

EXECUTIVE EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the “Agreement”) is made effective as of the 1st day of March, 20XX, by and between ABC Company, Inc., a corporation (the “Company”), with its principal place of business at _____, and John Doe, a natural person (the “Executive”), with a Social Security number of _____, with his principal residence at _____.

WHEREAS, the Executive Committee of the Company (the “Executive Committee”) and the Board of Directors of the Company (the “Board”) have approved the appointment and employment of the Executive to serve as Executive Vice President of the Company;

WHEREAS, the Executive desires to serve as Executive Vice President of the Company; and

WHEREAS, the parties wish to set forth the terms and conditions of such engagement and service.

NOW, THEREFORE, in consideration of the employment of the Executive by the Company and the mutual agreements hereinafter set forth, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Terms of Employment; Authority and Responsibilities.**

(a) The Company hereby employs the Executive as Executive Vice President of the Company, and the Executive accepts such employment with the Company subject to the terms and conditions of this Agreement. All decision-making authority regarding the hiring, termination, supervision, promotion, and compensation of the Executive Vice President shall rest solely with the Executive Committee.

(b) In his capacity as Executive Vice President of the Company, the Executive shall perform all of the duties and have all of the obligations as may be provided and determined in the Articles of Incorporation and Bylaws of the Company, as the same may be amended from time to time, and as may be determined by the Board and the Executive Committee. Throughout his employment, the Executive shall devote all of his time, energy and skill during regular business hours to the performance of the duties of his employment by the Company (reasonable vacation time and reasonable absences due to illness excepted), shall faithfully and industriously perform such duties, and shall diligently follow and implement all management policies and decisions of the Company.

(c) The Executive Vice President shall be solely responsible for the hiring, termination, supervision, promotion, and compensation of the employees of the Company (except the Executive Vice President), within budgetary constraints determined by the Board and/or the

Executive Committee. The Executive Vice President may delegate such authority, in whole or in part, to one (1) or more other Company employees.

2. **Compensation, Benefits and Reimbursements.**

(a) **Annual Base Salary; Cost of Living Adjustment.** In consideration for his service under the terms of this Agreement, the Company shall pay to the Executive an annual base salary ("Base Salary"), which amount shall be paid in installments in accordance with the normal payroll payment practices of the Company and shall be subject to such deductions and withholding as are required by law and by the policies of the Company, from time to time in effect. The Base Salary shall be at the rate of One Hundred Ninety Thousand Dollars (\$190,000) per annum until December 31, 20xx.

Thereafter, the Base Salary shall be increased, effective on January 1st of each calendar year, beginning on January 1, 20xx, for increases in the cost of living, based either on (i) inflation as measured the federal Consumer Price Index ("CPI"), or (ii) Five Thousand Dollars (\$5,000) per year, whichever is greater. To determine the amount of the increase in Base Salary using the CPI method, the Base Salary shall be multiplied by a fraction, the numerator of which shall be the CPI most recently published on the 31st of December immediately preceding the date of the Base Salary adjustment, and the denominator of which shall be the CPI in effect on the 31st of December of the immediately preceding year. Effective each January 1st during the term of this Agreement, the Base Salary shall be increased by the greater of (i) the Base Salary increase using the CPI method, or (ii) Five Thousand Dollars (\$5,000).

The Base Salary may be reviewed annually by the Executive Committee and may be increased beyond the cost-of-living adjustment in the discretion of the Executive Committee based upon extraordinary performance of the Executive. The Base Salary shall be prorated for any partial year of the Executive's employment hereunder.

(b) **Bonus.** The Executive shall be eligible to receive, but shall not be required to receive, an annual bonus (the "Bonus") based upon extraordinary performance against a plan to be mutually agreed upon by the Executive Committee and the Executive from time to time. Each Bonus shall correspond to the calendar year and shall be paid to the Executive in one lump sum, subject to deductions and withholding as provided in Section 2(a) above, during the calendar year immediately following the calendar year to which the Bonus relates. The Executive Committee, in its discretion, shall determine the amount of the Executive's Bonus, if any, and the method of determining eligibility therefor, such Bonus which shall not exceed fifteen percent (15%) of the Base Salary for the year to which the Bonus relates.

(c) **Term Life Insurance.** In addition to any term life insurance provided to other employees of the Company, the Company shall purchase a term life insurance policy in the amount of Five Hundred Thousand Dollars (\$500,000) on the life of the Executive, commencing on March 1, 2001. The policy shall remain in effect for the duration of Executive's employment with the Company under this Agreement. The obligation of the Company to purchase such policy

shall be conditioned on Executive's successful completion of any required medical examination(s) such that the policy can be bought at standard rates. The Executive shall, in his sole discretion, name the beneficiaries of the policy.

(d) **Vacation Leave**. The Executive shall be entitled to four (4) weeks (twenty (20) business days) of vacation leave each year during the term of this Agreement without any deduction in his compensation, and at such times within each year as the Executive may determine, taking into account the Company's schedule and the Executive's duties relative thereto, such vacation leave which shall be forfeited at the end of each year if not fully utilized in that year. Upon the termination or expiration of the Executive's employment by the Company under this Agreement, the Executive shall not be entitled to compensation for any unutilized vacation leave.

(e) **Standard Benefits**. In addition to the salary and other specifically described benefits payable to the Executive hereunder, the Executive shall receive such benefits as may be made available to Company employees generally by the Company from time to time, including, without limitation, life insurance, medical insurance, dental insurance, long-term disability insurance, short-term disability insurance, and sick leave; provided, however, that to the extent there is a conflict between the terms of this Agreement and the Company's standard employee benefits, the terms of this Agreement shall govern. **[ALTERNATIVE: provided, however, that (i) the Company shall pay the premiums for both individual and family coverage under such medical and dental insurance policies (i.e., for the Executive, his spouse (if any), and his children eligible for family coverage under such insurance policies (if any)), and (ii) to the extent there is a conflict between the terms of this Agreement and the Company's standard employee benefits, the terms of this Agreement shall govern.]** The Executive also shall be eligible to participate in the Company's retirement plan(s), to the same extent as other Company employees, in such amount(s) as shall be specified in such plan(s) as in effect from time to time.

(f) **Professional Company Membership Dues and Expenses**. If desired by the Executive, the Company shall pay for the Executive's expenses of membership, receipt of publications, and other participation in the relevant programs and activities of the American Society of Company Executives and the Greater Washington Society of Company Executives.

(g) **Business Expenses**. The Company shall pay all reasonable travel, dining and other ordinary, necessary and reasonable business expenses incurred by the Executive in the performance of his duties under this Agreement, subject to budget and/or other limitations or conditions imposed by the Executive Committee and/or the Board. The Executive shall, as a condition of any such payment or reimbursement, submit verification, substantiation and documentation of the nature and amount of such expenses in accordance with the policies of the Company from time to time. The Executive shall have made available to him the Company's credit or charge card for use with respect to such expenses. Such credit or charge card shall not be used to incur any personal (non-business-related) expenses; any personal expenses inadvertently charged to such card shall be reimbursed immediately by the Executive to the Company.

(h) **General.** The Company shall have the right to withhold any sums otherwise payable to the Executive hereunder and to apply the same to any indebtedness of the Executive then due to the Company. The Executive shall not be entitled to receive any compensation beyond that set forth in this Section 2 for any services rendered by him in any capacity to the Company unless agreed to by the Executive Committee and in a writing executed on behalf of the Executive Committee. Nothing contained herein shall, however, preclude the Executive from participating in any present or future incentive compensation, bonus, profit sharing, stock option, stock purchase, pension, retirement, medical, or insurance plan of the Company (or its affiliates or subsidiaries) as and to the extent determined by the Executive Committee.

3. **Term and Termination of Agreement.**

(a) **Term.** The initial term of this Agreement shall commence on March 1, 20xx (the "Effective Date") and shall end on February 29, 20xx, unless sooner terminated as provided in Section 3(b) below. The term of this Agreement shall automatically renew for successive one (1) year terms (following the initial three (3)-year term) unless sooner terminated as provided in Section 3(b) below. **[ALTERNATIVE: unless either party provides written notice to the other party not less than one hundred eighty (180) days prior to the end of the initial term or the end of any renewal term of its intention not to renew.]**

(b) **Termination.** This Agreement and the Executive's employment by the Company hereunder may be terminated: (i) by the mutual written agreement of the Executive and the Company; (ii) by the Company for cause (as defined, and pursuant to the procedures set forth, below); (iii) by the Executive upon not less than one hundred eighty (180) days' prior written notice to the Executive Committee; (iv) by the Company upon not less than one hundred eighty (180) days' prior written notice to the Executive; (v) upon the death of the Executive; or (vi) upon the disability (as defined below) of the Executive.

For purposes of this Agreement, "cause" shall mean conduct by the Executive amounting to criminal conduct, fraud, dishonesty, malfeasance, gross negligence, gross incompetence; repeated public conduct contrary to the policies of the Company or that results in a material detriment to the Company or its members or is inimical to the Company, its reputation, and interests; or a material breach by the Executive of this Agreement, such breach which is not cured within thirty (30) days after written notice thereof from the Company to the Executive. For purposes of this Agreement, "disability" shall mean the inability of the Executive to carry out his duties for a period of one hundred eighty (180) days, which need not be consecutive, within any twelve (12) month period. The expiration of such period of one hundred eighty (180) days shall be termed the "Date of Disability."

(c) **Effect of Termination.** Upon the termination of the Executive's employment hereunder, the Company shall have no further obligation to the Executive or his agents, representatives, heirs, or estate with respect to this Agreement or his employment by the Company, except as provided in Section 3(d) below.

(d) **Termination Payment.** Except as otherwise provided herein, the compensation and termination payments provided pursuant to this Section 3 shall be paid at such times and in such manner as payments normally would be made under Section 2 above and shall be subject to deductions and withholding as provided in Section 2(a) above.

(i) In the event this Agreement and the Executive's employment hereunder are terminated by mutual agreement pursuant to Section 3(b)(i) above, the Executive's termination payments, if any, shall be as mutually agreed in writing by the Executive and the Company.

(ii) In the event this Agreement and the Executive's employment hereunder are terminated for cause pursuant to Section 3(b)(ii) above, the Company's sole obligation to the Executive shall be the provision of any payments or benefits pursuant to Section 2 above which have been earned but have not been provided through the date of termination.

(iii) In the event this Agreement and the Executive's employment hereunder are terminated by the Executive upon not less than one hundred eighty (180) days' prior written notice to the Company pursuant to Section 3(b)(iii) above, the Company shall provide all payments and benefits to the Executive pursuant to Section 2 above which have been earned but have not been provided through the date of termination.

(iv) In the event this Agreement and the Executive's employment hereunder are terminated by the Company upon not less than one hundred eighty (180) days' prior written notice to the Executive pursuant to Section 3(b)(iv) above, the Company shall provide all payments and benefits to the Executive pursuant to Section 2 above which have been earned but have not been provided through the date of termination. In lieu of the one hundred eighty (180) days' prior written notice, the Company may provide the Executive with immediate notice of termination, effective immediately; provided, however, that the Executive shall be entitled to receive the same payments and benefits as the Executive would have received had he received the one hundred eighty (180) days' prior written notice.

(v) In the event this Agreement and the Executive's employment hereunder are terminated by the death of the Executive pursuant to Section 3(b)(v) above, the Company shall provide to the Executive's estate all payments and benefits pursuant to Section 2 above which have been earned but have not been provided through the date of the Executive's death.

(vi) In the event this Agreement and the Executive's employment hereunder are terminated by the disability of the Executive pursuant to Section 3(b)(vi) above, the Company shall provide to the Executive all payments and benefits pursuant to Section 2 above which have been earned but have not been provided through the Date of Disability.

4. **Conflicts of Interest.** The Executive shall avoid all activities and other actions that might conflict with, or that might appear to conflict with, the interests of the Company or its

affiliates, subsidiaries or chapters. The Executive shall not use his position, or any knowledge gained therefrom or in connection therewith, in such a manner that a conflict, or the appearance of a conflict, arises between (i) the interest of the Company or any of its affiliates, subsidiaries or chapters, and (ii) the Executive's personal, immediate family, or private economic or other interests. Neither (i) the Executive, (ii) the Executive's immediate family, or (iii) the Executive's relatives or agents acting under the Executive's direction or control or for the Executive's benefit, shall make or direct any personal or business investments in the _____ industry.

5. **Membership on Outside Boards of Directors.** The Executive shall not serve on the board of directors, governing body, committee of the board of directors, or as an officer (collectively, "board of directors") of any company or organization (collectively, "organization") without the prior written consent of the President of the Company. Notwithstanding the foregoing, during his employment by the Company, the Executive shall not serve on the board of directors of any organization if the Executive's simultaneous service on any such board of directors, and the interests of the Company or the Executive's obligations or duties under this Agreement, would conflict in any manner. If, during the term of this Agreement, any such conflict arises as a result of the Executive's membership on the board of directors of another organization, the Executive shall resign immediately as a member of such board of directors.

6. **Use of Name of the Company.** The Executive shall not use the name of the Company or be identified as the Executive Vice President of the Company or as an employee, officer or agent of the Company in connection with any outside company or organization, any campaign for public office, any outside fund-raising activities, any public policy matters (including efforts to enact, defeat or alter legislation, regulations or other governmental policy) other than public policy matters pursued at the direction and on behalf of the Company, or in connection with any other activities that are outside the scope of Executive's employment by Company, without the prior written consent of the President of the Company.

7. **Indemnification.** The Company shall indemnify, defend and hold harmless the Executive in the manner and to the extent provided by the Company's Bylaws, as the same may be amended from time to time.

8. **Protective Covenants**

(a) **Confidentiality.** In the course of his employment by the Company, the Executive will have access to Confidential Information (as defined below) of the Company and its affiliates, subsidiaries, chapters, and members. The Executive agrees to maintain the strict confidentiality of all Confidential Information during the term of this Agreement and thereafter. For purposes of this Agreement, "Confidential Information" shall mean all information and materials of the Company, and all information and materials received by the Company from third parties (including but not limited to affiliates, subsidiaries, chapters, and members of the Company), which are not generally publicly available and all other information and materials which are of a proprietary or confidential nature, even if they are not marked as such. This provision shall survive the termination of this Agreement indefinitely.

(b) **Intellectual Property.** The Executive recognizes and agrees that all copyrights, trademarks, patents, and other intellectual property rights to works or marks arising in from or in connection with the Executive's employment by the Company, and that are within the scope of the Executive's employment by the Company, are the sole and exclusive property of the Company. The Executive agrees to assign, and hereby does assign, to the Company all rights, if any, in or to such works or marks that may accrue to the Executive during the term of this Agreement. This provision shall survive the termination of this Agreement indefinitely.

(c) **Agreement Not to Solicit Employees.** During the term of this Agreement and for a period of twelve (12) months immediately following the termination of this Agreement, the Executive shall not, either directly or indirectly, on his own behalf or in the service or on behalf of others, solicit or recruit (or attempt to solicit or recruit) any person employed by the Company to or for any business, organization, program, or activity that competes with any program, activity or operation of the Company.

(d) **Agreement Not to Compete.** During the term of this Executive's employment under this Agreement and for a period of twelve (12) months immediately following the termination of this Agreement, the Executive shall not (except on behalf of or with the prior written consent of the Company), either directly or indirectly, accept employment or perform services on behalf of any trade or professional Company, nonprofit organization, or business which has the same or substantially the same membership or purposes as the Company, or any trade or professional Company, nonprofit organization, or business whose positions are in conflict with positions of the Company and its members.

9. **Nondiscrimination.** The Executive recognizes that the Company is an equal employment opportunity employer. Executive agrees that he will not unlawfully discriminate against any employee, prospective employee, member, vendor, or other individual or entity on the basis of race, color, religion, sex, ethnicity, national origin, age, disability, or any other characteristic protected by any federal, state or local law applicable to the Company.

10. **Miscellaneous.**

(a) **Assignment.** The Executive may not assign any part of the Executive's rights or obligations under this Agreement. In the event of the dissolution of the Company, this Agreement shall continue in force through the then-current term of this Agreement. In the event of any merger, consolidation or reorganization involving the Company, this Agreement shall become an obligation of, inure to the benefit of, and be assigned to, any legal successor or successors to the Company. This Agreement may not otherwise be assigned by the Company without the express prior written consent of the Executive.

(b) **Warranties.** Each party hereto covenants, warrants and represents that it shall comply with all laws and regulations applicable to this Agreement, and that it shall exercise due care and act in good faith at all times in performance of its obligations under this Agreement.

(c) **Headings.** Titles or captions of sections or paragraphs contained in this Agreement are intended solely for the convenience of reference, and shall not serve to define, limit, extend, modify, or describe the scope of this Agreement or the meaning of any provision hereof.

(d) **Waiver.** A waiver by the Company of any breach of this Agreement by the Executive shall not be effective unless in writing, and no such waiver shall constitute a waiver of the same or another breach on a subsequent occasion.

(e) **Governing Law and Jurisdiction for Dispute Resolution.** All questions with respect to the construction of this Agreement or the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of _____ . Any legal action taken or to be taken by either party regarding this Agreement or the rights and liabilities of parties hereunder shall be brought only before a federal, state or local court of competent jurisdiction located within the State of _____ . Each party hereby consents to the jurisdiction of the federal, state and local courts located within the State of _____ for such purposes.

(f) **Severability.** All provisions of this Agreement are severable. If any provision or portion hereof is determined to be unenforceable in arbitration or by a court of competent jurisdiction, then the remaining portion of the Agreement shall remain in full force and effect.

(g) **Force Majeure.** Neither party shall be liable for failure to perform its obligations under this Agreement due to events beyond that party's reasonable control, including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation or order (whether valid or invalid) of any governmental body.

(h) **Counterparts.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one (1) and the same instrument.

(i) **Entire Agreement and Amendment.** This Agreement: (i) constitutes the entire agreement between the parties with respect to the subject matter hereof; (ii) supersedes and replaces all prior agreements, oral and written, between the parties relating to the subject matter hereof; and (iii) may be amended only by a written instrument clearly setting forth the amendment(s) and executed by both parties.

* * * * *

IN WITNESS WHEREOF, the Company and the Executive have each executed and delivered this Agreement as of the Effective Date.

ABC COMPANY, INC.

By: _____

(Name)

(Title)

(Date)

THE EXECUTIVE

John Doe

(Date)

Sample Preview
Sample Preview