

# SALE OF A BUSINESS NON-COMPETE AGREEMENT

I. **THE PARTIES.** This Sale of a Business Non-Compete Agreement (“Agreement”) made this \_\_\_\_\_, is made between:

BUYER: \_\_\_\_\_ (“Buyer”) with a mailing address of \_\_\_\_\_ shall have ownership of this Agreement under which:

SELLER: \_\_\_\_\_ (“Seller”) with a mailing address of \_\_\_\_\_ shall be bound to the covenants mentioned in this Agreement.

Hereinafter the Buyer and Recipient shall be known separately as a “Party” and together as the “Parties.”

II. **CONSIDERATION.** In exchange for the Non-Compete, the Seller shall receive the purchase price for the entity as mentioned below:

Business Entity Name: \_\_\_\_\_ (“Business”)  
State of Incorporation: \_\_\_\_\_  
Purchase Price: \$ \_\_\_\_\_

The above-mentioned purchase price shall also serve as consideration for this Agreement.

III. **TERM.** The Recipient shall be bound to this Agreement, specifically, the terms of this Agreement for:

**Start Period:** (check one)

- Date of \_\_\_\_\_.
- Beginning immediately after the sale of the Business.
- Other. \_\_\_\_\_.

**End Period:** (check one)

- Date of \_\_\_\_\_.
- \_\_\_\_\_ months after the sale of the Business.
- Other. \_\_\_\_\_.

The start period and end period shall collectively be known as the “Term.”

IV. **GEOGRAPHICAL AREAS.** The Recipient shall be bound to this Agreement for the following geographical areas: \_\_\_\_\_.

**V. NON-COMPETE.** The Buyer shall possess, in accordance with the terms of this Agreement, the following protections from the Seller engaging in the following activities: \_\_\_\_\_.

**VI. NON-SOLICITATION.** The Buyer shall have the following protections from the Seller in accordance with this Agreement: (check all that apply)

- **Employees.** The Seller shall be prohibited from engaging with any former or current employees, contractors, affiliates, and similar parties of the Buyer under which a business relationship has been created.

- **Customers.** The Seller shall be prohibited from engaging with any former or current customers, clients, and similar parties of the Buyer under which a business relationship has been created.

**VII. PURCHASE OF RELEASE.** The Parties agree that the Seller: (check one)

- **Can Purchase a Release.** The Seller has the option, during the Term or any period thereafter, to purchase and waive all liability under this Agreement for the sum of \$\_\_\_\_\_ as payment to the Buyer.

- **Cannot Purchase a Release.** The Seller has no option, during the Term or any period thereafter, to purchase the rights of this Agreement from the Buyer for the purposes of waiving any liability or releasing themselves under this Agreement.

**VIII. CONFIDENTIAL INFORMATION.** The Buyer and Seller agree that the Seller shall be prohibited from releasing Confidential Information. The Seller shall be prohibited from expressing or sharing any and all technical and non-technical information provided by the Buyer, including but not limited to: data or other proprietary information relating to products, inventions, plans, methods, processes, know-how, developmental or experimental work, computer programs, databases, authorship, customer lists (including names, buying habits or practices of any clients), names of vendors or suppliers, marketing methods, reports, analyses, business plans, financial information, statistical information, or any other subject matter pertaining to any business of the Buyer or any of its respective clients, consultants, or licensees that is disclosed to the Seller under the terms of this Agreement.

- a.) Limitations. Confidential Information shall not include information which:
- i. Has become generally known to the public through no wrongful act by the Seller;
  - ii. Has been rightfully received by Seller from a third party without restriction on disclosure and without breach of an obligation of confidentiality running either directly or indirectly to the Seller;
  - iii. Has been approved for release to the general public by written authorization of the Buyer;

- iv. Has been disclosed pursuant to the requirement of a governmental agency or a court of law without similar restrictions or other protections against public disclosure; or,
  - v. Has been independently developed by the Seller without use, directly or indirectly, of the Buyer's Confidential Information.
- b.) Employees and Contractors. The Seller agrees to disclose Confidential Information to any agents, affiliates, directors, officers, or any other employees, collectively known as the "Employees," solely on a need-to-know basis and represents that such Employees have signed appropriate non-disclosure agreements or have taken appropriate measures imposing on such Employees a duty to third parties:
- i. To hold any third-party proprietary information received by such Employees in the strictest confidence;
  - ii. Not to disclose such third-party Confidential Information to any other third party; and
  - iii. Not to use such Confidential Information for the benefit of anyone other than to whom it belongs without the prior express written authorization of the Buyer.
- c.) Best Practices. The Seller acknowledges they may or may not have access to the Buyer's Confidential Information and agrees that it shall not directly or indirectly divulge, disclose, or communicate any of the Confidential Information to any third party, except as may be required during any formal business association or dealings on behalf of the Buyer for any event, with the prior written approval of the Buyer. The Seller acknowledges that no license of the Confidential Information, by implication or otherwise, is granted to the Seller by reason of this Agreement. Additionally, the Seller acknowledges that it may only use the Confidential Information in connection with its business dealings with the Buyer and for no other purpose without the prior written consent of the Buyer.
- d.) Records. The Seller further agrees that all Confidential Information, including, without limitation, any documents, files, reports, notebooks, samples, lists, correspondences, software, or other written or graphic records provided by the Buyer or produced using the Buyer's Confidential Information, will be held strictly confidential and returned upon request to the Buyer.
- e.) Return of Materials. Upon termination or expiration of this Agreement, or upon written request of the Buyer, the Seller shall promptly return to the Buyer all physical and digital materials representing the Buyer's Confidential Information and all copies thereof. The Buyer shall notify the Seller immediately upon discovery of any loss or unauthorized disclosure of the Confidential Information.

**IX. GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_ without reference to its conflicts of laws principles. Any disputes arising from or related to the subject matter of this Agreement shall be heard in a court of appropriate jurisdiction of the Buyer's principal office, and the Parties hereby consent to the jurisdiction and venue of these courts.

- a.) Severability. If any provisions of this Agreement or its applications are held to be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of any other provisions and applications herein shall not in any way be affected or impaired.
- b.) Remedies. Should the Seller breach any of the provisions of this Agreement, the Seller agrees to reimburse the Buyer for any loss or expenses incurred by the Buyer as a result of any prohibited use or activity under this Agreement, including, without limitation, court costs and reasonable attorney's fees incurred by the Buyer in enforcing the provisions hereof. The Seller further agrees that any unauthorized use or activity shall result in irreparable damage to the Buyer and that the Buyer shall be entitled to an award by any court of competent jurisdiction of a temporary restraining order and/or preliminary injunction against such unauthorized use or activity by the Seller without the need to post a bond. Such remedies, however, shall not be deemed to be the exclusive remedies for any breach of this Agreement but shall be in addition to all other remedies available at law of equity.

**X. ADDITIONAL TERMS.**

**XI. ENTIRE AGREEMENT.** This Agreement represents the entire agreement between the Parties and may only be modified by the signature of both Parties hereto.

**Buyer Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Print Name: \_\_\_\_\_

**Seller Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Print Name: \_\_\_\_\_