

Chief Executive Employment Agreement

Note: This is a basic, plain-English CEO employment agreement for a nonprofit organization or association. With relatively little modification, this form should suffice for virtually any kind of nonprofit that has a chief employed executive. The form, with only minor and occasional updates and modifications, has been distributed to members of the American Society of Association Executives for nearly 20 years; in that time, it has become a kind of “standard” in the field. Its popularity no doubt results from its simplicity and its balanced treatment of the rights and obligations of both the organization and the CEO.

A few features worthy of note are these: (1) a choice of either an “evergreen” provision, whereby the agreement automatically renews each year unless canceled by either party or simply renewal by mutual agreement; (2) the requirement for an annual written evaluation of the CEO; (3) authority given to the CEO over the rest of the organization’s employed staff; (4) relatively limited and well-defined bases of a “for cause” cancellation; and (5) relatively broad provisions for confidentiality and noncompete agreements following cancellation of the agreement (although state laws vary on the enforceability of noncompetes, so legal counsel should be consulted).

Agreement

This Agreement is made between the _____, a _____ nonprofit corporation (the “Association”), and _____ (the “Executive”), for mutual consideration, the receipt and adequacy of which are acknowledged by the parties, who agree on the following:

1. Term, Nature, and Review. The Executive is engaged to serve as President and CEO of the Association for a _____ -year period from _____ to _____. After that _____ -year period, this Agreement [will automatically renew each year on _____ for additional one-year periods unless the Agreement is canceled by the Association or the Executive according to the provisions of Paragraph 4; the Agreement may not be terminated by nonrenewal but only by cancellation] [may be renewed for additional on-year periods by notice of renewal of at least ninety days by the Association and acceptance by the Executive within thirty days]. The Executive will devote the Executive’s full time and energy to the Executive’s duties as President and CEO of the Association. Those duties are specified by the Association’s Bylaws and other governing documents. They may be supplemented from time to time by the Association’s Board of Directors or by the Association’s Executive Committee. The Executive reports to the Board of Directors or to the Executive Committee when either is in session; otherwise, the Executive reports to the elected Chair of the Association. The Executive is the chief employed officer of the Association with full authority for the management of its affairs, subject only to the duties specified by the Bylaws or other governing documents or to the direction of the Board, the Executive Committee, or the Chairman. The Executive has sole and exclusive authority for the engagement and discharge of all other employees of the Association. The performance of the Executive will be reviewed annually by the Association’s Executive Committee prior to the anniversary date of this Agreement based on performance criteria and goals provided in writing to the Executive at the beginning of the period under review. The Executive will be employed at the headquarters office of the Association in the _____ area.

2. Compensation. The base salary of the Executive is ____ per year during the first year of this Agreement, from ____ to ____, payable according to the Association's regular salary payment schedule. The base salary of the Executive for subsequent years of this Agreement will be negotiated and agreed to by the Executive and the Association's Executive Committee following the annual performance review. In no event, however, will the Executive's base salary for any subsequent year of this Agreement be reduced below the level of the previous year. In addition to the base salary, the Executive may receive a bonus each year of up to ___ percent of base salary for that year in the sole and exclusive discretion of the Executive Committee, with any bonus to be determined at the time of the performance review and paid to the Executive within thirty days of the determination. The Executive is entitled to those employee benefits described in the Board-approved Association employee benefit schedule for the association's President and CEO, subject to changes in that Board-approved employee benefit schedule, including participation in the Association's qualified pension plan, family coverage hospitalization and major medical insurance, and ____ business days of vacation each year (subject to limitations on carry-forward of accrued, unused vacation days as follows: ____). (The Association will provide a supplemental retirement plan for the benefit of the Executive, with funding and other terms and conditions mutually acceptable to the Association and the Executive.) This compensation constitutes the entire payment by the Association for the services of the Executive. No other or additional compensation in any form will be considered or paid for during the period of this Agreement.

3. Business Expenses. The Association will pay, or reimburse the Executive, for reasonable business expenses incurred by the Executive that are directly related to the performance of the Executive's duties of employment, subject to timely submission by the Executive of payment or reimbursement requests and appropriate documentation, as well as review by the Executive Committee with payment or reimbursement made promptly but in no event later than the end of the year following the incurring of expenses. In particular, the Association will pay for the Executive's expenses for membership, receipt of publications, and participation in the activities of the American Society of Association Executives, and other business or professional organizations as approved by the Executive Committee.

4. Cancellation.

A. Cancellation by the Association for Cause. The Association may cancel this Agreement immediately in the event of (i) the death of the Executive; (ii) the Executive's disability, which means the Executive's inability to perform the essential functions of the Executive's duties to the Association by reason of the Executive's illness or injury with or without accommodation, which inability has continued for a period of one hundred twenty (120) consecutive days or one hundred fifty (150) nonconsecutive days in any 12-month period; (iii) the Executive's unwillingness to perform all, or substantially all, of the Executive's duties to the Association, which failure persists for five business days after written notice to the Executive; (iv) the Executive's material violation of Association's policies or this Agreement, including without limitation any act of discrimination, harassment, or retaliation; (v) the Executive's commission of any act, occurring or coming to light during Executive's employment, that brings Executive into public contempt or ridicule, which, in the Board's reasonably exercised judgment, is materially injurious to the operations, employees, or reputation to the Association, with those acts disclosed to the Executive, with the Executive accorded an opportunity to respond in writing to the Board prior to the termination of the Agreement; or (vi) documented acts of dishonesty, fraud, or gross negligence or of violation of employment or other laws by the Executive in connection with performance of the Executive's duties

to the Association, with those acts disclosed to the Executive, with the Executive accorded an opportunity to respond in writing or in person—at the Executive’s option—to the Executive Committee of the Association; in the event of cancellation for cause, the Executive will receive no further compensation beyond the cancellation date other than benefits accrued or required by law.

B. Cancellation by the Association without Cause. The Association may cancel this Agreement for any other reasons, which need not be disclosed to the Executive, by giving the Executive written notice of the cancellation and paying through the notice period plus severance to the Executive of one month for each completed year of the Executive’s tenure with the Association, subject to a minimum of ___ months and a maximum of the shorter of (i) ___ months or (ii) the remaining period before expiration of the then-current term of this Agreement. Any severance payment under this Agreement is conditioned upon the Executive’s execution of a general release of all claims against the Association, including a confidentiality and non-disparagement provision binding on the Executive. At its sole discretion, the Association will determine whether to require that the Executive perform the Executive’s duties for the Association during that notice period.

C. Cancellation by the Executive. The Executive may cancel this Agreement by giving the Association ___ months’ advance notice in writing, with any longer notice subject to the approval of the Executive Committee of the Association; the notice may extend beyond the then-current annual term of this Agreement, and the Agreement will automatically be extended through that notice period only. The Executive will receive full compensation during that notice period, including benefits accrued and able to be paid according to these plans; at its sole discretion, the Association will determine whether to require that the Executive perform the Executive’s duties for the Association during that notice period.

5. Intellectual Property, Confidentiality, Noncompete, Nonsolicitation, and Investments.

A. The Executive recognizes and agrees that all copyrights, trademarks, or other intellectual property rights to created works arising in any way from, or related to, the Executive’s employment by the Association are the sole and exclusive property of the Association, agrees not to assert any rights to those works against the Association or any third-parties, and agrees to assist the Association in any way requested to procure or protect the Association’s rights to those works. Upon cancellation of this Agreement by either party for any reason, or if requested by the Executive Committee at any time, the Executive will return to the Association all documents, books, manuals, lists, records, publications, or other materials—whether in written, electronic, or other form—passwords, keys, credit cards, equipment, 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 prior written approval of the Executive Committee of the Association. The Executive will maintain in confidence during and subsequent to the Executive’s employment any information about the Association or its members that is confidential information or that might reasonably be expected by the Executive to be regarded by the Association or its members as confidential, and the Executive will not use that information except for the benefit of the Association. Upon cancellation of this Agreement by either party for any reason, the Executive will refrain for one year from (i) undertaking employment or any compensated duties on behalf of any association or firm that provides services or products to ___ in competition with the Association; or (ii) soliciting any individual who is then or was at any time within the preceding three months an employee or consultant of the Association to leave the Association’s employment or terminate the consulting agreement; in either case unless the Executive

Committee of the Association provides prior written approval of the employment, duties, or solicitation. The Executive will not make or direct any personal investments in the _____ field based substantially upon information conveyed to the Executive as the President and CEO of the Association where the information is conveyed with a request for, or in the expectation of, confidentiality. The provisions of this paragraph will survive cancellation of this Agreement.

B. Executive acknowledges and Association agrees that Executive may disclose confidential information in confidence directly or indirectly to federal, state, or local government officials, including but not limited to the Department of Justice, the Securities and Exchange Commission, the Congress, and any agency Inspector General or to an attorney, for the sole purpose of reporting or investigating a suspected violation of law or regulation or making other disclosures that are protected under the whistleblower provisions of state or federal laws or regulations. Executive may also disclose confidential information in a document filed in a lawsuit or other proceeding, but only if the filing is made under seal. Nothing in this agreement is intended to conflict with federal law protecting confidential disclosures of a trade secret to the government or in a court filing, 18 U.S.C. § 1833(b), or to create a liability for disclosures of confidential information that are expressly allowed by U.S.C. § 1833(b).

6. Other.

A. **Indemnification.** The Association indemnifies, holds harmless, and will defend the Executive against claims arising against the Executive in connection with the Executive's performance of the duties of the Executive's employment by the Association to the full extent permitted by law, but not with respect to claims successfully resolved against the Executive that the Executive engaged in fraudulent, grossly negligent, criminal, illegal, or ultra vires acts. The provisions of this paragraph will survive cancellation of this Agreement.

B. **Authority.** The Association and the Executive each represents and warrants that each has legal authority to enter into this Agreement and is not prohibited or restricted from doing so by any governance documents or resolutions of the Association or by any agreement or obligation of the Executive to a third party, including a former employer.

C. **Successors.** This Agreement is binding upon the Association and the Executive, their 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 unless the Executive Committee of the Association agrees in writing to the assignment or delegation. In the event of the dissolution of the Association, this Agreement will continue in force through the then-current period of employment. In the event of any merger, consolidation, or reorganization involving the Association, this Agreement becomes an obligation of any legal successor or successors to the Association.

D. **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 supersedes and cancels all previous agreements between the Association and the Executive.

E. **Waiver.** A waiver by the Association or the Executive of a breach of this Agreement does not constitute a waiver of any later breach.

F. **Severability.** The parties agree that in the event any provision of this Agreement is deemed to be invalid or unenforceable by any court or administrative agency of competent jurisdiction, or in the event that any provision cannot be modified so as to be valid and enforceable, then that provision shall be deemed severed from the Agreement and the remainder of the Agreement shall remain in full force and effect.

G. **Governing Law.** This Agreement is governed by the laws of the State of _____.

(The Executive)

(The Association)

[Signature] By

[Signature] By

Printed name

Printed name

Date

Title

Date