



# Wickenburg Landscape & Irrigation, Inc.

51020 N. Hwy 60/89 Suite B, Wickenburg Arizona, 85390 • Office 928-684-7165 • Fax 928-684-3839

“Where quality meets service.”

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## EMPLOYMENT AGREEMENT

**THIS EMPLOYMENT AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Wickenburg Landscape and Irrigation, Inc. (hereinafter referred to as “Wickenburg Landscape”) whose address is 51020 Highway 60/89, Wickenburg, Arizona 85390, and the Employee whose signature appears below (hereinafter referred to as “EMPLOYEE”).

Wickenburg Landscape **IS ENGAGED IN THE BUSINESS** of Landscape and Irrigation (hardscape and softscape) and Lighting systems. During the EMPLOYEE’S employment, Wickenburg Landscape will confide to the EMPLOYEE certain information concerning facts, techniques, trade secrets, methods, manuals, confidential information pertaining to customers, such as names, addresses, telephone numbers, prices, services, requirements as to dates and times of services, *et cetera*, and special knowledge concerning Wickenburg Landscape’s businesses (and other businesses which Wickenburg Landscape may now operate in the future), which the EMPLOYEE would not otherwise obtain. The EMPLOYEE understands and agrees that the facts and information pertaining to Wickenburg Landscape’s customers are valuable business assets and are confidential, would be invaluable in the hands of any competitor, and would irreparably damage Wickenburg Landscape’s business and good will.

**IN CONSIDERATION OF THE PROMISES** of the EMPLOYEE hereinafter set forth, and his/her promises as stated herein, and upon such terms of compensation as shall be mutually agreed upon, which are hereby incorporated by reference, Wickenburg Landscape hereby employs the EMPLOYEE. **THEREFORE**, in consideration of the employment by Wickenburg Landscape and the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. **CONFIDENTIALITY.** The EMPLOYEE understands and agrees that it would be extremely damaging to Wickenburg Landscape if confidential information were disclosed or made available, directly or indirectly, to another person, corporation, firm, business entity, competitor, or other third party. The EMPLOYEE agrees that he/she will not, at any time during his/her employment with Wickenburg Landscape or for a term of two (2) years after his/her employment with Wickenburg Landscape ceases: (a) directly or indirectly disclose any such confidential information to another person, corporation, firm, business entity, competitor, or other third party; or (b) in any manner copy, reproduce, record, make facsimiles of, abstract, summarize, remove, use, keep, or otherwise deal in or with such confidential information, except in each instance to the extent required during his/her employment with Wickenburg Landscape for the good faith performance of his/her job duties.
2. **NO COMPETITION DURING EMPLOYMENT.** The EMPLOYEE agrees that during the term of this Agreement, or during any employment with the company, that he will not either directly or through the activities or efforts of any third person, either as an employee, employer, consultant, agent, principal, partner, stockholder, corporate officer, director, or in any other individual or representative capacity, engage or participate in any business that is in competition

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3. in any manner whatsoever with the business of Wickenburg Landscape or solicit work for or accept any business from any existing customer of Wickenburg Landscape on behalf of himself/herself or for others.
  4. **COMPETITION AFTER TERMINATION.** The EMPLOYEE further agrees and promises as a part of this Agreement that for a period of two (2) years following termination of employment, voluntary or involuntary, the EMPLOYEE shall not for any reason, directly or indirectly, on behalf of himself/herself or others, or in conjunction or conspiracy with any person, partnership, joint venture, corporation, or other business entity, directly or indirectly do any of the following:
    - A. Use for his/her own purpose, divulge, disclose, or communicate in any manner whatsoever (to any outside third person, firm, or corporation) any confidential information affecting or relating to Wickenburg Landscape's business, facts, techniques, trade secrets, method, manuals, and special knowledge.
    - B. Induce, solicit, entice, or attempt to take away any of Wickenburg Landscape's employees.
    - C. Attempt to induce customers whom the EMPLOYEE called upon, catered to, or serviced during the last year (365 days) he/she was employed by Wickenburg Landscape to cease doing business in whole or in part or in any other manner, injure or attempt to injure Wickenburg Landscape's relationship with these customers.
    - D. The EMPLOYEE may compete with Wickenburg Landscape after leaving employment either as an individual business person or as an employee of another business entity. However, in doing so, the EMPLOYEE for a two (2) year period after termination of employment, must not, by himself/herself or through another business entity, either directly or indirectly, call upon, solicit, divert, service or take away any of Wickenburg Landscape's customers whom the EMPLOYEE called upon, serviced, or carried out any business relationship during any part of the last year (365 days), the EMPLOYEE was employed by Wickenburg Landscape. Any restriction under the immediately preceding sentence regarding the EMPLOYEE calling upon, servicing, or carrying out of any business relationship shall apply only to the County or Counties in which the EMPLOYEE personally worked for Wickenburg Landscape during the last year (365 days) of employment.
  5. **INJUNCTIVE RELIEF.** EMPLOYEE agrees that in the event of a breach or threatened breach in whole or in part of this Agreement, then the EMPLOYEE consents to and agrees that Wickenburg Landscape is entitled to obtain an injunction, temporary and permanent, restraining the EMPLOYEE from violating any of the provisions of this Agreement. The EMPLOYEE specifically waives the defense that a remedy at law is adequate and hereby agrees that Wickenburg Landscape shall suffer irreparable harm if he violates any of the provisions herein. This injunctive relief, whether temporary, preliminary, or permanent, shall be in addition to any other remedies Wickenburg Landscape may elect to invoke against the EMPLOYEE for his breach in whole or in part of this Agreement.
  6. **LIQUIDATED DAMAGES.** The parties agree that it would be impractical or extremely difficult to fix the total monetary loss resulting from a breach by the EMPLOYEE of any of the provisions of this Agreement. Therefore, the EMPLOYEE agrees that if he breaches any of the provisions of this Agreement, he shall pay to Wickenburg Landscape as liquidated damages, one hundred fifty percent (150%) of the existing annual sales to each customer or account lost by Wickenburg Landscape due to EMPLOYEE'S breach of this Agreement. Said sum is fair and is not a penalty or forfeiture, but is a portion of the recognized damages which will be sustained by Wickenburg Landscape. The EMPLOYEE shall be permitted to pay the liquidated damages amount in nine (9) monthly installments beginning one (1) month after the earlier of either the date when the customer terminated the services of Wickenburg Landscape or when the EMPLOYEE, directly or indirectly, first began providing services to the customer. This provision for liquidated damages does not preclude equitable jurisdiction or injunctive relief.
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7. **RETURN OF PROPERTY.** Upon termination of employment with Wickenburg Landscape all business related documents including, but not limited to records, notebooks, contracts leads or lead logs, sales materials, rate books, customer lists, certificates, and any and all other information or their related documents pertaining to Wickenburg Landscape's past, present, or potential customers, including copies of notations, whether prepared by the EMPLOYEE or others, shall be returned immediately to the person or place designated by Wickenburg Landscape. The EMPLOYEE shall also return at that time, any vehicles, keys, credit cards, identification cards, employment accessories, or the like, which may have been issued to the EMPLOYEE during the EMPLOYEE'S term of employment. The EMPLOYEE specifically agrees that, to the extent permitted by law, Wickenburg Landscape may deduct from his final paycheck the fair and reasonable value of any property not returned to Wickenburg Landscape.
8. **SEVERABILITY OF PROVISIONS AND REFORMATION.** It is the intent of the parties hereto that all of the provisions set forth herein are severable and independent. In the event any of the provisions should be held to be invalid or unenforceable, all other provisions shall remain in full force and affect. Any provision herein which is determined to be overly broad and restrictive by a competent court of law may be reformed to the extent necessary to be legally enforceable.
9. **TERMINATION AT WILL AND MISCELLANEOUS.** The parties to this Agreement expressly agree that the employment relationship created by this Agreement is at will and may be terminated by Wickenburg Landscape without cause or prior notice to EMPLOYEE. The parties expressly agree that the laws of the State where this Agreement was signed shall govern the validity, construction, interpretation, and effect of this Agreement.
10. **ATTORNEYS' FEES FOR BREACH.** Upon any lawsuit or suit in equity brought by Wickenburg to enforce the terms of this Agreement, the EMPLOYEE agrees to pay reasonable attorneys' fees, costs, and expenses incurred by Wickenburg Landscape in addition to all relief given to Wickenburg Landscape by the Court.
11. **NO MODIFICATION OTHER THAN IN WRITING.** The Employment Agreement shall remain in full force and effect during the EMPLOYEE'S entire employment with Wickenburg Landscape unless and until a new Employment Agreement is entered into in writing and signed by the parties. This Agreement shall apply to the EMPLOYEE even though his duties and compensation may change from time to time. No supervisor, manager, or other agent of Wickenburg Landscape is authorized to create a different employment relationship, agreement, modification, contract, or waiver of any provisions herein (either express or implied) with the EMPLOYEE, than that stated herein, and none will be recognized as valid, unless it is in writing, is designated as an Employment Agreement, and is signed by the EMPLOYEE and an authorized Wickenburg Landscape representative.
12. **PARTIES, SUCCESSORS, AND ASSIGNS.** As used through this Agreement: (a) the term Wickenburg Landscape shall include not only Wickenburg Landscape and Irrigation, Inc. but also as applicable, any or all of its subsidiaries, whether now owned or acquired by it, and its successors and assigns; and (b) the terms "he", "him", shall in the case of a female employee, be deemed to mean "she", "her", and "hers" as the case may be. This Employment Agreement supercedes any previous Employment Agreement (either expressed or implied) entered into between Wickenburg Landscape and the EMPLOYEE.

**IN WITNESS WHEREOF**, those parties have executed this Employment Agreement in the City of Wickenburg, County of Maricopa, State of Arizona, the day and year herein first above written.

EMPLOYEE: \_\_\_\_\_  
 (Print Name)  
 \_\_\_\_\_  
 (Sign Name)

\_\_\_\_\_  
 Wickenburg Landscape and Irrigation Inc.  
 By: \_\_\_\_\_

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PLEASE READ CAREFULLY

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APPLICATION FORM WAIVER

In exchange for the consideration of my job application by **Wickenburg Landscape and Irrigation, Inc.** (hereinafter called "the Company"), I agree that:

Neither the acceptance of this application nor the subsequent entry into any type of employment relationship, either in the position applied for or any other position, and regardless of the contents of employee handbooks, personnel manuals, benefit plans, policy statements, and the like as they may exist from time to time, or other Company practices, shall serve to create an actual or implied contract of employment, or to confer any right to remain an employee of the company, or otherwise to change in any respect the employment-at-will relationship between it and the undersigned, and that relationship cannot be altered except by a written instrument signed by the President /General Manager of the Company. Both the undersigned and may end the employment relationship at any time, without specified notice or reason. If employed, I understand that the Company may unilaterally change or revise their benefits, policies and procedures and such changes may include reduction in benefits.

I authorize investigation of all statements contained in this application. I understand that the misrepresentation or omission of facts called for is cause for dismissal at any time without any previous notice. I hereby give the Company permission to contact schools, previous employers (unless otherwise indicated), references, and others, and hereby release the Company from any liability as a result of such contact.

I also understand that (1) the Company has a drug and alcohol policy that provides for preemployment testing as well as testing after employment; (2) consent to and compliance with such policy is a condition of my employment; and (3) continued employment is based on the successful passing of testing under such policy. I further understand that continued employment may be based on the successful passing of job-related physical examinations.

I further understand that my employment with the Company shall be probationary for a period of sixty (60) days, and further that at any time during the probationary period or thereafter, my employment relation with the Company is terminable at will for any reason by either party.

Signature of applicant \_\_\_\_\_ Date: \_\_\_\_\_

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This Company is an equal employment opportunity employer. We adhere to a policy of making employment decisions without regard to race, color, religion, sex, sexual orientation, national origin, citizenship, age or disability. We assure you that your opportunity for employment with this Company depends solely on your qualifications.

Thank you for completing this application form and for your interest in our business.