**EMPLOYEE CONFIDENTIALITY, NON-COMPETITION AND NON-DISCLOSURE AGREEMENT**

 This Agreement is made the \_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_,20\_\_\_\_ , by and between \_\_\_\_\_\_\_\_\_\_ (the “Company”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Employee”).

 In consideration of the mutual promises and covenants contained in this Agreement, and the compensation paid to the Employee under a certain Employment Agreement dated \_\_\_\_\_\_\_\_\_\_ the parties agree as follows:

1. Trade Secrets and Confidential Information. During the term of this Agreement, Employee may have access to, and become familiar with, various trade secrets and confidential information belonging to the Company, including, but not limited to, client lists, the Company's marketing, technical, business development, logistic, or management processes. Employee acknowledges that such confidential information and trade secrets are owned and shall continue to be owned solely by the Company. During the term of his/her employment and for thirty-six (36) months after such employment terminates for any reason, regardless of whether such termination is initiated by the Company or Employee, Employee agrees not to use, communicate, reveal or otherwise make available such information for any purpose whatsoever, or to divulge such information to any person, partnership, corporation, limited liability company or entity other than the Company or persons expressly designated by the Company, unless Employee is compelled to disclose such information by judicial process.
2. Documents. Under no circumstances shall Employee remove from any office or other location of the Company’s business or activities any of Company’s books, records, documents, or customer lists, or copies of such documents without the Company’s prior written consent; nor shall Employee make any copies of such books, records, documents or customer lists for use outside of the Company’s place or places of business, except as specifically authorized in writing by the Company. It is expressly understood that these restrictions apply to images, files and any other information that may be obtained by Employee by use of a computer, cellular phone, and/or any other means of communication.
3. Restrictive Covenant. Employee agrees that:
	1. **NON SOLICITATION.** For a period of **twenty-four (24)** months after this Agreement has been terminated for any reason, regardless of whether the termination is initiated by Employee or the Company, Employee will not, directly or indirectly, solicit any person, company, firm, limited liability company, partnership or corporation who is or was a client or customer of the Company’s during a period of five (5) years prior to the termination of Employee’s employment. Employee agrees not to solicit such clients or customers on behalf of himself/herself or any other person, company, firm, limited liability company, partnership or corporation, directly or indirectly through agents, employees or surrogates.
	2. **NON-COMPETITION.** Employee agrees that for a period of **twenty-four (24)** **months** after the termination of his/her employment with the Company, regardless of whether the termination was initiated by Employee or the Company, he/she will not accept employment with, or act as a consultant, contractor, advisor, or in any other capacity for, a competitor of the Company, or enter into competition with the Company, either by himself/herself or through any entity owned or managed in whole or in part by Employee. The term “competitor” as used in this paragraph, means any entity engaged in any business similar to that business engaged in by the Company subsequent to the date of this Agreement and located within [NUMBER OF MILES] miles of the Company’s place of business, as the crow flies. The parties acknowledge that they have attempted to limit Employee’s right to compete only to the extent necessary to protect the Company from unfair competition. Consequently, the parties hereby agree that if the scope or enforceability of the restrictive covenant is in any way disputed at any time, a court or other trier of fact may modify and enforce the covenant to the extent that it believes the covenant is reasonable under the circumstances existing at that time. This paragraph shall survive any termination of this Agreement.
	3. **OTHER LIVELIHOOD.** Employee further acknowledges that: (1) in the event his/her employment with the Company terminates for any reason, regardless of whether the termination is initiated by the Company or Employee, he/she will be able to earn a livelihood without violating such restrictions; and (2) his/her ability to earn a livelihood is a material condition of his/her employment with the Company.
4. Remedies. Employee acknowledges that: (1) compliance with **paragraphs 1-3** hereof is necessary to protect the Company’s business and good will; (2) a breach of one or more of those paragraphs will irreparably and continually damage the Company; and (3) an award of money damages will not be adequate to remedy such harm. Consequently, Employee agrees that, in the event that he/she breaches or threatens to breach any of these covenants, the Company shall be entitled to both: (1) a preliminary or permanent injunction in order to prevent the continuation of such harm; and (2) money damages, insofar as they can be determined, including, without limitation, all reasonable costs and attorneys’ fees incurred by the Company in enforcing the provisions of this Agreement. Nothing in this Agreement, however, shall prohibit the Company from also pursuing any other remedy. As money damages for the period of time during which Employee violates these covenants, the Company shall be entitled to recover the full amount of any fees, compensation, or other remuneration earned by Employee as a result of any such breach.
5. Waiver of rights. If, in one or more instances, either party fails to insist that the other party perform any of the terms of this Agreement, such failure shall not be construed as a waiver by such party of any past, present or future right granted under this Agreement, and the obligations of both parties under this Agreement shall continue in full force and effect.
6. Survival. The obligations contained herein shall survive the termination of this Agreement. In addition, the termination of this Agreement shall not affect any of the rights or obligations of either party arising prior to, or at the time of, the termination of this Agreement, or which may arise by any event causing the termination of this Agreement.
7. Assignment. Neither party shall have the right to assign any rights or obligations under this Agreement without the prior written approval of the other party; provided, however, that the Company may assign its rights and obligations under this Agreement to another entity of which the Company or its owners shall have an ownership interest of fifty (50) percent or more.
8. Severability. If any provision, paragraph, or subparagraph of this Agreement is adjudged by any court to be void or unenforceable in whole or in part, this adjudication shall not affect the validity of the remainder of this Agreement, including any other provision, paragraph, or subparagraph. Each provision, paragraph and subparagraph of this Agreement is separable from every other provision, paragraph, and subparagraph, and constitutes a separate and distinct covenant.
9. Savings Clause**.** The parties have attempted to limit Employee’s right to compete only to the extent necessary to protect the Company from unfair competition. Consequently, the parties hereby agree that if the scope or enforceability of the restrictive covenant is in any way disputed at any time, a court or other trier of fact may modify and enforce the covenant to the extent that it believes the covenant is reasonable under the circumstances existing at that time.
10. Applicability. This Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors, assigns, executors, administrators, and personal representatives.
11. Notice. Any notice to be given to Employee shall be sent by registered or certified mail, return receipt requested, to Employee at his/her last known residence address. Any notice to be given to the Company shall be sent by registered or certified mail, return receipt requested, to the Company at its principal place of business. Either party may change the address to which notices are to be sent by so notifying the other party in writing as set forth in this paragraph. If mailed as provided in this Agreement, notice shall be deemed to have been given as of the date of mailing.
12. Complete Understanding. This Agreement constitutes the complete understanding between the parties, all prior representations or agreements having been merged into this Agreement.
13. Attorneys’ Fees. If either party to this Agreement breaches any of the terms hereof, that party shall pay to the non-defaulting party, all of the non-defaulting party’s costs and expenses, including attorneys’ fees incurred by that party in enforcing the terms of this Agreement.
14. Modification. No alteration of or modification to any of the provisions of this Agreement shall be valid unless made in writing and signed by both parties.

19. Headings. The headings have been inserted for convenience only and are not to be considered when construing the provisions of this Agreement.

1. Governing Law. This Agreement shall be subject to and governed by the laws by the laws of the State of [STATE]

 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

EMPLOYEE \_\_\_\_\_\_\_\_\_\_

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

PRINT NAME: By: \_\_\_\_\_\_\_\_\_\_\_\_\_, PRESIDENT