

Employee Exit Acknowledgement—Intellectual Property Provisions

L. M. Brownlee, Intellectual Property Due Diligence Checklist, IP Due Diligence in Corp. Transactions, Form 26

1. Employee _____ hereby acknowledges and confirms that he/she shall be departing from Target Company, effective _____ [and that he/she, on _____ (date(s)), signed _____ (Agreement(s)), wherein certain provisions provided for the survival of certain of his/her obligations toward Target Company following his/her departure from Target Company].

2. He/she hereby acknowledges and confirms that he/she has returned to Target Company all information and materials provided or made available to him/her during the course of his/her employment with Target Company, including, without limitation, all materials which contain Confidential Information.

3. He/she hereby acknowledges and confirms that he/she has a continuing obligation not to use or disclose Confidential Information for a period of [*number*] years following the Effective Date.

4. He/she hereby acknowledges and confirms that he/she has an obligation not to compete with Target Company's business, which such obligation he/she shall honor for the period specified in the Agreement or, if no such Agreement exists or such Agreement is held to be unenforceable, the maximum period allowable under relevant law.

5. To the extent ownership in any Intellectual Property developed by, conceived of, and/or created by him/her, in whole or in part, has not been previously assigned to Target Company by agreement or otherwise by operation of law, he/she hereby assigns to Target Company all of his/her right, title and interest to such Intellectual Property, whether or not such Intellectual Property is reduced to practice or published during his/her employment by Target Company. He/she agrees that Target Company shall have the royalty-free right to exploit all Intellectual Property conceived of or created or made by him/her, whether or not patentable or copyrightable or otherwise protectable under law. He/she further agrees, upon payment by Target Company of his/her reasonable expenses in connection therewith, to sign all documents and perform all other such acts necessary or desirable (in Target Company's sole discretion) to obtain title to, registration or other protection for and/or enforce or otherwise protect the Intellectual Property and, to the extent he/she is unable, unwilling, or unavailable to do so, irrevocably appoints power of attorney to Target Company (and all authorized representatives thereof) to sign all documents on his/her behalf.

6. He/she has been informed in writing, and Target Company agrees, that the foregoing assignment does not apply to any invention for which no equipment, supplies, facility, or trade secret information of Target Company was used and which was developed entirely on his/her own time, unless:

1. the Intellectual Property relates (i) directly to Target Company's business, or (ii) to Target Company's actual or demonstrably anticipated research or development; or

2. the Intellectual Property results from any work performed by him/her for Target Company.

Notwithstanding the foregoing, he/she shall, at the time of employment or thereafter, disclose to Target Company all inventions being developed by him/her, for the purpose of determining Target Company's or his/her rights. Target Company or he/she may disclose such inventions to the department of employment security, and the department shall maintain a record of such disclosures for a minimum period of five years.

7. He/she hereby informs Target Company that he/she:

a. has accepted employment with: _____ (name of company) at _____ (location, phone and fax numbers and e-mail contact), as _____ (job title, if known), undertaking _____ (responsibilities); and/or

b. shall be self-employed in the field of _____ and intends to perform such activities from _____ (location, phone and fax numbers and e-mail contact); and/or

c. shall be pursuing employment in the field of _____ and shall provide Target Company upon his/her acceptance of such employment the information specified under (a) and (b), above.

8. Whistleblower protection

Pursuant to 18 U.S.C.A. § 1831 et seq., the Defend Trade Secrets Act of 2016 (“DTSA”), an individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made 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 is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual files any document containing the trade secret under seal and does not disclose the trade secret, except pursuant to court order.

Dated: this _____ (day) of _____ (month), _____ (year)

by _____
(Employee’s signature)

Witnessed by: _____
(Witness signature)