

EMPLOYMENT AGREEMENT

This Employment Agreement (the "Agreement") is made between the XYZ Association, Inc. ("XYZ" or "the Association"), a not-for-profit corporation organized under the laws of the District of Columbia with offices at "", and John Doe, ("the Executive"), an individual, for mutual consideration, the receipt and adequacy of which is hereby acknowledged by the parties, who agree to the following:

1. **Term, nature and review.** The Executive is engaged to serve as the President and Chief Executive Officer (CEO) of XYZ for a term of three years, commencing on October 1, 200X and expiring on September 30, 200X.

A. The initial term of this Agreement is three years (the "Term"). Effective as of the expiration of such initial Term and as of each annual anniversary date thereof, the Term shall be extended for an additional one-year period unless, (i) not later than one (1) year prior to such an automatic extension date, the Association shall have given written notice to the Executive that the Term shall not be so extended **or** (ii) not later than sixty (60) days prior to such an automatic extension date, the Executive shall have given written notice to the Association that the Term shall not be so extended.

B. In the event the Association elects not to extend the Term, it shall pay to the Executive the severance pay provided for in Section 5.D. In the event the Executive elects not to extend the Term, the Association shall not pay to the Executive the severance pay provided for in Section 5.D.

C. This Agreement may not be terminated by expiration, but only by notice of one party to the other of non-renewal, or as provided for in Section 5.

D. During the Term, while the Executive is engaged as the President and Chief Executive Officer ("CEO") of XYZ, the Executive will perform the duties of the President and CEO of XYZ as specified in the Association's bylaws and other governing documents and under the direction and guidance of the Association's Officers, Board of Directors, and Executive Committee. The Executive is the chief employed officer of the Association with full authority for the engagement and discharge of all other employees of the Association and to enter into contracts on behalf of the Association subject to the policies of the board, bylaws of the Association, and the budget adopted by the Board of Directors. The performance of the Executive will be reviewed annually by the

Association's Board of Directors. The Executive will be employed at the headquarters of the Association in the "" metropolitan area.

2. **Compensation.** Throughout the Term of this Agreement, the base annual salary of the Executive shall not be less than \$xxx,xxx, payable according to the Association's regular payment schedule but no less often than monthly. The Executive's performance, compensation and benefits shall be reviewed at least annually by the Association's Executive Committee on behalf of the Association's Board of Directors; however, in no event shall the Executive's base annual salary for any subsequent year of this Agreement be reduced below the level of the previous year. The Association's Executive Committee may, in its sole discretion, increase Executive's base annual salary, but must proportionally increase the Executive's base annual salary to the extent that the Association implements a salary increase generally and ratably applicable to substantially all executives of the Association.

3. **Benefits.** Except as may otherwise be indicated in this Agreement, the Executive shall be entitled to participate in any employee benefit plan, including but not limited to, medical coverage, life insurance and contributions to Executive's retirement plan, that the Association has adopted or may adopt, maintain or contribute to for the benefit of its executives at a level commensurate with Executive's position and compensation, subject to satisfying the applicable eligibility requirements therefore and in accordance with the terms of those plans. Notwithstanding the foregoing, the Association may modify or terminate any employee benefit plan at any time in accordance with its terms.

The Executive shall also be entitled to the use of a leased automobile, in amounts that are at least equal to that which was provided to the Executive by the Association as of the effective date of this Agreement. In addition, the Executive shall be entitled to twenty (20) days paid vacation per calendar year. The Executive may carry forward any unused and accrued vacation days into the following calendar year in accordance to the policy in the XYZ Employee Handbook.

4. **Business Expenses.** The Association will pay or reimburse the Executive for reasonable expenses incurred by the Executive, which are directly related to the

performance of the Executive's duties of employment, subject to maintenance of the documentation by the Executive in accordance with established Association policy.

5. Cancellation.

A. ***Cancellation Due to Death or For Cause.*** This Agreement will be canceled (i) automatically upon the Executive's death; or (ii) immediately by the Association For Cause. "For Cause" shall mean: (a) Executive's material breach of a material clause of this Agreement; (b) Executive's failure or refusal to perform his duties; (c) Executive's misconduct materially damaging or detrimental to the Association; (d) Executive's conviction of any felony or any other crime that brings the Association into substantial public disgrace or disrepute; (e) Executive's willful refusal to obey the lawful, legitimate written orders or directions of the Board, as expressed in Board policies, memoranda or resolutions; (f) Executive's violation of the Association's bylaws; or (g) Executive's acts of dishonesty, fraud, or gross negligence in connection with the performance of the Executive's duties under this Agreement. In the event this Agreement is canceled under the provisions of this Section 5.A., the Executive shall receive no further compensation beyond the date of cancellation other than compensation or benefits accrued or required by law. The Association and the Executive's family or designated representative will mutually agree upon any communications with the Association members and/or to the public regarding the cancellation of this Agreement for reasons of death (5.A.i.). The Association shall have sole authority for any communications with the Association members and/or to the public regarding cancellation of this Agreement pursuant to Section 5.A.(ii).

B. ***Cancellation by the Association.*** XYZ may cancel this Agreement for any reason by vote of the Board of Directors at a regular or special meeting called for that purpose. The Executive (i) shall be given the same written notification of that meeting as is given to the Board of Directors, (ii) shall be informed in writing why the cancellation is being considered, (iii) shall have the right to address the Board of Directors regarding the proposed cancellation, and to be represented by counsel or other representative of his choosing and (iv) shall accept the decision of the Board of Directors as the sole and absolute decision of the Association. In the event this Agreement is cancelled under the

provisions of this subsection (5.B.), the Executive shall receive the compensation applicable under this Agreement and all benefits as set out below in subsection 5.D.

C. ***Cancellation By Non-Renewal of Term.*** Either party may terminate this Agreement by giving the other party written notice that the Term shall not be extended as per Section 1 herein.

D. ***Severance Pay and Benefits.*** If the Association cancels this Agreement pursuant to Section 5.B or Section 5.C and the Executive suffers a Separation From Service (as defined by Section 409A of the IRS Code), the Executive shall receive Severance Pay in the amount of:

(i). The Association shall pay Executive one (1) year of Executive's base annual salary at the rate applicable on the date of cancellation;

(ii). the Association shall continue to provide the Executive's health and life insurance for twelve (12) months; provided, that the Executive has enrolled in and remains eligible for group health plan continuation coverage under Section 4980B (COBRA) of the Internal Revenue Code of 1986, as amended (the "Code"), and the period of coverage provided by the Association under this Section is the group health plan continuation coverage that the Executive would be entitled to under the relevant group health plan, ERISA Section 601 *et seq.* and Section 4980B of the Code. The Executive will be required to pay the same portion of the premium for such COBRA coverage as if the Executive remained an employee, with appropriate reporting of any imputed income and related tax withholding, if any; and

(iii). the Association shall also pay, to the extent permitted by law, to the Executive the equal amount the Association would have been required to expend in order to provide Executive one (1) year of all other benefits that the Executive would have received if he had remained employed by the Association during that one (1) year and in accordance with current practices and/or policies of the Association, including but not limited to: short-term disability insurance coverage, long-term disability insurance coverage, pension contribution, 401(k) contribution, and automobile expenses.

(iv). In order to receive this Severance Pay outlined in this Section 5.D.i-5.D.iii, Executive must execute and deliver to the Association a valid Waiver and Release Agreement in a form tendered by the Association that shall be negotiated in good

faith by both parties, which shall include Executive's general release of all claims against the Association.

(v). Any Severance Pay under this Section 5 shall be paid to Executive in a lump sum, less tax withholdings, on the latest date of (x) no more than 30 days after the Executive's last date of employment with XYZ or (y) no more than 7 days after the Waiver and Release Agreement becomes final.

(vi). At any time during the 12 months that the Association has agreed to pay the executive's COBRA health and life insurance premiums as per Section 5.D.ii, the Association's obligation to pay these premiums automatically ceases on the date that the Executive becomes eligible to receive other health care or life insurance benefits that are substantially similar to the health care insurance benefits that the Executive receives from the aforementioned COBRA benefits. If the Executive becomes eligible to receive such benefits as described above, the Executive agrees to notify the Association in writing within five (5) days of receiving notice of his eligibility to receive the benefits as described above.

E. **Public Notice.** The Association and the Executive shall mutually agree upon any communications with the Association members and/or to the public regarding the cancellation of this Agreement by either party under subsection 5.A(i), 5.B or 5.C herein. Neither party shall defame, disparage or denigrate the other in public statements.

6. **Intellectual Property, Confidentiality and Investment.** The Executive recognizes and agrees that all copyrights, trademarks, or other intellectual property rights to created works arising in any way from the Executive's employment by the Association are the sole property of the Association and agrees not to assert any such rights against the Association or any third parties and hereby assigns any and all such rights to the Association. Upon cancellation or termination of this Agreement by either party for any reason, the Executive will relinquish to the Association all documents, books, manuals, lists, records, publications, accounts, computer files or other writings, keys, credit cards, equipment (including but not limited to a leased automobile), or other articles that came into the Executive's possession in connection with the Executive's employment by the Association and to maintain no copies or duplicates without the written approval of the Association Board of Directors. The Executive will maintain in confidence during and

subsequent to the Executive's employment any information about the Association or its members which is confidential information or which might reasonably be expected by the Executive to be regarded by the Association members as confidential. The Executive will not make or direct any personal investments based upon information conveyed to the Executive as the President and CEO of the Association where the information is conveyed with a request of confidentiality.

7. **Non-Competition and Non-Solicitation.**

A. **Non-Compete.** Upon termination or cancellation of this Agreement or termination of Executive's employment with the Association for any reason, the Executive will refrain for one year from directly or indirectly undertaking employment or any compensated duties as a consultant, independent contractor, owner, agent, employee, employer, officer, partner, director or otherwise, alone in association with any other person, corporation or other entity on behalf of any person, entity or association in substantial competition with the Association unless the Association approves the employment or duties in writing or unless the employment or duties are not directly or indirectly related to any activity for which Executive had executive responsibility for the Association or about which Executive had confidential information. Persons, entities and/or Associations that are considered in substantial competition with the Association include all persons, entities and associations in the "" and/or "" fields that provide services that are both similar to the services provided by the Association and those services are provided by the Association to its members or customers who are in the "" or "" fields. For the avoidance of any doubt, the restricted entities that the Executive may not work for (as more fully described in this Section 7) specifically include, but are not limited to, the ABC Association, the DEF Association, and GHI Association. It is understood and agreed that the Association and the Executive's employment is national in scope and that this restriction applies throughout the United States.

B. **Non-Solicitation.** The Executive agrees that during any period in which Executive is employed by the Association, and for one (1) year after Executive's termination of employment, for any reason, Executive will not, either on his own behalf or on behalf of any other person or entity, as an employee, partner, consultant, independent contractor, owner, agent, or in any other capacity, directly or indirectly:

(i). Solicit business from any client or member of the Association, or any of their affiliates with which Executive had contact, or responsibility for, or about which Executive had knowledge of Confidential Information by reason of Executive's employment with the Association;

(ii). Solicit business from any client or member which was pursued by the Association or any of their affiliates and with which Executive had contact, or responsibility for, or about which Executive had knowledge of Confidential Information by reason of Executive's employment with the Association, within the twelve (12) month period prior to termination of employment; or

(iii). Solicit, retain, employ, recruit or attempt to recruit any person who on or during the ninety (90) days immediately preceding the date of such solicitation or hire is or was an officer, executive or employee of the Association or any of their affiliates, or whom Executive was involved in recruiting while Executive was employed by the Association.

(iv). The "solicit business" restriction in subsections 7.B.i and 7.B.ii is limited to soliciting the type of business or services provided by the Association to any client or member within the thirty-six (36) month period prior to Executive's termination of employment.

8. **Construction of Restrictive Covenants.** The parties agree that the covenants contained in this Agreement are severable. If an arbitrator or court shall hold that the duration, scope, area or activity restrictions stated herein are unreasonable under circumstances then existing, the parties agree that the maximum duration, scope, area or activity restrictions reasonable and enforceable under such circumstances shall be substituted for the stated duration, scope, area or activity restrictions to the maximum extent permitted by law.

9. **Indemnification.** The Association shall indemnify, hold harmless, and defend the Executive against any and all claims arising out of, or in connection with the Executive's performance of his duties for, and on behalf of, the association to the full extent permitted by law but not in respect to claims in which it is adjudicated in a decision on the merits that the Executive engaged in fraudulent, grossly negligent, or criminal acts. Such right shall include the right to be paid by the Association expenses,

including attorney's fees, incurred in defending any such claim in advance of its final disposition; provided, however, that the payment of such expenses in advance of the final disposition of such claim shall be made only upon delivery to the Association of an undertaking, by or on behalf of the Executive, in which the Executive agrees to repay all amounts so advanced if it should be ultimately determined that the claim is not one to which Executive is entitled to indemnification. This duty to indemnify shall survive the termination, expiration or cancellation of this Agreement.

10. **Successors.** This Agreement shall be binding upon the Association and the Executive, their respective heirs, executors, administrators, successors and assigns. The Executive will not assign or delegate any part of the Executive's rights or responsibilities under this Agreement to a third party unless the Board of Directors of the Association agrees in writing to the assignment or delegation. The Association shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Association expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Association would have been required to perform it if no such succession had taken place.

11. **Entire Agreement.** This document contains the entire Agreement of the Association and the Executive. It may not be changed orally but only by an agreement in writing signed by the Association and the Executive. This Agreement supercedes and cancels all previous agreements between the Association and the Executive. If any term of this Agreement is declared invalid by a court of competent jurisdiction the other terms of this Agreement shall remain in effect.

12. **Governing Law, Jurisdiction and Venue.** This Agreement shall be governed by, and construed in accordance with, the laws of the "applicable state", without reference to principles of conflict of laws. Jurisdiction and venue is exclusively limited in any proceeding by the Association or the Executive to enforce their rights hereunder to the United States District Court for the "applicable state" or any court geographically located in the "applicable state." The Executive hereby waives any objections to the jurisdiction and venue of said courts, including any objection to personal jurisdiction, venue, and/or forum non-conveniens, in any proceeding by the Association

to enforce its rights hereunder filed in said courts. The Executive agrees not to object to any petition filed by the Association to remove, transfer, re-file and/or dismiss an action filed by the Executive in a forum or court other than the United States District Court for the “applicable state” or any court geographically located in the “applicable state.”

Should the Executive object to such a petition, the Executive agrees to be responsible for the Association's legal fees and expenses associated with such a petition.

13. **Survival of clauses.** Those terms and provisions which, by their nature, survive the termination, cancellation or expiration of this Agreement (which terms include specifically Sections 5E, 6, 7, 8 and 9) shall survive the termination, cancellation or expiration of this Agreement.

14. **Headings.** The headings of this Agreement are not part of the provisions hereof and shall have no force or effect.

15. **Notices.** All notices and communications pursuant to this Agreement shall be effective when actually received by the addressee. All notices and other communications under this Agreement shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows, or to such other address as either party furnishes to the other in writing in accordance with this Section:

If to the Executive:

John Doe
123 Main Street
Anywhere, USA

If to the Association:

XYZ Association, Inc.
456 Main Street
Anywhere, USA

And

General Counsel of XYZ Association, Inc.
789 Main Street
Anywhere, USA

16. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable in part, the remaining portion of such provision, together with all other provisions of this Agreement, shall remain valid and enforceable and continue in full force and effect to the fullest extent consistent with law.

17. **Tax Withholding.** Notwithstanding any other provision of this Agreement, the Association may withhold from amounts payable under this Agreement all federal, state and local taxes that are required to be withheld by applicable laws or regulations.

18. **No Implied Waiver.** The Executive's or the Association's failure to insist upon strict compliance with any provisions of, or to assert, any right under, this Agreement shall not be deemed to be a waiver of such provision or right or of any other provision of or right under this Agreement.

19. **Notification of Subsequent Employment.** Executive shall report promptly to the Association any employment with another employer (including service as a partner of any partnership or service as an independent contractor or establishment of any business as a sole proprietor) obtained during the period in which Executive's post termination obligations set forth in this Agreement apply.

20. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Executive has executed this Agreement and, pursuant to the authorization of its Board, the Association has caused this Agreement to be executed in its name on its behalf, all as of the day and year first above written.

For the Association: _____

John Smith

Date

Chairman of the Board

XYZ Association, Inc.

For the Executive: _____

_____ John Doe
Date President & CEO
XYZ Association