

< > indicates items that will be employee-specific

**EMPLOYMENT AND PROTECTIVE COVENANTS AGREEMENT**

THIS AGREEMENT is entered into and made as of the \_\_\_\_\_ day of March, 2014 by and between XYZ Corporation (“XYZ”), and <name and address of employee> (“Employee”), who are hereinafter collectively called the “Parties”.

WHEREAS, XYZ has offered to <continue to> employ Employee and <place/keep> Employee in a position of responsibility on terms and conditions agreed upon between the Parties and further set forth herein; and

WHEREAS, Employee has accepted said employment;

NOW, THEREFORE, XYZ and Employee mutually agree as follows:

1. Duties of Employee. Employee will <continue to> serve as the <title> of XYZ. Employee will devote Employee’s full working time, attention, skill, and energy to XYZ’s business and otherwise promoting the interests of XYZ as XYZ shall direct from time to time through its executives, and will otherwise cooperate fully with XYZ in the advancement of the best interests of XYZ. **<NOT NECESSARY FOR CONTINUING EMPLOYEES: Employee represents and warrants that Employee is not a party to any contract or subject to other legal restrictions on Employee’s ability to lawfully perform these duties and understands that, in the absence of this representation and warranty, XYZ would not employ Employee in the capacity it intends to at the time of entering into this Agreement. Employee further agrees to hold XYZ harmless from any and all suits and claims arising out of any such limitations on employment.>**

2. Compensation and Benefits to Employee.

(a) Base Salary. XYZ agrees to pay Employee an annual base salary of <salary> payable in such periodic intervals as other responsible employees of XYZ are paid.

(b) Benefits Plans. Employee shall be entitled to participate in all of XYZ’s employee benefit plans available to other XYZ employees as they may be amended from time to time in the sole discretion of XYZ and/or the plan providers, as applicable.

(c) Business Support. XYZ will furnish Employee such facilities and personnel as XYZ deems necessary or appropriate for the performance of Employee's duties under this Agreement. XYZ will pay on behalf of Employee (or reimburse Employee for) reasonable expenses incurred by Employee at the request of, or on behalf of, XYZ in the performance of Employee's duties pursuant to this Agreement, and in accordance with XYZ's employment policies and practices regarding proper and timely documentation of said expenses. XYZ will also provide Employee with a corporate credit card for business use.

3. Employee's Covenants Protecting XYZ's Business Investments.

(a) Non-Disclosure of Trade Secrets and Confidential Information. Employee acknowledges that Employee will receive in the performance of Employee's duties, and XYZ agrees to provide to Employee on an ongoing basis, certain of XYZ's confidential and valuable business information. Employee, shall not, at any time during or after the term of employment, divulge, disclose, reveal, or communicate to any business entity or other person such information or any trade secrets or other valuable business information Employee may have obtained during the term of Employee's employment concerning any matters affecting or relating to the business of XYZ, including without limitation any of its customers (including customer lists), pricing information, costs, plans, technology, formulas, processes, policies, techniques, trade practices, finances, accounting methods, methods of operations, trade secrets, or other data considered by XYZ to be confidential information, for so long as such information does not become publicly available other than in whole or in part through the acts or omissions of Employee.

(b) Covenants Protecting XYZ's Business Assets. Employee shall not, during the term of employment with XYZ or for a period of one (1) year thereafter:

(1) Compete with XYZ. Employee shall be deemed to be competing with XYZ if Employee is employed by, works for, becomes associated with (whether as partner, officer, director, 10% shareholder, consultant, employee, agent, or otherwise), furnishes information to, or communicates with any of XYZ's customers or competitors on behalf of any business entity or other person that competes or may reasonably be construed to compete with XYZ in a geographic area in which XYZ conducts business;

(2) Engage in any conduct that does or could reasonably be expected to damage the

relationship between XYZ and any current or prospective customer that was or reasonably should have been known to Employee during Employee's employment with XYZ;

(3) Contact or solicit for the purpose of competing in any manner with XYZ any current or prospective customer of XYZ that was or reasonably should have been known to Employee during Employee's employment with XYZ; or

(4) Solicit any employees of XYZ for employment with any other person or entity competing in any way with XYZ.

(c) Application, Interpretation and Enforcement of This Paragraph 3.

(1) Employee understands that the covenants in this paragraph 3 are, unless otherwise specified, applicable not only during employment but also after termination of employment with XYZ, and agrees they will not unreasonably impede executive's ability to secure employment or earn a living while complying with this Agreement.

(2) XYZ agrees to consider and promptly respond to any request from Employee in writing that XYZ consent to certain business activities that might otherwise violate the restrictions stated above provided that such request is made prior to Employee's undertaking any such activities. XYZ will consider modifications of these restrictions where Employee will be working in a position that will not jeopardize XYZ's confidential information and will not put Employee in contact with XYZ customers with which Employee worked or for which Employee had responsibility during Employee's employment with XYZ. Accordingly, Employee agrees that it would be premature for Employee or anybody acting on Employee's behalf or in relation to Employee's employment to assert that Employee is restricted from any activity by this Agreement until Employee has requested such consent in a writing directed to XYZ and XYZ has declined in writing to provide that consent. However, for purposes of clarification, at the time the Parties are entering into this Agreement, it is unlikely that XYZ would agree to modify the restrictions such that Employee could become employed in any capacity by the companies identified on Exhibit A hereto because of the nature of those companies' businesses.

(3) Employee understands and agree that it will be a violation of this paragraph 3 not only if Employee engages in the restricted activity <himself/herself>, but also if Employee does

so indirectly by directing, consulting with, or otherwise assisting in any fashion another person or entity that is engaged in such activities and, accordingly, that it would be reasonable and appropriate for XYZ to seek to prevent Employee's employment in a position that enables Employee to provide such assistance to others.

(4) Employee acknowledges and agrees that the restrictions placed on Employee by this paragraph 3 are reasonable and necessary to protect the legitimate business interests of XYZ, including but not limited to XYZ's investments in its products, services, and business relationships, including but not limited to confidential information related to business relationships with which Employee was involved while employed by XYZ.

(5) In the event of a breach or threatened breach of this paragraph 3, Employee understands and acknowledges that XYZ may be irreparably harmed and left with no adequate monetary remedy if said breach were allowed to continue. Therefore, Employee understands and agrees that, if an action were brought against Employee to enforce this paragraph 3, XYZ will be entitled to remedies that may include but not be limited to (i) a temporary restraining order and preliminary and permanent injunctive relief restraining Employee and any other persons or entities from violating this Agreement or other legal obligations; (ii) monetary damages against Employee or any other person or entity; (iii) attorneys' fees; and (iv) costs and expenses of investigation and litigation, including expert witness fees, deposition costs, injunction bond premiums, and other reasonable costs and expenses.

(6) Employee agrees that the existence of any claim or cause of action that he may have against XYZ, whether based on this Agreement or otherwise, will not constitute a defense to the enforcement by XYZ of this paragraph 3 against Employee or any other person or entity.

(7) Should an action be brought against Employee to enforce any provision of paragraph 3 of this Agreement, the period of restriction will be deemed to begin running on the date of entry of an order granting XYZ a temporary restraining order or preliminary injunctive relief and will continue uninterrupted for the next year. Employee understands and agrees that the purpose and effect of paragraph 3 would be frustrated by measuring the period of restriction from

the date of termination of employment if Employee failed to honor its restrictions until directed to do so by court order.

4. Termination. Employee is employed on an at will basis. Employee and XYZ have the right to terminate Employee's employment, with or without cause, and with or without notice, at any time.

5. Miscellaneous Provisions.

(a) The Parties consent to the jurisdiction and venue for any action brought arising out of a breach or threatened breach of or to interpret this Agreement or relating to Employee's employment under this Agreement exclusively in state or federal courts located in Franklin County, Ohio. The Parties hereby waive any right they or anybody acting on behalf of either of them might have to institute a legal proceeding in any court or other tribunal not in Franklin County, Ohio and understands that it would be a material breach of this Agreement to do so or to assist anybody else in doing so.

(b) No supplement, modification, or amendment to this Agreement shall be effective and binding unless the same is contained in a writing accepted and duly executed by both Parties hereto.

(c) This Agreement sets forth the entire employment agreement between Employee and XYZ, supersedes any previous oral or written agreements between Employee and XYZ, **<if Employee already has an agreement, insert "including but not limited to" and specify the Agreement by name and date entered into>** and shall not be amended or added to except in writing signed by XYZ and Employee.

(d) This Agreement shall be binding upon and inure to the benefit of XYZ, its successors, and assigns and Employee, Employee's heirs, and personal representatives.

(e) Each provision of this Agreement is severable. Should any court or other tribunal of competent jurisdiction declare any provision(s) of this Agreement invalid or unenforceable by reason of any rule of law or public policy, all other provisions hereof shall remain in full force and effect.

(f) The Parties hereby authorize any court or other tribunal of competent jurisdiction to modify any provision(s) held to be invalid or unenforceable to the extent necessary to permit such provision(s) to be legally enforced to the maximum extent permissible and to then enforce the provision(s) as modified.

(g) Employee represents and warrants that Employee has read and understands this

Agreement, has been provided the opportunity to consult with legal counsel of Employee's choosing prior to entering into this Agreement, and enters into this Agreement knowingly and voluntarily.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of XYZ by its duly authorized officer, and by Employee on the day and year set forth below.

\_\_\_\_\_  
Employee

\_\_\_\_\_  
Date

XYZ Corporation

By: \_\_\_\_\_

\_\_\_\_\_  
Date

Its: \_\_\_\_\_

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