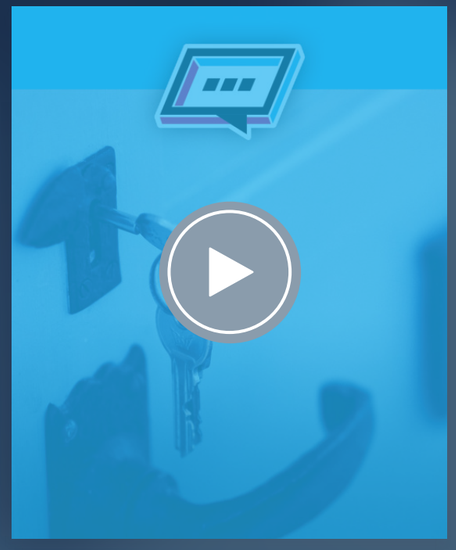
Exit course preview



Activate

# Confidentiality and Non-Competition Agreement

10

## Information

DESCRIPTION

NDA

DETAILS

Online Module

No certification

## Module steps

Confidentiality and Non-compe...

Confidentiality and Non-compe...

# Confidentiality and Non-competition Agreement

**Please read and sign.**

Download

## Noncompete Agreement

CONFIDENTIALITY AND NON-COMPETITION AGREEMENT THIS CONFIDENTIALITY AND NON-COMPETITION AGREEMENT ("Agreement") is entered into and effective as of date signed and between You the reader (the "Employee") and Activate America, LLC (the "Company").

W I T N E S S E T H:
WHEREAS, as a condition for employment or continued employment with the Company,Employee agrees to enter into this Agreement. NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

1. **At-Will Employment.** The Company is an "at-will" employer, and either party may terminate the employment relationship, with or without cause and with or without notice at any time. This Agreement in no way alters the at-will relationship between the Company and the Employee.

**2. Confidentiality Covenant.** Employee and the Company recognize that due to the nature of Employee's association with the Company and its "Affiliates" (as defined in Section 7(a)), Employee will have access to and will acquire confidential and proprietary information relating to the business and operations of the Company and its Affiliates (collectively "Confidential Information"), including, without limitation, (i) any and all trade secrets concerning the business and affairs of the Company, data, know-how, and ideas, past, current and planned, development, subscriptions lists, current and anticipated customer requirements, customer, circulation or subscription lists or information, advertiser lists or information, price lists, market studies, business plans, computer software and programs and any other information, however documented, of the Company that is a trade secret; (ii) any and all

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3. **Intellectual Property.** Employee shall communicate to the Company, promptly and fully, and shall assign to the Company, all right, title, and interest (including patent rights, copyrights, trade secret rights, mask work rights, and other rights throughout the world) in "Intellectual Property" developed or conceived by Employee, either solely or jointly with others, during Employee's employment with the Company which is within the scope of the Company's business, or which utilized Company materials or information. For the purposes of this Agreement, Intellectual Property means inventions, discoveries, business or technical innovations, creative or professional work product or works of authorship. Employee further agrees to execute all necessary papers and to otherwise assist the Company, at the Company's sole expense, to obtain patents, copyrights or other legal protection as the Company deems fit. All Intellectual Property shall be the property of the Company, whether or not patented, copyrighted or published. To the maximum extent permitted by applicable law, Company shall have the royalty-free right to use in its business and to make, use and sell processes, products and services that (a) are derived from any inventions, discoveries, concepts and ideas, including without limitation, formulas, methods, processes and techniques, as well as improvements thereof and know- how related thereto, and (b) are made or conceived by Employee during his employment by Company with the use or assistance of Company's equipment, facilities, information, material, personnel, resources, supplies or time. Any such Intellectual Property made, developed, fixed in tangible form or reduced to practice by Employee within six (6) months following the termination of employment shall be deemed covered by this section, unless Employee proves that Employee did not conceive of any part of such Intellectual Property prior to the termination of employment.

4. **Non Competition Covenant.** Employee or his Affiliates agree that they will not engage as an officer, director, shareholder, owner, partner, joint venturer, employee, independent contractor, consultant or advisor, in a business which operates, produces or is developing stores, locations or concepts which are competitive or substantially similar to those being operated, produced or developed by the Company (the “Competitive Business”) in the area referred to herein as the "Territory" and defined as any geographical area within a one hundred (100) mile radius in which the Company or any of its Affiliates is then operating or developing a location. In addition, for a two (2) year period following the termination of employment, Employee or his Affiliates agree that they will not engage as an officer, director, shareholder, owner, partner, joint venturer, employee, independent contractor, consultant or advisor, in any Competitive Business in the Territory. Provided however, the purchase of a publicly traded security of any other Person (as defined in Section 7(a)) engaged in a Competitive Business shall not in itself be deemed violative of this Agreement so long as Employee and his Affiliates do not collectively own, directly or indirectly, more than five percent (5%) of the securities of such other Person.

5. **Property of the Company.** At no time shall Employee remove or cause to be removed from the premises of the Company or any Affiliate any memorandum, note, list, record, file,disk, document or other paper, electronic data, intellectual property, equipment or any like item relating to the business of the Company (“Company Property”) except in the furtherance of the performance of Employee’s duties on behalf of the Company or an Affiliate.

6. **Cumulative Remedies; Enforceability.**
(a) In the event of Employee’s breach or threatened breach of any of the covenants set forth in Sections 2, 3, 4 or 5, the parties acknowledge that the Company will suffer irreparable harm and the Company will be entitled to an injunction restraining Employee from committing such breach. Employee hereby affirmatively waives any requirement with regard to the Company’s effort to obtain such injunctive relief, that the Company post any bond, demonstrate the likelihood of irreparable harm to the Company, or demonstrate that any actual damages will be suffered by the Company or any other entity seeking enforcement hereof as a result of Employee’s breach or threatened breach of any of the covenants set forth in Sections 2, 3, 4 or 5.
(b) The covenants and agreements contained in Sections 2, 3, 4 or 5 will be construed as independent of each other, and the existence of any claim or cause of action by Employee against the Company, whether predicated on this Agreement or otherwise, will not constitute a defense to the Company’s enforcement of such covenants, and they shall be construed as separate covenants and agreements, and if any court shall finally determine that the restraints provided for in any such covenants and agreements are unenforceable due to the activity, Territory or time, said activity, Territory or time shall be deemed to become and thereafter shall be the activity, Territory or time which such court deems reasonable and enforceable, and such covenants and agreements shall be enforced as to such reduced activity, Territory or time. The covenants and agreements contained in Sections 2, 3, 4 or 5 shall survive the termination of Employee’s employment, regardless of the reason or reasons for Employee’s termination, and whether such termination is voluntary or involuntary.
(c) Nothing herein contained will be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or threatened breach, including the recovery of money damages.
(d) Employee understands and agrees that the covenants and agreements contained in Sections 2, 3, 4 or 5 are, taken as a whole, reasonable in their scope and duration, and Employee will not raise any issue of the reasonableness of the scope or duration of any such covenants in any proceeding to enforce any such covenants. Without limiting the generality of the foregoing, Employee acknowledges that the geographic scope of Employee’s covenants set forth in Section 4 are reasonable under the circumstances. Employee understands that the provisions of this Agreement have been carefully designed to restrict Employee’s activities to the minimum extent which is consistent with the Company’s requirements. Employee has carefully considered these restrictions, and Employee confirms that they will not unduly restrict Employee’s ability to obtain a livelihood.

7. **Miscellaneous Provisions.**
(a) Definitions. As used in this Agreement, the following terms (whether or not capitalized)have the meanings set forth in this Section 7(a): “Affiliate” means any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified. “Person” means any individual, entity, organization, labor union, or other entity or governmental body.

b. Assignment. Employee may not assign any of his rights or obligations under this Agreement. Subject to the foregoing, all of the provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the parties to this Agreement and their respective heirs, legal representatives, successors and assigns.

c. Amendment; Waiver. This Agreement may be amended, modified or superseded only by a written instrument signed by Company and Employee. No party shall be deemed to have waived compliance by another party of any provision of this Agreement unless such waiver is contained in a written instrument signed by the waiving party and no waiver that may be given by a party will be applicable except in the specific instance for which it is given. The failure of either party to enforce at any time any of the provisions of this Agreement or to exercise any right or option contained in this Agreement or to require at any time performance of any of the provisions of this Agreement by the other party shall not be construed to be a waiver of such provisions and shall not affect the validity of this Agreement or any of its provisions or the right of such party thereafter to enforce each provision of this Agreement. No course of dealing shall operate as a waiver or modification of any provision of this Agreement or otherwise prejudice such party's rights, powers and remedies.

d. Sever-ability of Provisions. If a court in any proceeding holds any provision of this Agreement or its application to any person or circumstance invalid, illegal or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid, illegal or unenforceable, shall not be affected, and shall be valid, legal and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties' essential objectives as expressed in this Agreement.

e. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy of this Agreement and all of which, when taken together, shall be deemed to constitute one and the same agreement.

f. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties related to its subject matter and supersedes all prior proposals, understandings, agreements, correspondence, arrangements and contemporaneous oral agreements relating to subject matter of this Agreement. No representation, promise, inducement or statement of intention has been made by any party which has not been embodied in this Agreement.

g. Governing Law. This Agreement shall be construed in accordance with the law, without regard to its conflicts of laws principles.

# Confidentiality and Non-competition Agreement

Question 1 of 1

**By clicking 'I agree' and as a condition for employment or continued employment with the Company, you agree to follow and to enter into this Agreement.**

- (●) I agree

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Send answers