

Employment Contract

This Employment Contract (“Agreements”) is entered by and between _____ (“Employer”), and the undersigned employee (“Employee”) as of the date of Employee’s signature below.

WHEREAS, _____ is engaged in the business of _____. The above-named Employee will primarily perform the job duties at the following location:
_____.

The Company shall employ _____ as a(n) _____. The Employee accepts and agrees to said employment, and agrees to be subject to the supervision, direction, and advice of the Employer and Employer’s supervisory agents. Employee shall provide Employer the below services:

_____.

The Employee shall also perform a) other duties that are customarily performed by an employee in the same or similar position, and b) and other potentially unrelated services and duties that may be assigned to the Employee from time to time.

You will work a minimum of _____ hours per week with all requests for time off (other than holidays observed by all of Employer’s employees) to be approved in advance by _____ (“Immediate Supervisor”). You will perform such tasks as shall be assigned by your Immediate Supervisor and such tasks as are usually and customarily performed by persons holding the title of _____.

You will not be entitled to vacation during the Probationary Period and for a period of _____ months thereafter (the “Initial Year”). After the end of the Initial Year, you will be entitled to _____ weeks’ vacation during the next year of service with Employer, _____ weeks’ vacation each year during the next _____ years of service with Employer, and _____ weeks’ vacation during each year of service with Employer thereafter.

After the Probationary Period you will also be entitled to up to _____ sick days, with pay, which shall accrue from the date of this agreement, and _____ personal days. All vacation and personal days must be approved in advance by your Immediate Supervisor. You will also be entitled to the same paid holidays as are observed by all of Employer’s employees.

WHEREAS, in the scope of Employee’s service for Employer, Employee may have access to trade secrets, confidential and proprietary information, resources, property, and equipment belonging to Employer and this Agreement governs the use and disclosure of such item

WHEREAS, Employee enters into these Agreements with Employer and undertakes the obligation stated in these Agreements as a condition of continued employment;

NOW THEREFORE, in consideration of the respective promises and Covenants of the parties and for other good and valuable consideration including, but not limited to, Employee’s continued employment

and opportunity for increased compensation and benefits and access to the Employer's trade secrets, confidential and proprietary information as defined below, the receipt and adequacy of such consideration being acknowledged and intending to be bound, the parties agree as follows:

PREVIOUS AGREEMENTS

Employee warrants that he or she is not a party to any restrictive agreement, including but not limited to, non-disclosure, non-competition, or non-solicitation agreements with any other entity limiting Employee's activities in his or her employment by Employer. Employee further warrants that at the time of the signing of this Agreement, he or she knows of no written or oral contract or any other impediment that would inhibit or prohibit the performance of Employee's duties on behalf of Employer, and that Employee will not knowingly use any trade secret, confidential information, or other intellectual property right of any other party in the performance of Employee's duties on behalf of Employer. Employee agrees that he or she shall notify the Employer immediately, in writing, if the Employee becomes aware of any such impediment or intellectual property right of any other party that may be affected by the Employee's work with the Employer. Employee agrees to indemnify and hold Employer harmless from any and all suits, claims, and disputes arising out of any breach of such restrictive agreement, contract, or legal duty.

AT-WILL EMPLOYMENT

Employee acknowledges and agrees that Employee's employment with Employer is "at-will", meaning that it is not for any specified period of time and can be terminated by Employee or Employer at any time, with or without advance notice, and for any or no particular reason or cause. Employee acknowledges and agrees that it also means that job duties, title and responsibility and reporting level, compensation and benefits, as well as Employer's personnel policies and procedures, may be changed at any time, at-will by the Employer. Employee acknowledges and agrees that nothing about the facts or content of this Agreement is intended to, nor should be construed to, alter the at-will nature of Employee's employment with the Employer.

DUTY OF LOYALTY TO EMPLOYER

Employee acknowledges that, as an employee of Employer, he or she has a duty to in no way injure Employer's business or financial interests. Employee hereby acknowledges and contractually agrees not to violate this duty. Included within this provision are (a) a prohibition on Employee from soliciting Employer's customers or prospective customers for any reason other than Employer's legitimate business purposes during Employee's employment with Employer, and (b) an obligation by Employee to cooperate with any investigation conducted by Employer.

NON-DISCLOSURE OF PROPRIETARY AND CONFIDENTIAL INFORMATION AGREEMENT

Employee acknowledges that the Employer is engaged in a highly competitive industry. Employee further acknowledges that, as part of Employee's employment with Employer, Employer will provide Employee "proprietary and confidential information" (as defined below) which is vital to the interests and success of Employer and which Employee did not previously have access to or knowledge of, or would

not continue to have access to absent these Agreements. As consideration for these Agreements, and contemporaneous with Employee signing these Agreements, Employer agrees to (a) invest significant resources in training Employee with respect to its business, and (b) provide Employee “proprietary and confidential information.” Employee acknowledges that such training and information are necessary and desirable for Employee’s personal success as an employee of Employer. Employee also agrees he or she is receiving other good and valuable consideration, the adequacy of which Employee hereby expressly acknowledges.

“Proprietary and confidential information” means any information of Employer that is not generally known to the public or to Employer’s competitors in the industry, was not known by Employee prior to signing these Agreements, is used in the business of Employer, and gives Employer an advantage over businesses that do not know the information. “Proprietary and confidential information” also means any information of one of Employer’s customers that is not generally known to the public or to the customer or Employer’s competitors in the industry, was not known by Employee prior to signing these Agreements, is used in the business of the customer or Employer, and gives the customer or Employer an advantage over businesses that do not know the information. “Proprietary and confidential information” includes, but is not limited to: the identity of Employer’s customers and prospective customers; personal relationships with those customers; Employer’s customers’ preferences and tendencies; Employer’s purchasing, pricing, cost, and sales arrangements with customers and suppliers; Employer’s marketing techniques, business plans, and strategies; Employer’s customers’ financial information; Employer’s inventorying and shipping techniques; and Employer’s customer lists, sales reports, inventory reports, cost reports, and other proprietary information received from Employer. Because of the nature and sensitivity of this information, Employee acknowledges that Employer has legitimate business and competitive interests and legal rights to require non-disclosure of the information and to require that it be used only for Employer’s benefit.

In exchange for Employer providing Employee the consideration set forth herein, Employee agrees not to disclose, nor use, directly or indirectly, either for Employee’s own benefit or for the benefit of any other individual or business, any “proprietary and confidential information,” except in the carrying out of Employee’s employment responsibilities for Employer.

All files, records, lists, or other documents, in whatever form maintained, relating to “proprietary and confidential information,” whether prepared by Employee or otherwise coming into Employee’s possession during Employee’s employment with Employer, shall be the exclusive property of Employer and shall be delivered to Employer upon termination of employment for any reason, or upon Employer’s request.

In the event that any adverse action is taken against the Employer as a result of Employee’s improper disclosure or non-public personal information, Employee agrees to indemnify and forever hold harmless Employer from and against any and all financial loss the Employer may sustain due to Employee’s improper disclosure.

NON-SOLICITATION OF EMPLOYEES AGREEMENT

In exchange for Employer providing Employee the consideration set forth herein, Employee agrees that during Employee's employment with Employer and for a period of _____ months following the termination of such employment for any reason, Employee shall not, either directly or indirectly, call on, solicit, or induce any employee or officer of Employer whom Employee had contact with, knowledge of, or association with in the course of such employee or officer's employment with Employer (collectively, the "Covered Individuals") to terminate his or her employment with Employer, and will not assist any other person or entity in such a solicitation. Employee further agrees not to (a) communicate, by any means whatsoever, with any Covered Individual regarding the termination of his or her employment with Employer, or (b) hire, retain, or assist any other person or entity, directly or indirectly, in hiring or retaining any Covered Individual, during the time period set forth above. Should any Covered Individual initiate any such communication with Employee, Employee shall immediately change the subject and take reasonable measures to prevent any further communication related to the issue.

NON-SOLICITATION OF CLIENTS AND VENDORS

In exchange for Employer providing Employee the consideration set forth herein, Employee agrees that during Employee's employment with Employer and for a period of ____ months following the termination of such employment for any reason, Employee shall not, either directly or indirectly, call on, solicit, or induce any client or vendor doing business with Employer (collectively, the "Covered Entities") to terminate or decrease its dealings with Employer, and will not assist any other person or entity in such a solicitation. Employee further agrees not to (a) communicate, by any means whatsoever, with any Covered Entity regarding the termination of his or her employment with Employer, or (b) hire, retain, or assist any other person or entity, directly or indirectly, in hiring or retaining any Covered Entity, during the time period set forth above.

As explained above, Employee has agreed not to solicit certain employees and customers of Employers for the periods of time referenced above. Additionally, and irrespective of whether Employee ever contends such prohibitions are invalid, in exchange for Employer providing Employee the consideration set forth herein, Employee contractually agrees to notify Employer of any such solicitation within one (1) business day of the solicitation occurring. Employee hereby stipulates that failure to notify Employer of any such solicitation shall be a material breach of these contractual Agreements.

STATEMENTS ABOUT EMPLOYER

Employee agrees that, both during and after his or her employment with Employer, he or she shall refrain from making or publishing any oral or written statement about Employer or Employer's officers, employees, agents, or representatives that (a) is defamatory; (b) discloses private or confidential information about their business affairs; (c) constitutes an invasion into their seclusion or private lives; (d) gives rise to unreasonable publicity about their private lives; (e) places them in a false light before the public; or (f) constitutes a misappropriation of their name or likeness. Employee hereby stipulates that any such statement by Employee shall be a material breach of these contractual Agreements.

NON-COMPETITION AGREEMENT

By signing this document, the Employer and Employee do agree that in consideration for the employer's providing the many opportunities for training and experience that the employee's job normally provides, the employee, should he or she resign, retire, or otherwise leave voluntarily, will not: (1) establish any competing business or activity; (2) within a distance of ____ miles of any of the Employer's facilities, in any part of the United States, or in any other country; (3) for a period of ____ months.

“Competition” is defined as: (i) engaging in the same or substantially same services that Employee provided for Employer in the year prior to Employee’s separation of employment, or such other services performed by Employee; or (ii) rendering advice or services to, or otherwise assisting, any other person or entity in one or more of the above services, if Employee engaged in such services for Employer in the year prior to Employee’s separation of employment.

PROVISIONS APPLICABLE TO ALL AGREEMENTS

The Agreements set forth herein, shall continue to be binding upon Employee, notwithstanding termination of employment with Employer. Should any provision(s) in these Agreements be held by a court of competent jurisdiction to be invalid, void, or unenforceable, that provision(s) shall be fully severable and the remaining provisions shall be unaffected and shall continue in full force and effect, and the invalid, void, or unenforceable provision(s) shall be deemed not to be part of these Agreements. Furthermore, in lieu of any invalid, void, or unenforceable provision(s), there shall be added automatically as a part of these Agreements a provision(s) as similar in terms to the questioned provision(s) as may be possible and still be valid and enforceable.

Employee expressly agrees that, because of the nature of these Agreements, the remedy at law for any breach is inadequate and injunctive relief (in addition to damages) will be available to the Employer to prevent such breach or threatened breach. Furthermore, Employee agrees that if he or she violates the non-solicitation of employees, non-solicitation of customers, or non-competition agreements described above and Employer brings legal action for injunctive relief, Employer shall not, as a result of such breach or the time involved in obtaining the relief, be deprived of the benefit of the full period of the Agreement(s) violated. Accordingly, the Agreement(s) shall be deemed to be in effect for the duration specified therein, computed from the date the relief is granted, but not to include any period of time during which Employee is in violation of the Agreement(s).

No failure by Employer at any time to give notice of any breach by Employee of, or to require compliance with, any condition or provision of these Agreements shall be deemed a waiver of any provisions or conditions of these Agreements. The existence of any claim of Employee against Employer shall not constitute a defense to the enforcement by Employer of the non-disclosure, non-solicitation of employees, non-solicitation of customers, or non-competition agreements described above.

These Agreements shall be governed by the laws of the State of _____, notwithstanding the application of any choice of law principles.

These Agreements shall be binding upon and inure to the benefit of the Employer and any other person, association, or entity that may acquire or succeed to all, or substantially all, of the business or assets of the

Employer. The Employer may assign these Agreements to any affiliate or other entity. Employee's rights and obligations under these Agreements are personal, and they shall not be assigned or transferred without Employer's prior written consent.

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of the Agreement, the Employer will be entitled to reasonable attorney's fees if the Employer prevails, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any relief to the that party may be entitled.

REMEDIES AND ENFORCEMENT

- (a) Employee acknowledges and agrees that the Employer's remedy at law for a breach or threatened breach of any of the above-referenced provisions listed herein would be inadequate and the breach shall be per se deemed as causing irreparable harm to the Employer. In recognition of this fact, in the event of a breach by Employee of any of the these provisions, Employee agrees that, in addition to any remedy at law available to the Employer, including, but not limited to monetary damages, the Employer, without posting a bond shall be entitled to obtain equitable relief in the form of specific performance, temporary restraining order, temporary or permanent injunction or any other equitable remedy which may then be available to the Employer.
- (b) If Employee violates the restrictions set forth in this Agreement, then the duration of the restrictions shall be extended for an amount of time equal to the number of days that Employee violated the Agreement until the date that the Employer obtains an order enjoining the Employee from said violation.
- (c) In the event that Employee challenges this Agreement and an injunction is issued staying the implementation of the restrictions imposed herein, the time remaining on the restrictions shall be tolled until the challenge is resolved by final adjudication, settlement or otherwise, except that the time remaining on the restrictions shall not be tolled during any period in which Employee is unemployed.
- (d) The provisions of this Agreement, as well as the period of time, geographical areas and types and scope of restrictions of Employee's activities specified herein are intended to be divisible; and, in the event any provision herein shall be deemed invalid or unenforceable in any respect, at to any one or more periods of time, geographical areas, business or activities, the remaining provisions shall not thereby be affected but shall remain in full force and effect; and this Agreement shall be deemed to be amended without further action by the parties hereto to the extent necessary to render it valid and enforceable
- (e) The Employee further acknowledges and agrees that in the event of a breach, or threatened breach, the Employer will suffer immediate and irreparable harm which said harm is presumed to occur, and that Employer shall be entitled to receive from a court of competent jurisdiction, at the court's sole discretion, a temporary restraining order with or without notice to Employee, as well as the entry of a preliminary and permanent injunction. Said right to an injunction shall be in

addition to and not in limitation of any other rights or remedies Employer may have for damages or otherwise.

(f) It is further expressly understood and agreed that the provisions of this Agreement shall apply whether this Agreement is terminated by Employer or Employee or upon its expiration or termination.

(g) Nothing herein contained shall be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or threatened breach.

No other representation, inducement, promise, or agreement has been made by either party with respect to the subject matter of these Agreements, and no agreement, statement, or promise relating to the subject matter of these Agreements that is not contained in these Agreements shall be valid or binding. Nothing herein affects Employee's status as an employee at will or any prior confidentiality, non-solicitation, or non-competition agreement between Employee and Employer, and Employee hereby reaffirms any such agreement. Any modification of these Agreements will be effective only if it is in writing and signed by each party. The language of these Agreements shall be construed as a whole, according to its fair meaning, and not strictly for or against either party.

Employee has carefully read and considered all provisions of these Agreements and acknowledges that this is an important legal document that sets forth restrictions on Employee's conduct as a condition of employment with the Employer.

Employee consents to participating in this transaction electronically. Employee hereby affirms that it is his or her intent to electronically sign this document, and that his or her electronic signature shall have the same legal effect as signing a printed version of this document.

Dated: _____

Dated: _____

Employer's Signature

Employee's Signature

Employer's Printed Name/Entity

Employee's Printed Name