**Non-Solicitation and Confidential Information Agreement**

**between
Regents of the University of Minnesota
by and through its College of Veterinary Medicine (“University”)
and****(“Employee”)**

 ***With This Non-solicitation and Confidential Information Agreement*** (“Agreement”), effective      , University and Employee agree as follows:

**WHEREAS**, University desires to employ Employee in the capacity of      ; and

**WHEREAS**, this Agreement is being entered into as part of the employment agreement between University and Employee; and

**WHEREAS**, Employee understands and accepts that University must maintain and/or grow a sufficient case load to fulfill the veterinary student teaching mandates set by the American Veterinary Medical Association (“AVMA”) Council on Education (“COE”) and that of the Association of Veterinary Clinicians (“AAVC”) Veterinary Internship and Residency Matching Program (“VIRMP”); and

**WHEREAS**, University receives taxpayer funding from the state of Minnesota for it to provide (a) an exceptional education for its residents who desire to become licensed veterinarians, (b) veterinary services for the animal owning public and (c) education and referral veterinary services for Minnesota’s private sector veterinarians, and

**WHEREAS**, in the course of such employment, Employee will receive extensive specialty training and come into the possession of certain confidential business information such as research projects and grants; medical information, images, photos and records concerning patients; individual veterinarian and veterinary practice referral lists; specialty veterinary practice business policies; marketing materials; referral correspondence practices and procedures; and similar matters that are of vital importance in the successful conduct of the University’s teaching, research, training and provision of clinical services; and

**WHEREAS**, Employee recognizes that such confidential information would provide Employee with an unfair advantage should Employee engage in competition with the University and that such competition would substantially and irreparably harm the University; and

**WHEREAS**, Employee agrees that the restraints and covenants in this Agreement are common within the veterinary industry and reasonable and necessary to the continued success of the University, and

**WHEREAS**, Employee and University desire to set forth in writing the following terms and conditions of their agreement and understanding.

**NOW, THEREFORE,** in consideration of the mutual agreements contained herein and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Employee and University agree as follows:

1. **Employee Warranties.** By signing this Agreement, Employee expressly represents and warrants that Employee is not currently under any written or oral contractual obligation regarding the preservation or protection of confidential, proprietary trade secret information of any former University, or any other obligation associated with employment in or the termination of any prior employment that would prevent Employee from being employed by University other than as itemized and agreed upon in Attachment A.
2. **Definitions**. As used in this Agreement the following terms shall have the meanings indicated.

The term ***"Clients"*** shall include any person or entity that, directly or indirectly, through one or more intermediaries, owns or controls the medical decision-making for an animal patient that received veterinary care provided by Employee during the term of Employee's employment with the University.

The terms ***"Referring Veterinarian(s)"*** and ***“Referring Veterinary Practices”*** shall include any person who possesses a veterinary license or entity that owns or manages a veterinary practice or, as identified by University’s records, who or which referred two or more pet owning clients that were attended by University’s practice during the final two (2) years of Employee’s term of employment with University.

The term *“****Restricted Period”*** shall be **two (2) years** after the conclusion of Employee’s employment.

1. **Business Relationships**. The parties understand and agree that an important part of Employee's duties is to learn or enhance the skills required for Employee’s identified specialty trade and develop goodwill for the University through Employee’s personal contact with animal owners and their agents and ***Referring Veterinarians*** and ***Referral Veterinary Practices*** and others having business relationships with University, and that there is a likelihood that this goodwill, which is a proprietary asset of University, may follow Employee upon conclusion of employment. Moreover, it is through Employee's employment that Employee will be introduced to and encouraged to have and develop frequent contact with ***Clients, Referring Veterinarians*** and ***Referral Veterinary Practices*** for which Employee does not presently provide specialty veterinary services and that the development of such relationships is a material element of the duties for which Employee has been hired and compensated. Thus, Employee accepts and agrees that such contacts should not be converted to Employee's personal use upon the conclusion of the employment relationship between University and Employee.
2. **Necessity of Restrictions**. Employee and University understand and agree that the restrictions contained in this Agreement are necessitated in part because of (a) University’s responsibilities to the taxpayers of Minnesota; (b) University’s responsibilities to veterinary students, interns and residents; (c) the requirements of the AVMA COE, AAVMC and VIRMP; (d) University’s efforts and resources required to maintain and/or grow University’s case load and business; (e) in the event that Employee’s relationship with University concludes or is terminated, the additional time and effort necessary to locate, select, hire, train and wait for new specialists in training to complete their residency programs and prepare for and/or pass the specialty boards while under University’s guidance so that they can be hired into faculty positions.
3. **Non-Solicitation**. As a material inducement for University to enter into this Agreement and pay Employee the compensation and benefits outlined in Employee’s employment agreement, and in exchange for the additional professional education, case load experiences, training and opportunities to develop Employee’s specialty expertise that will be obtained while working for University, Employee agrees that during and after the conclusion of employment and within the **Restricted Period,** Employee will not solicit or divert business which is of a similar nature to that of the University from any of University's ***Clients, Referring Veterinarians*** or ***Referring Veterinary Practices*** existing on the date of termination of employment or prior thereto, nor give any person, firm or corporation the right to do so, nor dissuade them from utilizing the services of University. For the purposes of this Agreement, solicitation of business includes any type of in-person or telephonic oral or any written communications with existing clients (including the use of social networking systems and devices) directed intentionally to specified individuals or businesses as opposed to the public or profession at large where such discussion is initiated by the departed Employee and designed to inform such people or businesses about the availability, nature, and/or prices of veterinary products or services and attract those clients to seek the services of the departing or departed Employee at the Employee’s business location or future place(s) of work or employment. Solicitation does not include permitted advertising in the form of press releases, advertising to the public or the veterinary profession at large, professional listings in the white or Yellow Pages of telephone books or placing information about the departed Employee on a web site intended for the public or the veterinary profession provided that such press releases, advertising or listings do not identify Employee as “formerly of this University’s veterinary practice.”
4. **Personnel Raiding of Staff**. During and for one (1) year after Employee ceases to be employed by University, for any reason, Employee agrees not to recruit, solicit, encourage, entice or hire away any owner, independent contractor or employee working for or associated with the University to participate in or assist with the formation or operation of any business that competes or intends to compete with the University or to do any act that is disloyal to the University, inconsistent with the University's interests or in violation of any provision of this Agreement. For the purpose of this section, solicitation means any type of in-person communications with University’s owners or staff members initiated by or made on behalf of Employee or with Employee’s recommendation where the discussion is intended to entice such parties to leave the employment of University and work for or with the departing or departed Employee.
5. **Business Name.** Employee agrees not to use any business name in a separate business under which University lawfully operates prior to or after Employee’s departure that is substantially similar to or easily confused with University’s personal or business name.
6. **Remedies.** If Employee violates any of the terms of this Agreement, University shall be entitled to any and all remedies at law and equity, which may be cumulative, and shall include, but not be limited to, the right of injunction or preliminary restraining order and the right to seek damages. No bond or other security shall be required of University in connection with such injunction or temporary restraining order. If University violates any of the terms of this Agreement, Employee shall be entitled to any and all remedies at law and equity, which may be cumulative, and shall include, but not be limited to, the right of injunction or preliminary restraining order and the right to seek damages. No bond or other security shall be required of Employee in connection with such injunction or temporary restraining order.
7. **Reasonableness of Terms.** Employee and University acknowledge that the restrictions imposed by this Agreement are reasonable, that they are necessary to protect the legitimate business interests of the University and Employee and that such restrictions do not and will not impose an undue hardship on Employee or University.
8. **Violations During Pending Legal Proceedings.** If Employee continues to violate this Agreement prior to or during the pendency of any litigation to enforce this Agreement and/or recover damage as a result thereof, and such litigation shall be concluded or terminated in the University’s favor, then the restricted time period specified above shall be tolled during the period of the Employee’s period of violation and shall resume upon the conclusion or termination of such litigation.
9. **Confidential Information.**
	1. Definition. “Confidential Information” includes all business, financial, tax, fee schedules and medical records, including photographic or digital images of patients, telephone lists and addresses of existing or potential clients, staff members or referring veterinary practices, phone logs, appointment books, treatment forms, laboratory results, radiographs, mailing lists, production records, case reviews, clinical trial protocols or submissions, template referral letters, price lists, pricing information, new business development information, operations manuals and training materials, reference books, records, techniques that are part of or related to protected business and/or trade secrets, and any other information with respect to marketing information, practice brochures, text, photos, videos or graphic illustrations used for marketing purposes and/or in the development of a website as well as computer software programs and data created before, during, or amended during the term of this Agreement, or any renewal thereof, as well as all information that Employee has a reasonable basis to consider confidential.
	2. Non-Removal. Employee agrees that Confidential Information, including computerized information belonging to University, shall not be removed physically nor electronically transmitted, copied, taken nor sent to an off-site location from University's place of business. Such unauthorized removal will be grounds for immediate dismissal.
	3. Prohibitions Against Use. Except as required by law, Employee shall not, during Employee’s employment or at any time after Employee ceases to be employed by University, either directly or indirectly, use, divulge, disclose or communicate, other than in connection with Employee’s employment contract with the University, any Confidential Information to any person, firm, corporation, association or other entity not employed by the University or not authorized by the University to receive such Confidential Information, without the prior consent of the University. Employee will use reasonable and prudent care to safeguard, protect and prevent the unauthorized use and disclosure of Confidential Information.
10. **Return of Proprietary Property/Confidential Information.** When Employee ceases to be employed by University for any reason, Employee will promptly return all keys to University’s facility or locked cabinets as well as University’s Confidential Information (including all copies, notes, and extracts therefrom). Moreover, Employee shall erase or cause to be erased all Confidential Information from any computer memory or storage that is not left with University. Employee agrees not to take any document or computer media containing any Confidential Information. Employee shall return to the University all records (whether furnished by the University or prepared by the Employee in the course of employment), and the Employee shall neither make nor retain copies of any of such records after employment ceases.
11. **Governing Law.** This Agreement shall be interpreted in accordance with and governed by the laws of the state of Minnesota without giving effect to the conflict of laws provisions thereof.

 **IN WITNESS WHEREOF**, Employee and University execute this Agreement as set forth below.

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| **EMPLOYEE**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name:      Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **REGENTS OF THE UNIVERSITY OF MINNESOTA**By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name:      Title: Dean, College of Veterinary MedicineDate: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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#### Attachment A

#### Exceptions or Exclusions