terminate Subscriber's access privileges and release Personnel Profiles from any obligation to perform any further services;

(c) It acknowledges that except for any rights it may have from time to time under the Software License, it has no interest in and to the property of Personnel Profiles, including but not limited to Personnel Profiles' system of products and services, including but not limited to the Software and intellectual property rights therein; and further acknowledges that all content contained in any Screening Report is the property of the applicable content owner and may be protected by applicable contract and/or copyright law; and

(d) If information or advice regarding laws, regulations and other legal matters is requested by Subscriber and Personnel Profiles responds to such request, any response received from Personnel Profiles shall not be deemed to be legal advice and that Personnel Profiles shall not be acting as a legal advisor to Subscriber; and Subscriber will have all such information or advice received from Personnel Profiles reviewed and approved by Subscriber's attorneys prior to taking (or failing to take) any action affected by such information or advice.

(e) Subscriber will permit Personnel Profiles to conduct an on-site inspection of Subscriber's premises to verify that Subscriber is a legitimate business. Subscriber will permit Personnel Profiles, upon reasonable notice, to audit Subscriber's use of the consumer reports received from Personnel Profiles to permit Personnel Profiles to verify that Subscriber is using the consumer reports for a purpose or purposes that are permissible under applicable state and federal law.

6. **DRUG TESTING OBLIGATIONS:** If drug testing is requested to be included in the Screening Report with respect to any Applicant, Subscriber agrees that it shall:

(a) Comply with all federal, state and local laws that may be applicable, including the FCRA, regulations promulgated by the Department of Transportation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and other applicable laws, with respect to the request for drug screening services provided by Personnel Profiles and/or its vendors and the use of the results of such drug screening;

(b) Comply with those Terms and Conditions set forth for pre-employment and post-employment drug testing

(c) Provide Applicant with chain of custody form and directions to an authorized collection site.

7. MOTOR VEHICLE RECORDS INFORMATION OBLIGATIONS: If motor vehicle records ("MVR") are requested to be included in the Screening Report with respect to any Applicant, Subscriber agrees that it:

- (a) Will use the MVR only for "employment purposes" as contemplated by the FCRA and any applicable state law;
- (b) Is qualified to do business and validly holds all licenses required to operate Subscriber's business in all states where Subscriber conducts business and/or has employees;
- (c) Will comply with all applicable federal and state laws related to the use and review of MVRs, including, but not limited to, the Driver's Privacy Protection Act ("DPPA");
- (d) Will not use the MVR to build its own database or copy or otherwise reproduce the MVR except in connection with the review of the Applicant;
- (e) Will not sell, distribute or disseminate the MVR, in whole or in part, to any third party and shall use the MVR solely as an end-user; and
- (f) Will submit to an audit of Applicant consent forms at Personnel Profiles' request. In the event of such request, reasonable notice would be provided and the audit would take place during Subscriber's regular business hours.

8. PERSONNEL PROFILES' OBLIGATIONS: Personnel Profiles agrees that it will:

- (a) Comply with all applicable federal, state and local laws in preparation and transmission of Screening Reports to Subscriber, including but not limited to the FCRA;
- (b) Follow reasonable quality assurance procedures and otherwise make reasonable efforts in accordance with industry standards to provide high quality, timely and accurate information in Screening Reports provided to Subscriber;
- (c) Re-verify at no cost any disputed report when either the Subscriber or the Applicant makes a request in accordance with applicable law;
- (d) Maintain consumer report information and transaction details for a minimum of three (3) years and, upon written request by an Applicant, inform the Applicant of the substance of the report and information contained in the Screening Report delivered to Subscriber; and
- (e) Maintain the confidentiality of its data acquisition and verification methodology.

9. LIMITATION OF LIABILITY: Except for any damages of Subscriber caused by the gross negligence or intentional misconduct of Personnel Profiles, Subscriber agrees that the liability of Personnel Profiles for any damages resulting from the preparation and transmission of Screening Reports, from a breach by Personnel Profiles of its obligations under this Agreement and/or for any other conduct of Personnel Profiles shall be limited to a refund of the fees actually received by Personnel Profiles under this Agreement. Subscriber also agrees that Personnel Profiles shall not be liable to Subscriber for any other damages, costs or expenses whatsoever except as expressly agreed to in Paragraph 7 or pursuant to Subpart (b) of Paragraph 8 above. In no event, however, shall either party be liable to the other party for punitive or exemplary damages or for consequential damages of any kind or nature.

10. INDEMNIFICATION:

- (a) Subscriber shall indemnify, defend and hold Personnel Profiles harmless from and against any and all claims, demands, costs, expenses, damages and liabilities of any kind or nature whatsoever, including but not limited to reasonable attorneys' fees incurred by Personnel Profiles, caused by Subscriber's breach

of the terms of this Agreement or failure to comply with its obligations under the FCRA or other laws applicable to the procurement or use of Screening Reports.

(b) Personnel Profiles shall indemnify, defend and hold Subscriber harmless from and against any and all claims, demands, costs, expenses, damages and liabilities of any kind or nature whatsoever, including but not limited to reasonable attorneys' fees incurred by Subscriber, caused by the gross negligence or intentional misconduct of Personnel Profiles in preparing and transmitting the Screening Report.

(c) For purposes of Subscriber's compliance with applicable state and federal law, including California Civil Code section 1786.16, Subscriber has requested that Personnel Profile provide consumers with copies of any consumer credit reports and investigative consumer reports prepared by Personnel Profile for Subscriber. Subscriber understands that under a conservative reading of California law, as amended in 2002, Subscriber itself may be required to furnish consumers with copies of any such reports. Accordingly, Subscriber agrees to indemnify, defend and hold Personnel Profiles harmless from any and all claims, demands, costs, expenses and liabilities which may be incurred by Personnel Profiles based upon a dispute between Subscriber and a consumer, or any person or entity acting on the consumer's behalf, in connection with the services provided to Subscriber by Personnel Profiles under the terms of this paragraph.

11. **CONFIDENTIAL INFORMATION:** Subscriber agrees to treat all Confidential Information disclosed to it in any matter arising out of or relating to this Agreement in accordance with the provisions of this Agreement. "Confidential Information" means all proprietary or secret data and sales or pricing information relating to Personnel Profiles and its operations, employees, products or services and also all information relating to any affiliate, supplier, customer, potential customer, agent, and/or independent sales outlet of Personnel Profiles. Subscriber shall with respect to Confidential Information received by it: (i) protect and maintain it in confidence, except to the extent necessary to carry out the purposes of this Agreement; and (ii) use at least the same degree of care in maintaining secrecy as it uses in maintaining the secrecy of its own confidential information, but in no event less than with reasonable care and diligence. At all times, both during this Agreement and after its termination, Subscriber shall not disclose any Confidential Information without prior written consent of Personnel Profiles.

12. **TERM:** The term of this Agreement shall continue in force and effect unless and until a party notifies the other party in writing that it is terminating this Agreement, in which case this Agreement shall terminate on the date specified in the notice or, if no date is specified, 14 days after the date the notice is sent (postage or other delivery charges prepaid) by United States mail, registered or certified, or a recognized courier service (such as UPS) to the other party at its address set forth at the beginning of this Agreement (or at another notice address provided by the recipient to the sender before the notice was sent). If Subscriber continues to order services after the termination of this Agreement and Personnel Profiles elects to fulfill those orders, all terms and conditions this Agreement will remain in force as to those orders. The obligations of the parties which accrued prior to Termination and the provisions of Paragraphs 11 through 18 shall survive termination of this Agreement.

13. **DISCLAIMER OF WARRANTIES:** EXCEPT AS MAY BE EXPRESSLY SET FORTH ELSEWHERE IN THIS AGREEMENT, PERSONNEL PROFILES MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, TO SUBSCRIBER, INCLUDING BUT NOT LIMITED TO (1) ANY REPRESENTATION OR WARRANTY REGARDING THE ACCURACY OR CURRENCY OF INFORMATION CONTAINED IN SCREENING REPORTS, (2) PUBLIC RECORDS OR DATA BANKS MAINTAINED BY THIRD PARTIES OR PROVIDED TO PERSONNEL PROFILES OR SUBSCRIBERS BY THIRD PARTIES OR (3) ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. SUBSCRIBER RECOGNIZES THAT PERSONNEL PROFILES CANNOT GUARANTEE THE ACCURACY OR CURRENCY OF INFORMATION PROVIDED IN SCREENING REPORTS BECAUSE SUCH INFORMATION OBTAINED FROM PUBLIC RECORDS AND OTHER THIRD PARTY SOURCES MAY NOT ALWAYS BE ACCURATE OR CURRENT. THIS DISCLAIMER IS NOT INTENDED TO DIMINISH THE EXPRESS OBLIGATIONS OF PERSONNEL PROFILES IN THIS AGREEMENT.

14. GOVERNING LAW; VENUE AND JURISDICTION; WAIVER OF JURY TRIAL: THIS AGREEMENT IS DEEMED EXECUTED, TO BE PERFORMED IN, AND TO BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES. SUBJECT TO THE PROVISIONS OF PARAGRAPH 18, SUBSCRIBER (A) AGREES THAT ANY LITIGATION BROUGHT PERSONNEL PROFILES SHALL BE COMMENCED AND PURSUED IN THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF ARIZONA, MARICOPA COUNTY ("COURTS"); (B) CONSENTS TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF ARIZONA, MARICOPA COUNTY, IN CONNECTION WITH ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATED TO THIS AGREEMENT AND AGREES THAT ANY LITIGATION MAY BE VENUED IN SUCH COURTS; (C) WAIVES ANY ARGUMENT THAT SUCH COURTS ARE NOT CONVENIENT; AND (D) WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING PERTAINING TO ANY SUCH CLAIM OR CONTROVERSY.

15. Access Security Requirements: We must work together to protect the privacy of consumers. The following measures are designed to reduce unauthorized access of consumer credit reports. In accessing Personnel Profiles services, you agree to follow these measures:

a) You must protect your Personnel Profiles account and password so that only key personnel employed by your company know this sensitive information. Unauthorized persons should never have knowledge of your password. Do not post this information in any manner within your facility. If a person who knows the password leaves your company or no longer needs to have it due to a change in duties, the password should be changed immediately.

B)

15. INTERPRETATION: This Agreement shall be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto (whether or not it was drafted by the attorney for such party).

16. INTEGRATION: This Agreement sets forth the entire agreement between the parties hereto and fully supersedes any and all prior agreements or understandings, written or oral, between the parties hereto pertaining to the subject matter hereof.

17. MODIFICATION: This Agreement may be modified only by a writing executed by both parties.

18. SEVERANCE: If any provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such provision(s) or part(s) shall be stricken from this Agreement and shall not affect the legality, enforceability or validity of the remainder of this Agreement.

19. ATTORNEYS' FEES: In the event of any action or proceeding involving any claim or controversy arising out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

20. ARBITRATION: The parties agree that any claim or controversy arising out of or relating to this Agreement shall be settled by submitting the dispute to private, final and binding arbitration in Phoenix, Arizona. However, nothing shall prevent a party from seeking injunctive relief from a court if such injunction is necessary to prevent irreparable harm to such party. The arbitrator shall be selected by the mutual agreement of the parties or, if the parties cannot agree upon an arbitrator, by an arbitrator appointed by the American Arbitration Association in accordance with its rules applicable to claims or controversy (the "AAA Rules"). Any such arbitration shall be conducted in accordance with the AAA Rules. The arbitrator must award reasonable attorneys' fees and costs to prevailing party.

**Personnel Profiles Employment Screening, a
division of Merchants Information Solutions, Inc.**

Subscriber Name:

By; _____

By: _____

Title: _____

Print Name: _____

Date: _____

Title: _____

Date: _____

Account Set Up Information

Please send my billing by: Fax Email

Please note: Personnel Profiles preferred billing methods are E-mail or Fax. Does your business require paper billings to be mailed? Yes No

Billing Information (required)

Address: _____

City _____ State _____ Zip _____

Phone: _____ Contact name: _____

Email Contact for Billing

Contact name _____ Tel. _____ Email Address _____

Fax Number for Billing

Contact name _____ Fax number _____

Order Method – (For *receiving* screening information)

How will you be placing orders? _____ Fax
 _____ Website

How would you like completed reports sent to you?
 _____ Fax
 _____ Website

1st Contact

Name _____ Tel. _____ Email Address _____

2nd Contact

Name _____ Tel. _____ Email Address _____

Subscriber Application

Important: All information must be completed in its entirety. Please print clearly and legibly to ensure accurate and timely processing. **IF A QUESTION DOES NOT APPLY PLEASE ANSWER N/A**

General Company Information

Company Name: _____

DBA: _____

Years in Business: _____ Months: _____ Exchange Symbol: _____

Ownership (indicate one):

Partnership Sole Owner Non-Profit Corporation LLC

Principle Name: _____ Title: _____

Physical Street Address (no PO Box numbers, please): _____

City: _____ State: _____ Zip: _____ How Long: Yrs: _____ Moss: _____

Previous Address (if current address is less than 5 years): _____

City: _____ State: _____ Zip: _____ How Long: Yrs: _____ Moss: _____

Landline Phone: _____ Fax: _____ Is this residential address? Yes No

Webpage: _____ E-mail: _____

Do you own or lease the building in which you are located? Own Lease

Required by everyone: Do you have any branch offices in the state of California? Yes No

Business Information (Please tell us about your company)

Type of Business: _____ Do you require a Purchase Order? Yes No

Do you have an Investigation License? Yes No If yes, please provide a copy with this application

Estimated number of reports you will access monthly: _____

Permissible Purpose/Appropriate Use

Please mark the specific purpose for which the MCIS product information will be used. (What will the information obtained be used for?) Please mark all that apply.

Employment Screening _____ Resident Screening _____ Qualify for Mortgage Loan _____

Other, describe: _____

If this application involves Subscriber's use of consumer credit products, then the following shall apply:

I have read and understand the "FCRA Requirements" notice and "Access Security Requirements" within the agreement and will take all reasonable measures to enforce them within my company. I certify that I will use the information for no other purpose other than what is stated in the Permissible Purpose/Appropriate Use section on this application and for the type of business listed on this application. I certify that I have read the above statements and all information provided is accurate. I will not sell the report to any consumer directly or indirectly. I understand that if my system is used improperly by company personnel, or if my access codes are made available to any unauthorized personnel due to carelessness on the part of any employee of my company, I may be held responsible for financial losses, fees, or monetary charges that may be incurred and that my access privilege may be terminated. I certify that I have the authority to sign for the company listed above.

Authorized Signature: _____ Date: _____

Type or Print Name: _____ Title: _____

You fax your completed application to 602-258-0716 or mail to Merchants Information Solutions, P.O. Box 2070, Phoenix, AZ 85001-2070. If you have questions or need additional information, please call the Sales Department at (602)-744-3700 Ext. 5, or contact your sales person directly.

Certification from Employer User to Consumer Reporting Agency

This will certify that below named employer has complied with and will continue to comply with the Fair Credit Reporting Act ("FCRA"), with respect to the consumer reports and/or investigative consumer reports that it requests from Personnel Profiles Employment Screening, Inc., involving applicants and/or employees ("the consumers"). Specifically, below named employer certifies the following:

1. Before seeking from Personnel Profiles Employment Screening, Inc. the procurement of any consumer report or investigative consumer report, below named employer provides, pursuant to Section 604(b)(2)(A) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(b)(2)(A)(i), a clear and conspicuous written disclosure to consumers, in a document that consists solely of such disclosure, which states that a consumer report and/or investigative consumer report may be obtained for employment purposes.
2. Below named employer further discloses to the consumer that the report may include information as to his or her character, general reputation, personal characteristics and/or mode of living, and notifies the consumer of his or her right to request additional disclosures from below named employer concerning the nature and scope of the investigation and to receive a written summary of his or her rights under the Fair Credit Reporting Act.
3. Pursuant to Section 604(b)(2)(A)(ii) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(b)(2)(A)(ii), below named employer will not seek a consumer report or investigative consumer report from Personnel Profiles Employment Screening, Inc. unless and until the consumer authorizes, in writing, the procurement of the consumer report and/or investigative consumer report by such employer user.
4. Below named employer only will procure consumer reports and investigative consumer reports for employment purposes, or for other purposes permitted by section 604(a) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a). Below named employer will not use the information obtained in connection with any report for any other purpose.
5. When procuring an investigative consumer report, below named employer will comply with any request made by any consumer under Section 606(b) of the Fair Credit Reporting Act, 15 U.S.C. §1681d(b), for additional information regarding the nature and scope of the investigation.
6. Before taking any adverse action against a consumer based in whole or in part on the consumer report or investigative consumer report, below named employer will

7. Provide to the consumer a copy of the report and a description in writing of the consumer's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission. "Your Rights under the Fair Credit Reporting Act" is the description of consumer rights that has been prescribed by the Federal Trade Commission.
8. Below named employer and/or its agents will not use the information contained in the consumer report in violation of any applicable State or Federal equal employment opportunity law or regulation.
9. Below named employer acknowledges that Personnel Profiles Employment Screening, Inc. may request a renewal of this certification by below named employer at any time. Further, below named employer acknowledges that Personnel Profiles Employment Screening, Inc. reserves the right to obtain a renewal of this certification before it conducts any particular background check or prepares any particular consumer report and/or investigative consumer report.

By:

Company Name [Employer]

Authorized by [Printed Name and Title]

Signature

Date