

EMPLOYMENT NON-COMPETITION AGREEMENT

THIS AGREEMENT has been made and entered into on the ___ day of _____, 20___, by and between _____. (“Employer”), a _____ corporation, and _____ (“Employee”);

RECITALS

Employer has engaged the services of Employee as an at will employee on terms that have been mutually negotiated by and between the parties. In consideration of employment, Employer and Employee have agreed to enter into this Non-Competition Agreement; and,

For good and valuable consideration exchanged, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Employee acknowledges and agrees that Employer’s customers, potential customers, list of customers and prospects, recipes, product development, ingredient and supply sources, marketing methods, customer development, sales figures, books and records, and other aspects of Employee’s business (collectively “Protected Information”) are valuable, special and unique assets of Employer, and that Employee, by virtue of employment, will acquire access to Protected Information, the use of which by a competitor could result in serious damage or injury to the business interest of Employer.

2. In consideration of employment by Employer of Employee and the on-job training that Employee will receive, Employee agrees that, during the term of employment by Employer, the Employee shall serve the customers of Employer in a representative capacity only, and that on termination of employment with Employer, for any cause or reason whatsoever, Employee will not, for a period of one (1) year thereafter: (a) engage, or be employed, directly or indirectly, in any aspect of the business of preparing, producing, marketing, and/or selling cupcakes for any individual, firm, corporation or other entity that derives 50% or more of gross sales from cupcake sales and that is located within fifty (50) miles of any store, shop or outlet of Employer (a “Competitor”), nor (b) call upon, solicit, service or interfere with or divert in any way any customer served by Employer.

3. Employee further agrees that for and during the entire period of employment by Employer and following termination of employment, all Protected Information shall be considered and kept as private and privileged records of Employer and will not be divulged by Employee to any individual, firm, corporation or other entity, except under direct written authorization of the President of Employer.

4. During the term of employment and for one (1) year thereafter, Employee shall not solicit, employ, or otherwise engage as an employee, independent contractor, or otherwise, any person that is an employee or contractor of Employer.

5. Employee acknowledges and agrees that the provisions of this Agreement are reasonable and necessary to prevent the improper use or disclosure of Protected Information. This Agreement imposes a reasonable restraint in scope, geographic area, and time limitations on

Employee in light of the activities and business of Employer. The scope, geographic area, and time limitations contained in this Agreement are necessary for the protection of Employer's business interests. The provisions contained in this Agreement will not interfere with or prohibit Employee from earning an adequate livelihood.

6. Because of the difficulty of measuring economic losses and the immediate and irreparable damage to Employer as a result of breach of this Agreement, Employee agrees that this Agreement may be enforced by injunctions and restraining orders, in the event of breach or threatened breach by Employee. The parties agree that nothing in this Agreement shall be construed as prohibiting Employer from seeking and pursuing any other remedies available to it for any breach or threatened breach of this Agreement, including, without limitation, the recovery of damages from Employee or any other person or entity acting in concert with Employee. Employee further agrees that in the event of breach or threatened breach by Employee, Employee will pay reasonable attorneys fees and expenses incurred by Employer in enforcing this Agreement.

7. Employer and Employee agree that the period of one (1) year following termination of Employee's employment shall be computed by excluding any time during which Employee is in violation of any provision in this Agreement. During the term of employment and for one (1) year thereafter, Employer may send a copy of this Agreement to any other employer of Employee.

8. This Agreement is severable and separate, and the unenforceability of any specific covenant shall not affect the provisions of any other covenant. In the event that any court shall determine that the scope, time, or territorial restrictions set forth are unreasonable, then it is the intention of the parties that the restrictions remain enforced to the fullest extent that the court deems reasonable and that the Agreement will then be reformed.

9. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior understandings or agreements. Any changes or amendments to this Agreement must be in writing and signed by both parties. This Agreement shall be assignable by Employer without the consent of the Employee and shall be binding on and inure to the benefit of the successors and assigns of Employer. This Agreement shall be governed by the laws of the State of _____. This Agreement shall be construed according to its fair meaning and not strictly for or against either party. A waiver by either party of any term or condition of this Agreement shall not be deemed or construed as a waiver of the term or condition in the future, or a waiver of any subsequent breach of the Agreement. The parties waive all rights to a trial by jury.

THIS INSTRUMENT has been executed on the date hereinabove referenced.

By: _____
Employer

Employee