Severance Agreement upon Termination of Employment or Resignation

Severance Agreement made on the _____ ***(date)***, between _____ ***(Name of Employer)*** of _____ _____ ***(street address, city, state, zip code)***, referred to herein as *Employer*, and _____ ***(Name of Employee)***, of _____ _____ ***(street address, city, state, zip code)***, referred to herein as ***Employee***.

Whereas, *Employee* has resigned from employment with *Employer* effective _____ ***(date)***; and

Whereas, *Employee* and *Employer* desire to enter into an agreement setting forth the terms and conditions of the termination of *Employee*'s employment with *Employer*;

Now, therefore, for and in consideration of mutual covenants contained in this agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Termination of Employment

Employee's employment with *Employer* has been terminated effective on _____ ***(date and time)***. For and in consideration of the severance pay as set forth herein, *Employee* agrees that *Employer* has no obligation, contractual or otherwise, to rehire, reemploy, recall or hire *Employee* in the future.

2. Termination Benefits

It is understood and agreed that *Employee*'s employment benefits have been terminated, including health care coverage unless *Employee* elects to continue her coverage as provided under the provisions of the Federal Legislation known as COBRA (the Consolidated Omnibus Budget Reconciliation Act). *Employee* acknowledges that she will be provided with proper notice of her rights under COBRA. Should *Employee* elect to continue such medical insurance coverage under COBRA, she shall be solely responsible for the timely payment of insurance premiums due from and after the effective date of termination of her employment with *Employer*, unless and to the extent she may be due the subsidy provided by the temporary federal subsidy provided by the American Recovery and Reinvestment Act of 2009.

3. Severance Pay

In exchange for the execution and non-revocation of this Agreement by *Employee*, *Employer* shall pay to *Employee* her accrued, but unused vacation pay, along with ***(e.g., two)*** _____ months' severance pay, calculated at the *Employee*'s current rate of pay, less normal federal and state tax withholdings, to be paid in normal payroll installments, following the execution and non-revocation of this Severance Agreement by *Employee*.

4. Release and Covenant not to Sue

For the consideration of receiving severance pay, and as an inducement to *Employer* to give same, *Employee*, for herself, her heirs, administrators, executors and assigns, has released and discharged, and by these presents does hereby release and discharge *Employer*, its agents, servants and *Employee*s, and any and all other persons,

SAMPLE

firms, partnerships, associations, parent corporations, subsidiary corporations, or other corporations who are or may be liable in any manner whatsoever for their acts, or for the acts of any of them (said parties being hereinafter collectively referred to as the *Releasees*), jointly and severally, of and from any and all claims, demands, actions, causes of action, suits and damages of every kind and nature whatsoever which *Employee* may have, or claim to have, for damages, back pay, front pay, benefits, costs, losses and expenses of every kind or nature whatsoever, whether known or unknown, anticipated or unanticipated, accrued through the date of this Severance Agreement, caused by, resulting from, growing out of or in any manner connected with *Employee*'s employment with *Employer* and the termination of *Employee*'s employment, including, but not limited to; claims of wrongful discharge; claims for breach of contract; whistleblower claims; bad faith claims; claims of employment discrimination based on race, color, sex, religion, national origin, age, handicap, disability, genetic information, or Veterans' status brought under any federal, state, or local law, including but not limited to claims under the Title Vii of the Civil Rights Act ("Title VII"), the Employee Retirement Income Security Act ("ERISA")(except for vested benefits), the American with Disabilities Act ("ADA"); the Age Discrimination in Employment Act ("ADEA:"), the Family and Medical Leave Act ("FMLA"), and all other federal and state statutes applicable to employment; and claims brought under any common law theory based on federal, state, or local law.

The Severance Payment is hereby acknowledged by *Employee* to be and is received by her in full and complete compromise, settlement, accord and satisfaction for any and all claims against *Releasees,* and that *Employee* is not otherwise entitled to this consideration. For this same consideration, *Employee* does hereby covenant and agree that she will never make any demand or claim which she may have or claim to have, or commence or permit to be commenced and prosecuted any action at Jaw or in equity, or any administrative or other proceeding of any kind against the *Releasees*, or any of them, arising from, growing out of or in any manner connected with her employment with *Employer* and the termination of such employment, provided that this provision shall not preclude the filing of administrative complaints or charges with federal or state agencies such as the Equal Employment Opportunity Commission, the National Labor Relations Board, and state workers' compensation commissions. It is further understood and agreed that this Agreement is executed and delivered as the compromise and settlement of doubtful and disputed claims, and that there is no admission of liability on the part of the *Releasees,* or any of them, but on the other hand, the *Releasees,* and each of them, specifically deny any such liability to *Employee*.

5. Indemnification

For the same consideration and as an inducement to give same, *Employee* further agrees to indemnify and hold harmless the *Releasees,* and each of them, from and against any and all claims, losses or damages arising out of, resulting from or in any way connected with *Employee*'s employment with *Employer* and the termination of her employment.

6. Further Assurances of Employee

In executing and delivering this Severance Agreement, *Employee* relies wholly upon her own judgment, knowledge and belief as to the nature, extent and duration of any damage which she may have suffered or sustained as the result of her employment with *Employer* and the termination of her employment. *Employee* further represents and warrants that she has not been influenced by any representations, statements or

SAMPLE

warranties made by the *Releasees,* or by any agent or other person representing any of them, concerning the nature, extent or duration of the damages or losses, or the legal liability thereof. *Employee* certifies that she is of legal age, under no disability of any kind which would preclude her from being fully and completely competent to execute this Severance Agreement in her own behalf, and that she has fully read and completely understood this Severance Agreement, or has had this Severance Agreement explained to her by her attorney.

7. Effective Date

The effective date of this Severance Agreement shall be the _____ day following *Employee*'s execution of this Severance Agreement.

8. Confidentiality and Disparagement Provisions

Employee shall, aside from discussing the Severance Agreement with her tax preparers or other representatives, keep the existence and terms of this Severance Agreement completely confidential. *Employee* further agrees that she will not make negative statements concerning *Employer* or its *Employees* to other *Employees* of *Employer* or to any third party except as required under federal or state law with respect to matters, if any, pending before a state or federal agency. *Employee* agrees that for breach of this paragraph, *Employee* will pay to *Employer* and/or its successors as liquidated damages, a sum equal to one half the Severance Pay payable to *Employee* under this Release Agreement, as well as any costs and attorneys' fees incurred in pursuit of said liquidated damages.

9. OWBPA Provisions

Employee hereby acknowledges that this waiver is knowingly and voluntarily executed, that the release specifically refers to rights or claims arising under the Older Workers Benefit Protection Act; that *Employee* waives all rights or claims against *Employer* and the other Releasees as of the date this release is executed; that *Employee* waives rights or claims only in exchange for consideration in addition to anything of value to which *Employee* is entitled; that, prior to signing this Agreement, *Employee* has been advised in writing to consult with an attorney before signing this Agreement; and that *Employee* has been given a period of at least twenty-one (21) days within which to consider this Agreement. It is further understood that for a period of seven (7) days following the execution of this Agreement, *Employee* may revoke this Agreement by delivering a written notice of revocation to *Employer* on or before the seventh (7th) day following the execution of this Agreement.

10. Entire Agreement

This Severance Agreement contains the entire agreement and understanding between the parties with respect to the termination of *Employee*'s employment and with respect to any wages and benefits (except for vested benefits under the *Employer* pension plan, if any) to which *Employee* may be entitled as a result of *Employee* having been an *Employee* of *Employer*. This Severance Agreement supersedes all prior agreements and understandings between the parties, both oral and written, with respect to its subject matter.

11. Severability

The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. If any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force

SAMPLE

and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

12. No Waiver

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as subsequently waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

13. Governing Law

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of _____.

14. Notices

Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given when sent by certified or registered mail addressed to the respective address of each party as set forth at the beginning of this Agreement.

15. Mandatory Arbitration

Any dispute under this Agreement shall be required to be resolved by binding arbitration of the parties hereto. If the parties cannot agree on an arbitrator, each party shall select one arbitrator and the arbitrators shall then select a third. The third arbitrator so selected shall arbitrate the dispute. The arbitration shall be governed by the rules of the American Arbitration Association then in force and effect.

16. Entire Agreement

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

17. Modification of Agreement

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if placed in writing and signed by each party or an authorized representative of each party.

18. In this Agreement, any reference to a party includes that party's heirs, executors, administrators, successors and assigns, singular includes plural and masculine includes feminine.

WITNESS our signatures as of the day and date first above stated.

_____	_____
(Printed name)	***(Printed name)***
_____	_____
(Signature of Employer)	***(Signature of Employee)***

Acknowledgements may vary by state.

SAMPLE

State of _____

County of _____

Personally appeared before me, the undersigned authority in and for the said county and state, on this _____ day of _____, 20_____, within my jurisdiction, the within named _____ ***(Name of Employee)***, who acknowledged that she executed the above and foregoing instrument.

_____
NOTARY PUBLIC

My commission expires:

_____

S

SAMPLE