



## **BUSINESS PROTECTION AGREEMENT**

**BETWEEN:** Salamander Resort & Spa, LLC, including its parents, siblings, subsidiaries, and related entities, and their shareholders, members, directors, officers, employees, agents, attorneys, successors, and assigns (collectively, the "Company")

**AND:** Salamander Resort & Spa employee(s); including his or her heirs, executors, and administrators (collectively, "Employee")

Employee recognizes and acknowledges that Employee's position with Company will be one of trust and confidence. Employee understands and acknowledges that Company has acquired or developed its Confidential Information, including trade secrets, (defined below) and relationships with its customers, referral sources, and employees through significant investments in time, money, and other resources, and that Company has a legitimate business interest in preventing the disclosure or misuse of Confidential Information, and protecting its relationships with its customers, referral sources, and employees. Employee further acknowledges that the Company is engaged in a highly competitive industry, and that as part of his or employment with the Company, the Employee will gain knowledge of Confidential Information that is vital to the interests and success of the Company. As consideration for this Agreement, the Company agrees to provide and does provide Employee such information. The Company also agrees to provide Employee specialized, business-related education and training regarding the Company's methodologies and business strategies, which will enable Employee to perform his/her job with the Company, as well as supplies and materials necessary for Employee to perform his/her job with the Company. Employee acknowledges that all of these items are necessary and desirable for his/her personal success as an employee of the Company.

THEREFORE, as a condition of employment and continued employment with Company, and in consideration of employment, including continued employment, access to confidential information, training and/or other good and valuable consideration, the sufficiency of which is hereby acknowledged, Employee agrees as follows:

### **1. CONFIDENTIALITY/NONDISCLOSURE.**

- A. DEFINITION OF CONFIDENTIAL INFORMATION.** Employee acknowledges that the services to be rendered by Employee to Company are of a special and unique character and, in connection with such services, Employee will have access to confidential and proprietary information ("Confidential Information") of Company. Employee agrees that Company has a legitimate, proprietary interest in Confidential Information and that Confidential Information of Company is entitled to protection. As used in this Agreement, "Confidential Information" data and information: (A) relating to the business of the Company, regardless of whether the data or information constitutes a trade secret; (B) disclosed to Employee or of which Employee became aware as a consequence of Employee's relationship with the Company; (C) having value to the Company; (D) not

generally known to competitors of the Company; and (E) which generally includes trade secrets, methods of operation, names of customers, price lists, financial information and projections, personnel data, and similar information. Examples of Confidential Information include, but is not limited to, the identity of clients, customers and suppliers of Company, client, customer or supplier lists of Company, arrangements with clients, customers and suppliers, advertising copy, advertising concepts, job information, design & technical information, marketing plans, pricing, financial information, requirements regarding clients, customers or suppliers, knowledge and information about, or relationships with, business methods, systems, plans, and policies of Company and all "trade secrets" of Company as defined by applicable law. Confidential Information excludes information about wages, work rules, working conditions, and other terms and conditions of employment.

**B. AGREEMENT NOT TO DISCLOSE CONFIDENTIAL INFORMATION.** In order to protect the trade secrets, Confidential Information, and business goodwill of the Company, and in exchange for the consideration set forth herein, Employee shall not, at any time during Employee's employment with Company or after the termination of Employee's employment with Company for any reason, copy, transmit, reproduce, summarize, quote or make any commercial or other use of Confidential Information or otherwise disclose, directly or indirectly, by any means, or by, through or with any other person, any Confidential Information of Company to any person, firm, corporation or other entity, for any reason or purpose whatsoever without the express written consent of Company. In addition to any specific provisions contained in this Agreement, Employee will comply with all of Company's policies and procedures for protection of Confidential Information as they now exist or may exist during Employee's employment with Company.

Nothing in this Agreement prohibits Employee from providing information to any administrative or governmental agency, or from testifying under the power of a subpoena issued from a court of competent jurisdiction. Company employees, contractors, and consultants may disclose Trade Secrets in confidence, either directly or indirectly, to a Federal, State, or local government official, or to an attorney, solely for the purpose of reporting or investigating a suspected violation of law, or in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Additionally, Company employees, contractors, and consultants who file retaliation lawsuits for reporting a suspected violation of law may disclose related Trade Secrets to their attorney and use them in related court proceedings, as long as the individual files documents containing the Trade Secret under seal and does not otherwise disclose the Trade Secret except pursuant to court order.

Nothing herein is intended to be or will be construed to prevent, impede, or interfere with Employee's right to respond accurately and fully to any question, inquiry, or request for information regarding the Company or his or her employment with the Company when required by legal process, or from initiating communications directly with, or responding to any inquiry from, or providing truthful testimony and information to, any Federal, State, or other regulatory authority in the course of an investigation or proceeding authorized by law and carried out by such agency. Employees are not required to contact the Company regarding the subject matter of any such communications before they engage in such communications. However, Employees cannot disclose to anyone confidential communications and documents that are protected by the Company's attorney-client privilege.

**2. RESTRICTIVE COVENANTS.**

**A. NON-SOLICITATION.** In exchange for the Company providing the consideration set forth herein, Employee agrees that during Employee's employment with Company, and for the period of 12 consecutive months after Employee's employment with Company ends for any reason, Employee shall not directly or indirectly, either alone or in concert with any other person or entity, solicit, entice, encourage, or take any other action: (i) which is intended to or which has the effect of inducing or encouraging any employee of Company to leave or end his or her employment with Company; (ii) to solicit, entice or encourage any contractor, supplier, or agent of Company to stop doing work for, reduce or end their relationship with, Company; or (iii) to solicit, entice or encourage any customer or prospective customer of Company to do business with any business entity in competition with the Company. This restrictive covenant protects the Company's substantial and advantageous relationships with its customers and prospective customers and relationships with its employees to the fullest extent possible.

**B. REASONABLENESS OF RESTRICTIONS.** The Company and Employee acknowledge and agree that the covenants of this Section 2 are reasonable and necessary for the proper protection of the Company, and do not impose a greater restraint than is necessary to protect the goodwill and value of the Company.

**3. AT WILL EMPLOYMENT AND CONTINUING OBLIGATIONS UPON TERMINATION OF EMPLOYMENT.** Nothing in this Agreement provides a guarantee of continued employment. Employee's employment is terminable at any time by Company, with or without cause or prior notice, unless otherwise provided in a written employment agreement signed by an authorized agent of the Company. The terms and conditions of this Agreement shall continue to apply to any period after termination of Employee's employment, for whatever reason.

**4. RETURN OF COMPANY PROPERTY AND CONFIDENTIAL INFORMATION.** Employee shall, upon the request of the Company return all documents and other tangible manifestations of Confidential Information, including all copies and reproductions thereof, no matter in which manner maintained, together with any other property of the Company in the Employee's possession. This paragraph shall remain in full force and effect at all times during and after termination of Employee's employment with Company.

**5. INJUNCTIVE RELIEF.** Employee and Company recognize and acknowledge that the damage suffered by reason of any violation by Employee of any one or more promises set forth in this Agreement would cause irreparable harm to Company. Notwithstanding any other provision of this Agreement, in the event of a breach or threatened breach by Employee of any of the provisions of this Agreement, Company shall, in addition to any and all other remedies available to Company, be entitled to an injunction to be issued by any court of competent jurisdiction restraining Employee from disclosing, in whole or in part, any Confidential Information of Company, from rendering any service to any person, firm, corporation or other entity to whom any such information may be disclosed or is threatened to be disclosed, or from otherwise committing or continuing any violation of the provisions of this Agreement.

It is the intent of restrictive covenants in this Agreement to provide the Company a full 12 consecutive months of protection as stated herein. If Employee violates any of the restrictive covenants, Employee agrees that the restrictive covenant period shall be extended to a period of 12 consecutive months from the last date that Employee ceases his or her violation(s), whether

voluntarily or by court order. Employee further agrees that any injunction issued shall be for a period of 12 consecutive months notwithstanding the time that has intervened since Employee ceased being employed by the Company.

6. **ATTORNEY FEES.** In any suit, action, or other proceeding that is instituted to enforce this Agreement, or which is related to in any controversy or dispute regarding or arising from this Agreement, the prevailing party shall be entitled to recover from the other party and the other party agrees to pay the prevailing party, in addition to costs and disbursements allowed by law, such sums the court, arbitrator or other adjudicator may adjudge reasonable as an attorneys' fee in such suit, action, arbitration or other proceeding, and in any appeal there from. Such sum shall include the amount determined by the court, arbitrator or adjudicator, as the reasonable costs and fees incurred in collecting any monetary judgment or award or otherwise enforcing each award, order, judgment, or decree entered in such suit, action, or other proceeding.
7. **DISCLOSURE OF THIS AGREEMENT.** Before or after termination of Employee's employment with Company, Company may disclose the substance and supply copies of this Agreement to any person, including Employee's actual and prospective future employers or entities to which he/she provides services, in order to ensure continuing compliance with those terms that survive the termination of Employee's employment. Employee must advise actual and prospective future employers or entities to which he/she provides services.
8. **WAIVER; INTENT.** The failure of Company, at any time, to require performance of any provision of this Agreement shall not constitute a waiver of that or any other provision of this Agreement or limit Company's right to subsequently enforce such provision, nor shall any waiver of the breach of any provision of this Agreement by Company be construed as a continuing waiver of that provision or as a waiver by Company of any subsequent breach of that provision or any other provision of this Agreement. Company rights and obligations under this Agreement inure to the benefit of Company's affiliated businesses, successors and assigns.
9. **SEVERABILITY.** If any portion of this Agreement is determined by a court of competent jurisdiction to be void, invalid or unenforceable under any applicable statute, case law or common law, then each provision determined to be void, invalid or unenforceable shall, if possible, be and hereby is redrafted to conform with the applicable statutes or laws so that this entire Agreement shall remain in full force and effect and shall not be rendered void, invalid or unenforceable. If it is determined by a court of competent jurisdiction that it is not possible to redraft the void, invalid or unenforceable provision or provisions to conform to applicable statutes or laws, then the affected provision or provisions shall be of no force or effect, this Agreement shall be construed as if the affected provision or provisions were not included in this Agreement and the remainder of this Agreement shall remain in full force and effect.
10. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by the laws of the State of Virginia without giving effect to the conflict of law principles.
11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous negotiations or agreements between the parties, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be amended or modified except by a writing signed by both parties.
12. **ASSIGNABILITY.** In the event that ownership or corporate form of the Company changes, whether by acquisition of stock or assets, and regardless of any change on the firm or name of the

employing entity, this Agreement shall be assignable by Company to the entity that succeeds it without further notice to me.

13. **EFFECTIVE DATE.** This Agreement shall be effective on the date acknowledged and understood during the policy sign-off.