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**Confidentiality Agreement**

This Confidentiality Agreement (“**Agreement**”) is entered into by and between [\_\_\_\_\_\_\_\_\_\_] (the “**Employer**”), and [\_\_\_\_\_\_\_\_\_\_\_\_] (the “**Employee**”), as of [\_\_\_\_\_\_\_\_] (the “**Effective Date**”).

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In consideration of Employee’s employment by Employer [or any additional consideration (necessary for current employees)], which Employee acknowledges to be good and valuable consideration for Employee’s obligations hereunder, Employer and Employee hereby agree as follows:

**1. Additional Consideration for Existing Employees.** If Employee is currently working for Employer on the date this Agreement is signed, then Employer will provide Employee with the following additional consideration; [insert additional financial consideration (e.g., signing bonus, pay raise, increase in commissions, etc.)]. This additional consideration does not apply to employees who are provided with an initial offer of employment in exchange for their signature on this Agreement.

**2. Confidentiality and Security.**

**(a)  Confidential Information.** Employee understands and acknowledges that during their course of employment, Employee will have access to and learn about confidential, secret, and proprietary documents, materials, data, and other information, in tangible and intangible form, of and relating to Employer and its businesses (“Confidential Information”). Employee further understands and acknowledges that this Confidential Information and Employer’s ability to reserve it for the exclusive knowledge and use of Employer is of great competitive importance and commercial value to Employer, and that improper use or disclosure of the Confidential Information by Employee will cause irreparable harm to Employer, for which remedies at law will not be adequate. Employee also understands and agrees that the Confidential information, regardless of where the information is maintained (including, but not limited to, Confidential Information that may be saved on Employee’s personal mobile device, tablet, computer, etc.) shall at all times remain the exclusive property of Employer.

For purposes of this Agreement, “Confidential Information” includes, but is not limited to, all information not generally known to the public, in spoken, printed, electronic, or any other form or medium, relating directly or indirectly to: business processes, practices, methods, policies, plans, documents, research, operations, services, strategies, techniques, negotiations, know-how, trade secrets, technologies, databases, compilations, manuals, records, systems, supplier information, vendor information, financial information, accounting information or records marketing information, advertising information, pricing information, internal controls, security procedures, market studies, sales information, customer information or lists, of Employer or its businesses or any existing or prospective customer, supplier, investor, or other associated third party, or of any other person or entity that has entrusted information to Employer in confidence.

Employee understands that the above list is not exhaustive, and that Confidential Information also includes other information that is marked or otherwise identified as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used.

Employee understands and agrees that Confidential Information developed by Employee in the course of Employee’s employment by Employer shall be subject to the terms and conditions of this Agreement as if Employer furnished the same Confidential Information to Employee in the first instance. Confidential Information shall not include information that is generally available to and known by the public, provided that such disclosure to the public is through no direct or indirect fault of Employee or person(s) acting on Employee’s behalf.

**(b)  Disclosure and Use Restrictions.**

(i)  Employee agrees:

(A)  To treat all Confidential Information as strictly confidential;

(B)  Not to directly or indirectly disclose, publish, communicate, or make available Confidential Information, or allow it to be disclosed, published, communicated, or made available, in whole or part, to any entity or person whatsoever not having a need to know and authority to know and use the Confidential Information in connection with the business of Employer and, in any event, not to anyone outside of the direct employ of Employer except as required in the performance of any of Employee’s authorized employment duties to Employer; and

(C)  Not to access or use any Confidential Information, and not to copy any documents, records, files, media, or other resources containing any Confidential Information, or remove any such documents, records, files, media, or other resources from the premises or control of Employer, except as required in the performance of any of Employee’s authorized employment duties to Employer or with the prior consent of an authorized officer acting on behalf of Employer. Employee further agrees to not copy or download onto his/her personal mobile device, tablet or computer, forward to his/her personal email address, or delete any such Confidential Information while employed unless specifically authorized to do so in writing by an authorized officer acting on behalf of Employer. Employee understands and acknowledges that Employee’s obligations under this Agreement regarding any particular Confidential Information begin immediately and shall continue during and after Employee’s employment by Employer until the Confidential Information has become public knowledge other than as a result of Employee’s breach of this Agreement or a breach by those acting in concert with Employee or on Employee’s behalf.

(ii)  Nothing in this Agreement prohibits or restricts Employee (or Employee’s attorney) from filing a charge or complaint with the Securities and Exchange Commission (SEC), the Occupational Safety and Health Administration (OSHA), any other self-regulatory organization, or any other federal or state regulatory authority (“Government Agencies”). Employee further understands that this Agreement does not limit Employee’s ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency without notice to Employer. This Agreement does not limit Employee’s right to receive an award for information provided to any Government Agencies. Nothing in this Agreement in any way prohibits or is intended to restrict or impede Employee from exercising protected rights under Section 7 of the National Labor Relations Act. Moreover, nothing in this Agreement is intended to have the purpose or effect of concealing the details relating to a claim of sexual assault or sexual harassment as defined by applicable law.

(iii)  Notwithstanding any other provision of this Agreement:

(A)  Employee will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made: (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and solely for the purpose of reporting or investigating a suspected violation of law; or (2) in a complaint or other document that is filed under seal in a lawsuit or other proceeding.

(B)  If Employee files a lawsuit for retaliation by Employer for reporting a suspected violation of law, Employee may disclose Employer’s trade secrets to Employee’s attorney and use the trade secret information in the court proceeding if Employee (1) files any document containing the trade secret under seal; and (2) does not disclose the trade secret, except pursuant to court order.

**(c)  Duration of Confidentiality Obligations.** Employee understands and acknowledges that Employee’s obligations under this Agreement with regard to any particular Confidential Information shall commence immediately upon Employee first having access to such Confidential Information (whether before or after Employee begins employment by Employer) and shall continue during and after Employee’s employment by Employer until such time as such Confidential Information has become public knowledge other than as a result of Employee’s breach of this Agreement or breach by those acting in concert with Employee or on Employee’s behalf.

**3.  Exit Obligations.** Upon (a) voluntary or involuntary termination of Employee’s employment or (b) Employer’s request at any time during Employee’s employment, Employee shall (i) provide or return to Employer any and all Employer property, including keys, key cards, access cards, identification cards, security devices, employer credit cards, computers, cell phones, equipment, manuals, reports, files, compilations, email messages, recordings, data, and all Employer documents and materials belonging to Employer and stored in any fashion, including but not limited to those that constitute or contain any Confidential Information, that are in the possession or control of Employee, whether they were provided to Employee by Employer or any of its business associates or created by Employee in connection with Employee’s employment by Employer; and (ii) delete or destroy all copies of any such documents and materials not returned to Employer that remain in Employee’s possession or control, including those stored on any non-Employer devices, networks, storage locations, and media in Employee’s possession or control.

**4.  Acknowledgment.** Employee acknowledges and agrees that the services to be rendered by Employee to Employer are of a special and unique character; that Employee will obtain knowledge and skill relevant to Employer’s industry, methods of doing business, and marketing strategies by virtue of Employee’s employment; and that the terms and conditions of this Agreement are reasonable under these circumstances. Employee further acknowledges that nothing in this Agreement shall be construed to in any way terminate, supersede, undermine, or otherwise modify the at-will status of the employment relationship between Employer and Employee, pursuant to which either Employer or Employee may terminate the employment relationship at any time, with or without cause, with or without notice.

**5.  Remedies.** Employee acknowledges that Employer’s Confidential Information and Employer’s ability to reserve it for the exclusive knowledge and use of Employer is of great competitive importance and commercial value to Employer, and that improper use or disclosure of the Confidential Information by Employee will cause irreparable harm to Employer, for which remedies at law will not be adequate. In the event of a breach or threatened breach by Employee of any of the provisions of this Agreement, Employee hereby consents and agrees that Employer shall be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that monetary damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages, or other available forms of relief.

**6.  Successors and Assigns.** Employer may assign this Agreement to any subsidiary or corporate affiliate, or to any successor or assign (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or substantially all of the business or assets of Employer. This Agreement shall inure to the benefit of Employer and permitted successors and assigns. Employee may not assign this Agreement or any part hereof. Any purported assignment by Employee shall be null and void from the initial date of purported assignment.

**7.  Governing Law; Jurisdiction and Venue.** This Agreement, for all purposes, shall be construed in accordance with the laws of Virginia without regard to conflicts-of-law principles. Any action or proceeding by either party to enforce this Agreement shall be brought only in any state or federal court located in the state of Virginia, County of [\_\_\_\_\_\_\_\_\_\_]. The parties hereby irrevocably submit to the exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

**8.  Entire Agreement.** Unless specifically provided herein, this Agreement contains all the understandings and representations between Employee and Employer pertaining to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

**9.  Modification and Waiver.** No provision of this Agreement may be amended or modified unless such amendment or modification is agreed to in writing and signed by Employee and by Employer. No waiver by either of the parties of any breach by the other party hereto of any condition or provision of this Agreement to be performed by the other party hereto shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time, nor shall the failure of or delay by either of the parties in exercising any right, power, or privilege hereunder operate as a waiver thereof to preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

**10.  Severability.** Should any provision of this Agreement be held by a court of competent jurisdiction to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement.

**11.  Headings.** Headings used in this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the heading.

**12.  Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the Effective Date above.

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| --- | --- |
|  | [EMPLOYER NAME] |
|  | By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: [NAME OF AUTHORIZED OFFICER]  Title: [TITLE OF AUTHORIZED OFFICER] |
| [EMPLOYEE NAME] |  |
| Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

**About this Document**

This is a self-help document providing accurate information on this subject matter. It is not legal advice for your specific fact situation.

No sample can cover every fact situation and the user must use discretion. This document is merely a starting point and must be customized to each unique situation. The contents summarize applicable features of Virginia and federal law. Check the law of other states before using this document elsewhere. The law or other content may change in the future and you should periodically check to ensure you have the most current version from our website.

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