

## Example Executive Employment Agreement

*This template is not intended as legal advice. Your organizational goals, purpose, values, and bylaws should drive the creation of this document.*

THIS EXECUTIVE EMPLOYMENT AGREEMENT ("Agreement") is made between the **Organization Name**, an Alaska nonprofit corporation (hereinafter "\_\_\_\_\_ " or the "Employer") and \_\_\_\_\_ ("Executive").

### RECITALS

Employer is a private, nonprofit corporation whose mission statement is \_\_\_\_\_.

The Executive has the education, experience and skills needed to administer and manage **Organization Name**, as well as the general experience needed to manage its operations, programs and personnel.

Employer desires to retain Executive's services as its President, and the President desires to be employed by Employer full time for the next three years with the ability after the first two years to request additional years of service, year by year until \_\_\_\_.

In consideration of the foregoing and the mutual promises contained in this Agreement, the parties agree as follows:

### DUTIES AND RESPONSIBILITIES

1.1 Executive's Duties. Employer will employ its President (from now referred to as Executive) during the Term of this Agreement. Executive shall perform his/her duties and responsibilities as Employer President and CEO within the framework of the vision, mission, and core values of Employer, as well as the Articles of incorporation and Bylaws, of Employer. In such capacity, Executive shall exercise general supervisory responsibility and management authority over Employer and shall perform such other duties commensurate with his/her position as may reasonably be assigned to him/her from time to time by Employer Board of Directors. As part of his/her duties, Executive shall also attend those educational, academic or philanthropic conferences related to Employer that Executive or the Board of Directors determine are beneficial and appropriate. Executive shall be responsible for the hiring and discharge of all Employer personnel and contractors, either directly or through his designees. Executive shall also have the right and authority to contract and make other commitments on behalf of Employer consistent with its goals, missions, and the confines of Employer budget. Without limiting the foregoing, Executive's duties include but are not limited to:

- Communicating the vision, mission and core values of Employer to staff; to the nonprofit community, to contributors, to governmental entities and to the public at large
- Supporting the Employer agencies and the nonprofit community in general
- Acting as a positive force in the community consistent with the vision, mission and core values of Employer
- Working with the Chair of the Board to establish Employer Board of Directors' meeting agendas
- Providing advice and counsel to Employer Board of Directors and its committees
- Orienting and training volunteer leaders
- Serving as Employer spokesperson with the media

1.2 Conflicts of Interest. Executive shall avoid conflicts, potential or real, between his/her own personal and financial interests and that of Employer, and shall comply with Employer conflict of interest policy as adopted and revised by the Board of Directors from time to time.

#### **TERM OF AGREEMENT**

2.1 Term. The term of this Agreement shall be for a period of at least three (3) calendar years, beginning on \_\_\_\_\_ and terminating on \_\_\_\_\_, unless terminated sooner pursuant to Sections 4.1 through 4.3 below.

#### **COMPENSATION**

3.1 During the Term of this Agreement. Executive's salary and other compensation shall be comprised of compensation payable by Employer to Executive. Accordingly, the parties agree that Employer will pay Executive the annual salary of \_\_\_\_\_, less withholdings required by law and as agreed to by Executive. Payments to Executive shall be made on Employer regular paydays over a twelve month period. Executive shall take one continuous month off during the fiscal year. The month off is not an accrued benefit and would be lost if not taken as expected.

3.2 Employee Benefits. Employer shall provide Executive with other Employee Benefits for which he/she is eligible (or becomes eligible) as specified in Employer Personnel Policies. The benefits made available to Executive and to other employees of Employer are subject to amendment, modification or termination by action of Employer Board of Directors, and any such changes shall become applicable to Executive under this Agreement

at the same time they become applicable to other eligible employees of Employer. Otherwise, the express terms of this Agreement shall prevail in case of any conflict or inconsistency between this Agreement and those Personnel Policies.

3.3 Bonus Eligibility. During the Term of this Agreement, Executive will be eligible for an annual bonus opportunity of \_\_\_\_\_ a year based upon the criteria as set forth annually by the Board of Directors. Accordingly, the parties agree after consultation with Executive, the Board of Directors shall establish specific bonus criteria based upon the Performance Contract applicable to each fiscal year of this Agreement. The bonus criteria may contain both objective and subjective elements. The criteria will be implemented not later than thirty 30 days into the fiscal year, and will apply for the duration of that year. The Board of Directors shall determine, in its reasonable discretion and not later than thirty (30) days after the end of the fiscal year, whether and to what extent Executive satisfied the bonus criteria for that year, and Executive's bonus, if any, shall be based on that determination. (Optional)

3.4 Business Expenses. Employer acknowledges that its successful operation requires Executive to incur business expenses in the discharge of his/her duties as President for the benefit of Employer. Such business expenses may include but not be limited to airfare, ground transportation, lodging, meals and other business costs reasonably incurred by him/her in the performance of his/her duties as President. They shall also include reimbursement for his/her registration fees, airfare, ground transportation, lodging and meal expenses related to his attendance at educational, academic or philanthropic conferences. Employer will reimburse Executive for such reasonable business expenses provided Executive maintains and presents documentation in reasonable detail and in accordance with such procedures and standards as Employer or its outside accounting firm(s) may establish from time to time for such purpose.

## TERMINATION

4.1 Termination by Executive. Executive may terminate his/her employment under this Agreement provided, except for the provisions related to notice at the end of the Term of this Agreement, that he/she gives Employer Board of Directors at least ninety (90) days' notice in writing, and his/her resignation shall become effective at the end of that ninety-day period (hereinafter the "Effective Date of Resignation"). In the event of such notice, Executive's compensation hereunder shall cease as of the Effective Date of Resignation, provided, however, that Employer may reduce or require no further services from Executive during all or a portion of the ninety-day period. Executive shall be entitled to receive benefits provided by the Plan referred to in Section 3.2 above only to the extent his Plan benefits are vested and unpaid as of the Effective Date of Resignation. As of the Effective Date of Resignation, Executive shall forfeit any non-vested Plan benefits.

4.2 Termination With Cause Employer shall have the right to terminate immediately Executive's services and this Agreement for cause. Termination for cause means a termination on account of:

- Executive's material breach of any of the covenants, terms or conditions set forth in this Agreement
- Executive's dishonest or unlawful conduct which would constitute a felony or crime of moral turpitude, or which would tend to undermine the reputation of Employer
- Executive's Permanent Disability which means that Executive, by reason of his/her physical or mental disability, is incapable of performing the duties of his/her customary position with Employer, and such disability has continued for a period of at least 120 consecutive days in any 12-month period and is expected to be of a long duration or to result in death. Permanent disability shall be established by a majority of three physicians, one selected by Executive (or his/her spouse, child, parent or legal representative in the event of his/her inability to select a physician), one by the Executive Committee of Employer Board of Directors, and the third by the two physicians selected by Executive and the Committee; or
- Any other reason that would constitute "cause" or "just cause" under the common law of the State of Alaska for termination of the employment relationship.

Upon Executive's termination for cause, all compensation under this Agreement shall cease as of the termination date; provided, however, that if Executive is entitled to vested Plan benefits referred to in Section 3.2 above as of the date of his termination of employment for cause, Executive or his beneficiary, as the case may be, shall be entitled to such vested and unpaid benefits as are provided thereunder. To the extent Executive's Plan benefits are not vested as of the date of termination of his employment for cause, he/she shall forfeit such non-vested Plan benefits.

4.3 Termination Without Cause by Employer may terminate Executive's employment under this Agreement without cause provided that Employer gives Executive at least six (6) months' notice of termination without cause in writing. If such notice is given, Employer shall pay Executive all compensation and benefits then required by this Agreement as they come due during that six-month period, and Executive's Plan benefits referred to in Section 3.2 above shall vest in accordance with the Plan's vesting rules. Employer may reduce or require no further services from Executive during all or a portion of the six-month period.

## **RESOLUTION OF DISPUTES**

5.1 Arbitration. In the event of any Dispute (as defined below) between Executive and Employer, including all Disputes regarding Employee's rights under this Agreement or termination of this Agreement, or any extension or renewal thereof, and if

the Dispute is not resolved informally by the parties, Executive shall submit the Dispute to binding arbitration. Executive shall initiate the arbitration by notifying the Chairman of Employer Board of Directors in writing of the nature of the dispute and Employee's request for arbitration.

The arbitration shall be governed by the Model Employment Arbitration Procedures of the American Arbitration Association (the "AAA") and the Alaska Uniform Arbitration Act, AS 09.43.010-180, which are incorporated herein by this reference. In case of any conflict between the AAA Model Employment Arbitration Procedures or the Alaska Uniform Arbitration Act and this Agreement, the terms of this Agreement shall prevail. Both parties agree to be bound by any final decision of the arbitrator rendered pursuant to this Agreement, subject to appeal rights as provided in the Alaska Uniform Arbitration Act. This arbitration provision shall survive termination of this Agreement.

Any such arbitration must be initiated by Executive not more than ninety (90) days after termination of this Agreement or termination of any extension or renewal thereof, or the dispute will be considered forever waived and time barred.

5.2 Disputes. As used herein, "Dispute" means any and all demands, claims, or causes of action, whether related to or arising out of this Agreement, any federal or state statute, regulation or executive order, or the common law, including demands, claims or causes of action for -

- Breach of contract, wrongful termination, breach of the implied covenant of good faith and fair dealing, violation of public policy, retaliatory discharge, malfeasance, misfeasance, breach of trust, equitable or promissory estoppel, misrepresentation, defamation, invasion of privacy, tortious interference with contract or contractual expectancy, etc.;
- Employment discrimination (including claims based on Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Alaska State Law Against Discrimination, and Anchorage Equal Rights Ordinances and all applicable federal, state and local antidiscrimination laws, regulations and executive orders,
- Compensation (including claims based on the Fair Labor Standards Act, the Alaska Wage & Hour Act); and
- Damages for pain and suffering, emotional distress, liquidated damages, punitive damages, taxable costs, interest and attorneys' fees.

5.3 Neutral Arbitrator. The parties shall select a neutral and unbiased arbitrator according to the procedures established by the AAA for that purpose.

5.4 Expenses of Arbitration. Employee shall bear the AAA arbitration fee except to the extent that fee exceeds the amount of the fee at that time for filing a civil action in

the Superior Court for the State of Alaska at Anchorage. The Employer shall bear that portion of the AAA arbitration fee that exceeds the Superior Court filing fee. The Employer also shall bear the entire cost of the arbitration including the arbitrator's fees and expenses and the cost of the arbitration hearing room. Each party shall bear its own witness fees, costs and attorneys' fees unless the arbitrator otherwise orders one or the other party to bear such fees and costs.

5.5 Discovery. Both parties may make discovery prior to the arbitration hearing as provided for in the Alaska Uniform Arbitration Act, and as the arbitrator may determine is necessary for each party to adequately arbitrate the claims asserted in the arbitration, including access to essential documents and witnesses.

5.6 Attorneys. Either party may, but need not, be represented by an attorney of his or her choice at any time during the arbitration process.

5.7 Remedies. The arbitrator shall not be limited in awarding remedies provided by this Agreement or by any applicable federal, state or local statute, regulation, or executive order, or the common law, so long as the arbitrator finds facts and makes conclusions based on the evidence presented adequate for the award of such remedies. The arbitrator also may award taxable costs and attorneys' fees to either party as provided for in Alaska Civil Rules 79 and 82 and in the decisions of the Alaska Supreme Court. The arbitrator shall have no power to alter, amend or repeal any provision of this Agreement.

5.8 Written Decision and Award. Within thirty (30) days of the close of the arbitration hearing, or as otherwise agreed to by the parties, the arbitrator shall render a written decision and award. The decision and award shall be based on the facts presented by the parties, this Agreement and applicable law, and shall contain findings of fact and conclusions sufficient for judicial review to the extent required by law.

## **GENERAL TERMS**

6.1 Executive represents and warrants to Employer that he/she is free to enter into this Agreement and that he/she has no commitment, arrangement or understanding to or with any party which restrains or is in conflict with his/her performance of the covenants, services and duties provided for in this Agreement.

6.2 During Executive's employment hereunder, this Agreement may not be assigned by either party without the written consent of the other; provided, however, that Employer may assign its rights and obligations under this Agreement to a successor by merger or affiliation if such successor carries on Employer work substantially in the form in which it is being conducted at the time of the merger or affiliation. Except as otherwise provided by law, no interest of Executive or any beneficiary or representative of Executive may be directly or indirectly transferred, encumbered, seized by legal process, or in any other way subjected to the claims of a creditor. This Agreement shall be binding upon Executive, his heirs, personal representatives and permitted assigns and on Employer, its successors and assigns.

6.3 Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and personally delivered or mailed via some form of traceable priority mail to

Executive at:  
\_\_\_\_\_, Alaska 99\_\_\_\_\_  
Employer at:  
\_\_\_\_\_, Alaska 99\_\_\_\_\_

If either party changes the address as which notice should be given, that party shall notify the other party in writing of the change of address, and this section 6.5 shall be considered amended at that time.

6.4 In the event that any provision of this Agreement or compliance by any of the parties with any provision of this Agreement shall constitute a violation of law, then such provision, to the extent only that it is so in violation, shall be deemed ineffective and unenforceable and shall be deemed separable from the remaining provisions of this Agreement, which provisions shall remain binding on the parties.

6.5 This Agreement contains the entire agreement of the parties and it may be changed only by a subsequent written agreement signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska without regard to its choice of law principles. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue to be full force without being invalid or invalidated in any way.

6.6 The waiver by Employer or Executive of the other party's breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by that party.

EXECUTIVE

\_\_\_\_\_  
Signature  
Date: \_\_\_\_\_

\_\_\_\_\_**Organization Name**\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_