Non-Compete and Non-Solicitation Agreement

This is an Agreement between [NAME OF EMPLOYEE] ("You") and [NAME OF COMPANY] ("Company"). The Agreement is effective on _____ ("Effective Date").

In consideration of the employment opportunity provided by [NAME OF COMPANY], You, intending to be legally bound, agree to the following:

1. **Term of Agreement**. This Agreement is effective on the Effective Date, and shall remain in effect throughout the term of your employment with the Company and for a period of one year thereafter.[1]

2. **Limitations of this Agreement**. This Agreement is *not* a contract of employment. Neither You nor the Company are obligated to any specific term of employment. This Agreement is limited to the subject matter of covenants not to compete or solicit as described in this Agreement.

3. **Covenant Not to Compete**. You agree that at no time during the term of your employment with the Company will you engage in any business activity which is competitive with the Company nor work for any company which competes with the Company.

   For a period of one (1) year immediately following the termination of your employment, You will not, for yourself or on behalf of any other person or business enterprise, engage in any business activity which competes with the Company within _____ miles of the facility in which you were employed.[2,3]

4. **Non-solicitation.** During the term of your employment, and for a period of one (1) year immediately thereafter, You agree not to solicit any employee or independent contractor of the Company on behalf of any other business

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[1] Covenants not to compete are not favored by courts, so they generally are interpreted very narrowly. They must be "reasonable" in terms of duration and the geographical area to which they apply. Sometimes the duration can be as long as two or three years, while the size of the territory can be quite small, e.g., a 25 mile radius, or quite large, e.g., anywhere in the world.

[2] Many companies market nationwide and even worldwide, so a narrow restriction may not be terribly helpful. If you seek to limit activity anywhere in the United States or anywhere in the world, you will probably need to make the restriction much narrower. You cannot, of course, deprive the employee of a way to earn a living in your industry.

[3] An alternative clause is:

> During the course of your employment, You agree not to work for or provide any services to any competitor of the Company. Neither shall you engage in any competitive activity with respect to the Company. Competitive activity includes, but is not limited to, forming or making plans to form a business entity to directly compete with any business of the Company. This provision does not prevent You from seeking or obtaining employment or other forms of business relationships with a competitor after termination of employment with the Company so long as such competitor was in existence prior to the termination of your relationship with the Company and You were in no way involved with the organization or formation of such competitor.

enterprise, nor shall you induce any employee or independent contractor associated with the Company to terminate or breach an employment, contractual or other relationship with the Company.

5. **Soliciting Customers After Termination of Agreement**. For a period of one (1) year following the termination of your employment and your relationship with the Company, You shall not, directly or indirectly, disclose to any person, firm or corporation the names or addresses of any of the customers or clients of the Company or any other information pertaining to them. Neither shall you call on, solicit, take away, or attempt to call on, solicit, or take away any customer of the Company on whom You have called or with whom You became acquainted during the term of your employment, as the direct or indirect result of your employment with the Company.

6. **Injunctive Relief**. You hereby acknowledge (1) that the Company will suffer irreparable harm if You breach your obligations under this Agreement; and (2) that monetary damages will be inadequate to compensate the Company for such a breach. Therefore, if You breach any of such provisions, then the Company shall be entitled to injunctive relief, in addition to any other remedies at law or equity, to enforce such provisions.

7. **Severable Provisions**. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions and any partially unenforceable provisions to the extent enforceable shall nevertheless be binding and enforceable.

8. **Modifications**. This Agreement may be modified only by a writing executed by both You and the Company.

9. **Prior Understandings**. This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement. The Agreement supersedes all prior understanding, agreements, or representations.

10. **Waiver**. Any waiver of a default under this Agreement must be made in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be constructed as a waiver. A consent to or approval of any act shall not be deemed to waive or render unnecessary consent to or approval of any other or subsequent act.

11. **Jurisdiction and Venue**. This Agreement is to be construed pursuant to the laws of the State of _____. You agree to submit to the jurisdiction and venue of any court of competent jurisdiction in _____ County, [STATE] without regard to conflict of laws provisions, for any claim arising out of this Agreement.

Date_____ [NAME OF COMPANY]

By_____

By your signature below you acknowledge that you have read and understand the foregoing Agreement, that you agree to comply with all of the terms of the Agreement, and that you have received a copy of the Agreement.

Date_____ _____

Employee