



## LEADERSHIP TEAM MEMBER NON-COMPETE, NON-SOLICITATION, NON-DISCLOSURE, AND NON-DISPARAGEMENT AGREEMENT

Revised 8/5/16

\_\_\_\_\_ (“Franchisee”) welcomes you as a Leadership Team Member (“LTM”)! By accepting this role within your chapter, you agree to follow all BNI policies and procedures. You agree to contact BNI and Franchisee in the event that the continued functioning of your chapter is affected, threatened or jeopardized. LTMs, contingent upon continued satisfactory performance, receive as consideration a tolling of dues during their tenure as a LTM, the receipt and sufficiency of which is hereby acknowledged. You will be given training and access to materials that are deemed proprietary by BNI, and which would likely cause harm to BNI and Franchisee if the materials were ever copied and disclosed. Your tenure as a LTM may be terminated for any reason, with or without notice. You agree that you are not an agent or employee of BNI or Franchisee, and your duties and responsibilities are limited as set forth in the Leadership Team Manual. Under no circumstances shall LTM look to BNI or Franchisee for compensation or benefits accorded to BNI's or Franchisee's employees. The Term of this position is from \_\_\_\_\_ to \_\_\_\_\_, unless terminated earlier.

**Non-Compete:** As a LTM, you will have access to confidential information of BNI. You expressly agree, because of BNI's and Franchisee's legitimate business interest as describe above, during the term of this Agreement and for a period of one (1) year after your participation in BNI (in any manner) ceases, you will not, directly or indirectly: (i) engage in activity that would compete with BNI; (ii) participate or assist in any manner whatsoever with any chapter, region, individual or group that breaks from BNI; or (iii) solicit any employee, consultant, member, or vendor of BNI or Franchisee to engage in competition with BNI or Franchisee. This includes, but is not limited to, starting, assisting, taking employment with or providing services to competing organizations (i.e. a business networking group that meets regularly and allows only one person per professional classification to join), disclosing Confidential Information (as defined below), or allowing BNI methods to be seen or copied. LTM recognizes that the member list is also property of BNI. After participation in BNI ends, except as provided for in (ii) of this section, LTM can join any other networking organization, and can assist other networking groups that do not restrict membership to one representative for each professional classification (as defined by the organization) and which do not meet regularly. LTM agrees that this non-compete clause is reasonably necessary to protect the specialized materials and Confidential Information that LTM will acquire, develop or refine as a result of LTM's participation in BNI. This Agreement shall not restrict LTM from practicing LTM's primary trade, such that this non-compete clause shall not operate to restrict LTM from earning a livelihood. The geographic scope shall be limited to either the state in which LTM's chapter meets, or a 75 mile radius from LTM's chapter, whichever is greater, as permitted by applicable state law. It is the intention of the parties that this non-compete clause be enforced to the fullest extent possible pursuant to state law, and that should any court find a portion of this non-compete clause unenforceable, that court shall be empowered to amend or delete such clause, and make any other changes that may be necessary to ensure that the remainder of this non-compete clause is valid and enforceable.

**Non-Disclosure:** LTM understands and acknowledges that LTM will have access to and learn about confidential, secret and proprietary documents, materials, data and other information, in tangible and intangible form, of and relating to BNI, Franchisee and their businesses and existing and prospective members, vendors, investors and other associated third parties (“Confidential Information”). The LTM further understands and acknowledges that this Confidential Information and BNI's and Franchisee's ability to reserve it for the exclusive knowledge and use of BNI, Franchisee and other BNI franchisees is of great competitive importance and commercial value to BNI and Franchisee, and that improper use or disclosure of the Confidential Information by LTM will cause irreparable harm to BNI and Franchisee, for which remedies at law will not be adequate and may also cause the BNI and Franchisee to incur financial costs, loss of business advantage, liability under confidentiality agreements with third parties, civil damages, and criminal penalties.

Confidential Information includes, but is not limited to, all information not generally known to the public, in spoken, printed, electronic or any other form or medium, relating directly or indirectly to: business processes, practices, methods, policies, plans, publications, documents, research, operations, services, strategies, techniques, agreements, contracts, terms of agreements, transactions, potential transactions, negotiations, pending negotiations, know-how, trade secrets, computer programs, computer software, applications, operating systems, software design, web design, work-in-process, databases, manuals, records, articles, systems, material, sources of material, supplier information, vendor information, financial information, results, accounting information, accounting records, legal information, marketing information, advertising information, pricing information, credit information, design information, payroll information, staffing information, personnel information, employee lists, supplier lists, vendor lists, developments, reports, internal controls, security procedures, graphics, drawings, sketches, market studies, sales information, revenue, costs, formulae, notes, communications, algorithms, product plans, designs, styles, models, ideas, audiovisual programs, inventions, unpublished patent applications, original works of authorship, discoveries, experimental processes, experimental results, specifications, member information, member lists, vendor information, vendor lists, manufacturing information, factory lists, distributor lists, and buyer lists of BNI, Franchisee or their businesses or any existing or prospective member, vendor, investor or other associated third party, or of any other person or entity that has entrusted information to BNI and/or Franchisee in confidence.

LTM understands that the above list is not exhaustive, and that Confidential Information also includes other information that is marked or otherwise identified as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used.

LTM understands and agrees that Confidential Information developed by LTM in the course of your tenure as an LTM will be subject to the terms and conditions of this Agreement as if the BNI or Franchisee furnished the same Confidential Information to you in the first instance. Confidential Information will not include information that is generally available to and known by the public, provided that such disclosure to the public is through no direct or indirect fault of you or person(s) acting on your behalf.

LTM agrees and covenants: (i) to treat all Confidential Information as strictly confidential; (ii) not to directly or indirectly disclose, publish, communicate or make available Confidential Information, or allow it to be disclosed, published, communicated or made available, in whole or part, to any entity or

person whatsoever not having a need to know and authority to know and use the Confidential Information in connection with the business of the BNI and Franchisee and, in any event, not to anyone outside of the direct employ of BNI and/or Franchisee except as required in your performance as an LTM or with the prior consent of an authorized officer acting on behalf of the BNI or Franchisee in each instance (and then, such disclosure shall be made only within the limits and to the extent of such duties or consent); and (iii) not to access or use any Confidential Information, and not to copy any documents, records, files, media or other resources containing any Confidential Information, or remove any such documents, records, files, media or other resources from the premises or control of the BNI or Franchisee, except as required in the performance of your authorized LTM duties to the BNI or Franchisee or with the prior consent of an authorized officer acting on behalf of the BNI or Franchisee in each instance (and then, such disclosure shall be made only within the limits and to the extent of such duties or consent). Nothing herein will be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation or order. LTM shall provide written notice of any such order to an authorized officer of BNI and Franchisee within 24 hours of receiving such order, but in any event sufficiently in advance of making any disclosure to permit BNI and/or Franchisee to contest the order or seek confidentiality protections, as determined in the BNI's sole discretion. In addition, this Section does not, in any way, restrict or impede you from exercising protected rights to the extent that such rights cannot be waived by agreement or otherwise disclosing information as permitted by law.

LTM agrees that at BNI's or Franchisee's request or at the completion of LTM's tenure, all tangible Confidential Information, and all copies thereof (printed or electronic), will be returned to BNI or destroyed. LTM acknowledges that LTM's obligations hereunder are irrespective of any other dispute LTM may have with BNI and/or Franchisee. The obligation not to disclose Confidential Information and to use it solely for BNI-related business shall survive the termination of this Agreement.

**Non-Disparagement:** LTM agrees and covenants that LTM will not at any time make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments or statements concerning the BNI, Franchisee or their businesses, or any of their employees, officers, and existing and prospective members, vendors, investors and other associated third parties. This Section does not, in any way, restrict or impede LTM from exercising LTM's protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by the law, regulation or order. LTM shall promptly provide written notice of any such order to an authorized officer of BNI and Franchisee within 24 hours of receiving such order, but in any event sufficiently in advance of making any disclosure to permit BNI and/or Franchisee to contest the order or seek confidentiality protections, as determined in BNI's sole discretion.

**Remedies:** LTM acknowledges that the Confidential Information and BNI's ability to reserve it for the exclusive knowledge and use of BNI, Franchisee and BNI's other franchisees is of great competitive importance and commercial value to BNI and Franchisee, and that improper use or disclosure of the Confidential Information by LTM will cause irreparable harm to BNI and Franchisee, for which remedies at law will not be adequate. In the event of a breach or threatened breach by LTM of any of the provisions of this Agreement, the LTM hereby consents and agrees that BNI and/or Franchisee shall be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that monetary damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages or other available forms of relief. Franchisee and/or BNI shall be entitled to attorney's fees and costs in the event they prevail in legal action taken to enforce the terms and conditions of this Agreement. BNI and Franchisee may seek such relief in any court of competent jurisdiction.

**Third Party Beneficiaries:** BNI and its officers, directors, shareholders, agents and/or employees are express third party beneficiaries of the provisions of this Agreement, each having authority to enforce the terms of this Agreement.

**Entire Agreement/Severability:** This Agreement contains the entire agreement related to your position as a LTM, this supersedes any prior agreement related thereto, and this may not be altered except by a written document signed by both parties. If any provision of this Agreement is invalid or unenforceable the remainder of the Agreement shall not be affected. BNI is a third-party beneficiary of this Agreement.

The above terms and conditions are agreed upon by the **[President/Vice President/Secretary Treasurer]** of the BNI

\_\_\_\_\_ Chapter on \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_.

<b>Leadership Team Member Name</b>	_____	<b>Signature</b>	<b>Date</b>
<b>Franchisee</b>	_____	<b>Signature</b>	<b>Date</b>

Note: Original to be maintained by Franchisee for a period of no less than thirty-nine (39) months after Leadership Team Member's participation in BNI ends.