



Putting Together An Offer

value of extending the best offer you can make to the candidate you want has been substantiated in the article “The Psychology of an Offer” but you may wonder exactly what things should go in the “best offer you can make” especially if you cannot offer as much as you’d like to in base compensation without disrupting your entire salary structure in regard to employees already doing the very same job. With the scramble for top talent and the competition to acquire it occurring in almost every industry these days, attracting the candidate you want has become more challenging. Fortunately there are many other things that can be put into an offer which can mean as much or more than base compensation to many candidates. Of course, talking to the candidate is the key to coming up with the best ones for your specific case. What is motivating to one person may hold no interest for another person. Below is a listing of some of the other benefits you may have in your arsenal to add in structuring an effective offer package:

- ◆ Possible Increase in salary based on more frequent performance reviews (3 or 6 months)
- ◆ Signing Bonus
- ◆ Quarterly or annual bonus (based on what?)
- ◆ Guarantee on the first year annual bonus
- ◆ Enhanced Title
- ◆ Moving expenses (any limit?)
- ◆ Additional vacation days or other paid time off
- ◆ Stock options on signing or an annual purchase plan
- ◆ Cell phone
- ◆ Insurance benefits – medical/vision/dental – individual/family – deductible
- ◆ Cobra coverage if there is a waiting period (or the money to cover the Cobra)
- ◆ 401K/ESOP/KSOP/Deferred comp plan – details/matching
- ◆ Identity Theft Protection
- ◆ Country Club/Other Community organization memberships
- ◆ Annual Customer Relations Allowance – money to be used for prospecting and entertaining current and potential customers
- ◆ Automobile or automobile allowance
- ◆ Bridge loan while selling house or other housing help (realtor fees, etc.)
- ◆ Temporary housing until house is sold
- ◆ Any committee appointments
- ◆ Continuing education paid for by the company

- ◆ Potential career path
- ◆ Ability to work remotely on occasion (telecommuting or flexible hours)



- ◆ **Incentives which vest at a future date for purposes of reward and retention (Year one rewards vesting with interest in year 4; year two vesting with interest in year 5 for example)**

Remember to include a signature line for acceptance and a deadline or expiration date for a response. Something as simple as “This offer of employment will expire seven days from the date of this letter,” is enough to suffice. Never give a candidate more than seven days. If the candidate turns down the offer and you have to return to the search process, more than seven days is a big delay in getting back on track and your second choice may no longer be available. A written offer and acceptance is vital. It clarifies the terms of employment and with the signature, the employee has no room to re-interpret basic issues in the agreement. Even though some companies still feel that a verbal acceptance is adequate, there truly is a psychological commitment that results from signing the dotted line and as such, fewer candidates feel comfortable withdrawing because of cold feet or a counter-offer. It seems to be a tangible “finish line” in the process that puts to rest the mental vacillation for most candidates.

If competition and confidentiality are issues for your company and industry, the candidate should also sign an agreement regarding that as part of their acceptance. It should be crafted by your legal counsel but below is a general example of a Non-Competition and Confidentiality Agreement that can get you started with your own.

Non-Competition and Confidentiality Agreement

This Agreement is entered into between _____(Company) and _____ (the “Employee” or “you”).

WHEREAS, out of respect for your integrity and abilities, XXXX is placing trust in you by employing you, paying you compensation for your labors, training you and placing you in a position where you may have access to or may be exposed to XXXX's customers and Confidential Information; and

WHEREAS, XXXX's reputation and present and future competitive position is largely dependent upon maintaining the confidentiality of such information and the noncompetition of its employees.

NOW, THEREFORE, you and XXXX agree as follows:

1. Confidential Information. You acknowledge that you have learned and/or will learn Confidential Information relating to the business conducted by XXXX.

You agree that you will not, except in the normal and proper course of your duties, disclose or enable anyone else to disclose or use, either during the term of your



employment or after you leave your employment (either voluntarily or involuntarily) any such Confidential Information without prior written approval from the Chief Executive Officer of XXXX. "Confidential Information" shall include, but is not limited to, the following types of information, both existing and contemplated, regarding the XXXX: company information (including customer and client list and information, pricing and sales information, contractual arrangements, plans, strategies, tactics, policies and negotiations); marketing information (including sales or product plans, methods, prospects, market data and customer lists); financial information (including costs and performance data, payroll data, debt arrangements, operational formulae, control and inspection practices); vendors and supplier lists and information; technical information (including designs, drawings and specifications); and personnel information (including personnel lists, resumes, personnel data and performance evaluations).

2. Return of Proprietary Information. You agree that all documents of any nature pertaining to the business and assets of XXXX (excluding your personal possessions) in your possession at any time during your employment including without limitation, electronic mail (e-mail), instant messages, correspondence, computer files, memoranda, notebooks, office supplies, notes, data sheets, records, plans and blueprints, are and shall be the property of XXXX, and they and all copies of them (including duplicate copies at the office or at your residence) shall be surrendered to XXXX upon XXXX's request at any time during your employment and with or without request upon termination of your employment.

3. Non-Competition and Non-Solicitation.

a. You agree that during your employment by XXXX you will not engage directly or indirectly in any business of the same nature or similar nature to the business of XXXX or any business in which XXXX is engaged in developing, nor will you participate directly or indirectly in the ownership or management of any enterprise engaged in such a business.

b. You agree that during your employment with XXXX and for one (1) year after termination of your employment for any reason, you shall not solicit or recruit for employment purposes, or otherwise seek to "hire away" any employee of XXXX who is employed by XXXX during any time you are employed by XXXX, either on your behalf or on behalf of any other person, entity or business.

c. You agree that for one (1) years after termination of your employment for any reason, you shall not become employed by, or serve in any capacity a XXX or other similar company which operates or is planned to operate in the market area of XXXX. Additionally you may not solicit or otherwise seek any business related to XXXX's services from any customer or client of XXXX with whom you established, nurtured, or developed contacts or goodwill during your employment.



4. Superseding Effect - Entire Agreement.

This Agreement supersedes any prior agreements or understandings, oral or written, with respect to your agreement concerning non-competition and confidentiality in your employment with XXXX and constitutes the entire agreement with respect thereto. It cannot be changed or terminated orally and may be modified only by subsequent written agreement executed by both parties hereto. Nothing in this Agreement shall serve to modify, terminate or otherwise change your employment at-will.

5. Enforceability.

You understand that XXXX's competitive position is highly dependent on Confidential Information. You further understand that noncompetition of current and future employees is imperative to XXXX. Any disclosure of or breach of this Agreement will cause immediate, irreparable harm to XXXX. Because of the difficulty of measuring economic losses to XXXX as a result of a breach of any of the foregoing covenants, and because of the immediate and irreparable damage that could be caused to XXXX for which it would have no other adequate remedy, you agree that the foregoing covenants may be enforced by XXXX in the event of any breach or threatened breach by injunctions and restraining orders, in addition to an action for monetary damages. In the event that XXXX institutes litigation or arbitration seeking the enforcement of this Agreement and prevails, XXXX shall be entitled to recover from you reasonable attorney fees and costs incurred in such litigation or arbitration.

6. Your Acknowledgement.

You acknowledge and agree that the commencement of your employment and/or your continued employment with XXXX as well as the salary, bonuses and benefits payable as a result of that employment, constitute fair and reasonable consideration for entry into this Agreement. In particular, you acknowledge that your employment with XXXX is "at will," meaning that both you and XXXX remain free to terminate the employment relationship at any time, for any reason, with or without cause or notice. As consideration for entry into this Agreement, you acknowledge and understand that if you fail to sign this Agreement you will be ineligible for the Incentive Compensation Plan to which this Agreement is attached and/or your employment will be terminated. You also agree that the restrictions upon your activities as requested by this Agreement are fair and reasonable and will not be onerous or unduly burdensome to you and are reasonably necessary to protect XXXX's legitimate business interests. You further agree that the consideration provided by your employment with XXXX adequately compensates you for your agreement to enter into the restrictive covenants in this Agreement, and you acknowledge that your experience and capabilities are such that the provisions of this Agreement will not prevent you from earning a livelihood.



THE EXECUTIVE GROUP

Human Resource Consultants

1645 Parkhill Dr, Ste 4 . Billings, MT 59102

www.executivegroup.biz

(800) 755-5161

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You acknowledge that you have read this Agreement, and fully understand and agree to its contents, and that you have been given the opportunity to consult with an attorney of your choosing concerning this Agreement prior to signing it.

Dated: _____ Signature: _____

Hiring Authority: _____ Title: _____

Company: _____