Dear [EMPLOYEE NAME],

This letter proposes the following Separation Agreement and General Release Agreement between you and Biggs Backhoe, Inc. regarding the terms of your separation from the Company.

**Terms of Agreement**

You are employed by the Company as [JOB TITLE]. You will agree to voluntarily resign your position with Biggs Backhoe, Inc. effective \_\_\_\_\_\_\_\_\_\_\_\_. The Company will agree to accept your resignation and end your employment relationship on an amicable basis. Accordingly, your employment will voluntarily terminate on [LAST DATE OF EMPLOYMENT]. In order to effect the termination of your employment and to provide you with certain benefits that you would not otherwise be entitled to, you and the Company agree as follows:

A. This Agreement shall not be in any way construed as an admission by the Company that it has acted wrongfully with respect to you or any other person, or that you have any rights whatsoever against the Company.

B. Even if you do not sign this Agreement, the Company will pay you the compensation that you have earned through the date of your termination, any accrued vacation benefits, and in accordance with the terms and conditions of such plan. Similarly, even if you do not sign this Agreement, you will be offered benefits to which you are entitled under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), and you retain all benefits under the Company's 401(k) Plan.

C. In exchange for the promises contained in this Agreement and release of claims as set forth below, and provided that you sign this agreement and return it to Company on or before the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, and do not revoke this Agreement as set forth in Paragraph 15(d):

1. The Company will pay you a severance in the amount of \_\_\_\_\_\_ weeks of your current salary of \_\_\_\_\_\_ per week, totaling \_\_\_\_\_\_\_\_\_\_ dollars paid out in a lump sum payment on \_\_\_\_\_\_\_\_.

D. In consideration of the promises contained in this Agreement, you agree:

1. In exchange for the Payment described in paragraph II(C) of this Agreement and Release, you agree, on behalf of yourself, your legal representatives, heirs and beneficiaries, to fully and forever relieve, release and discharge the Company, its past, present and future successors, assigns, parent, subsidiaries, operating units, affiliates and divisions (and the agents, representatives, officers, directors, managers, members, partners, employees and attorneys of such entities) (hereinafter collectively referred to as the “Released Parties”), from all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, expenses, damages, actions, and causes of action, whether in law or in equity, whether known or unknown, suspected or unsuspected, arising from your employment with and resignation from the Company, as well as any injuries or damages suffered during the course of your employment with the Company, including, but not limited to, any and all claims pursuant to Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e, *et seq*.), as amended by the Civil Rights Act of 1991, which prohibits discrimination and/or harassment in employment based on race, color, national origin, religion or sex; the Civil Rights Act of 1966 (42 U.S.C. §1981, 1983 and 1985), which prohibits violations of civil rights; the Age Discrimination in Employment Act of 1967, as amended, (29 U.S.C. §621, *et seq*.), which prohibits age discrimination in employment; Section 510 of the Employment Retirement Income Security Act of 1974, as amended (29 U.S.C. § 1140), which protects employees from employment discrimination relative to certain employee benefits; the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §12101, *et seq*.) which prohibits discrimination against the disabled; the Family and Medical Leave Act of 1993 (29 U.S.C. §2601, *et seq*.), which provides medical and family leave; the Genetic Information Nondiscrimination Act (GINA), which prohibits discrimination based on genetic information; USERRA, which prohibits discrimination based on U.S. military service; the Fair Labor Standards Act (42 U.S.C. §201, *et seq*.), including the Wage and Hour Laws relating to payment of wages; and all other federal, state and local laws and regulations relating to your employment with the Company.

This general waiver and release of liability also includes, but is not limited to, a release of the Released Parties by yourself of any claims for severance pay or severance benefits beyond those specifically set forth herein, breach of contract, mental pain suffering and anguish, emotional upset, impairment of economic opportunities, unlawful interference with employment rights, defamation, intentional or negligent infliction of emotional distress, fraud, wrongful termination, wrongful discharge in violation of public policy, breach of any express or implied covenant of good faith and fair dealing, that the Company has dealt with you unfairly or in bad faith, and all other common law contract and tort claims.  This is an amount of money to which you would not otherwise be entitled by virtue of your employment or resignation of employment with the Company.

1. That you shall not bring any legal action against any of the Releases for any claim waived and released under this Agreement and that you represent and warrant that no such claim has been filed to date. You further agree that should you bring any type of administrative or legal action arising out of claims waived under this Agreement, you will bear all legal fees and costs, including those of the releases.

E. You agree to refer any and all reference checks to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and you know that any such references will be limited to confirmation of the dates of your employment and last position held. The obligation under this Paragraph is separable and any failure by the Company to perform the obligation in this Paragraph will only give rise to an action to enforce this Paragraph.

F. You agree that you will not, directly or indirectly, disclose the fact of and terms of this Agreement, including the severance benefits, to anyone other than your attorney, except to the extent such disclosure may be required for accounting or tax reporting purposes or as otherwise required by law.

G. This agreement shall be binding on the parties and upon their heirs, administrators, representatives, executors, successors and assigns and shall inure to their benefit and to that of their heirs, administrators, representatives, executors, successors and assigns.

H. On or before the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, you will return to Company all of the Company's property in your possession including, but not limited to, customer lists, mailing lists, account information, samples, prototypes, price lists and pricing information, phone cards, cellular phone, automobile and all of the tangible and intangible property belonging to the Company and relating to your employment with the Company. You further represent and warrant that you have not retained any copies, electronic or otherwise, of such property.

I. You will cooperate fully with the Company in its defense of or other participation in any administrative, judicial or other proceeding arising from any charge, complaint or other action that has been or may be filed.

J. You will continue to comply with the terms of the Proprietary and Confidentiality Agreement between you and the Company, executed on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, and know and understand that the obligations contained in that agreement survive execution of this Agreement and your termination of employment. In particular, you shall not disclose any confidential or proprietary information (specifically including pricing, margins, key customer contacts and their profiles not generally known to the public) which you acquired as an employee of the Company to any other person or entity, or use such information in any manner that is detrimental to the interest of the Company. A copy of your Confidentiality Agreement is attached as Exhibit 1.

K. You agree that you will not make any comments relating to the Company or its employees which are critical, derogatory or which may tend to injure the business of the Company.

L. In the event that you breach any of your obligations under Paragraphs H through K, any outstanding obligations of the Company hereunder shall immediately terminate, and any payments previously made to you pursuant to Paragraph C shall be returned to the Company.

M. You also acknowledge that you have been informed

1. You have the right to consult with an attorney before signing this Agreement;

2. You have \_\_\_\_\_\_ days from the date of this letter to consider this Agreement;

N. The provisions of this Agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision.

O. This Agreement sets forth the entire agreement between you and the Company and supersedes any and all prior oral or written agreements or understandings between you and the Company concerning the subject matter of this Agreement. This Agreement may not be altered, amended or modified, except by a further written document signed by you and the Company.

P. You represent that you fully understand your right to review all aspects of this Agreement with an attorney of your choice, that you have had the opportunity to consult with an attorney of your choice, that you have carefully read and fully understand all the provisions of this Agreement and that you are freely, knowingly and voluntarily entering into this Separation Agreement and General Release. If you are willing to enter into this Agreement, please signify your acceptance in the space indicated below, and return to Company by the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

Q. This Agreement and Release is governed by the laws of the State of Oklahoma, regardless of your work location and irrespective of the principles of conflicts of law and in case of any dispute between the parties, you agree that venue will lie exclusively in the State or Federal court in Oklahoma County, Oklahoma.

PLEASE READ CAREFULLY. YOU ARE GIVING UP ANY LEGAL CLAIMS THAT YOU HAVE AGAINST THE COMPANY BY SIGNING THIS AGREEMENT.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature and Title

Accepted and agreed to on this the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Employee Date