

**Employment Agreement
by and between
John Q. Lawyer
and
XYZ, a Partnership
[Employee and Partnership Employer]**

Employment Agreement

This Agreement is entered into as of this _____ day of _____, 19____, by and between JOHN Q. LAWYER (“Lawyer”), an individual, and XYZ, a general partnership, with reference to the following facts:

Recitals

A. Lawyer is an attorney licensed to practice law in the State of Anystate;¹

B. The firm of XYZ (the “Firm”) is a partnership composed of attorneys licensed to practice law in the State of Anystate and various other states pursuant to a written agreement as of _____, 19____ (the “Partnership Agreement”); and

C. The Firm desires to engage the services of Lawyer in order to gain Lawyer’s experience, skills, background, and knowledge, and Lawyer desires to render such services on the terms and conditions hereinafter set forth.

In consideration of the agreements, covenants, and conditions herein contained, the Firm and Lawyer hereby agree as follows:

1. Term of Agreement

Subject to the provisions and conditions of this Agreement, the terms of this Agreement shall be from _____, 19____, to _____, 19____.

2. Title and Status

Lawyer shall be engaged to perform legal services for and on behalf of the Firm. Lawyer shall have the title of “Of Counsel” to the Firm. Notwithstanding the foregoing, Lawyer shall be neither a partner nor a special partner of the Firm but shall be considered an employee of the Firm.² In that capacity, Lawyer shall have no right or authority to attend any partnership meeting except by invitation of the Firm or to vote at any meeting of the partners of the Firm.

3. Provisions of Partnership Agreement

For purposes of this Agreement, references are made to various provisions of the Partnership Agreement. Lawyer hereby acknowledges that he has received a copy of the Partnership Agreement as of _____, 19____, and of all Amendments, including the most recent Amendments thereto, and that he has read the Partnership Agreement and the Amendments thereto. Lawyer agrees to be bound by those provisions of the Partnership Agreement referred to in this Agreement, as they now exist and as they may be amended from time to time. Lawyer further agrees to be bound by any substantially similar provision of the Partnership Agreement covering the same subject matter as the provisions of the Partnership Agreement referenced herein, as may be adopted by the Firm from time to time. The Firm shall provide Lawyer with copies of all amendments to the Partnership Agreement that may be adopted from time to time. Any reference herein to the Partnership Agreement shall be deemed to be a reference to the Agreement as it now exists and as it may be amended from time to time.

4. Duties of Lawyer

4.1 Lawyer shall perform legal services on behalf of the Firm and, except as otherwise provided herein, shall, with respect to the rendering of legal services, have all of the duties and responsibilities as if he were a partner of the Firm³ as provided in Article _____ of the Partnership Agreement. Lawyer further agrees to be bound by all rules and policies that apply to attorneys of the Firm, as established and as amended from time to time by the Executive Committee of the Firm or any similar governing body of the Firm.

4.2 Lawyer shall perform his services at the offices of the Firm located in City of Anytown, State of Anystate (the “Anystate office”), and at such other place or places as are necessary or convenient to the performance of his duties.⁴ Lawyer shall be furnished with a private office in the Firm’s Anystate office and such secretarial assistance, facilities, amenities, and services including paid motor vehicle parking, as are now or

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may hereinafter be furnished to attorneys in the Anystate office.⁵

4.3 Clients for whom Lawyer renders legal services on behalf of the Firm shall be billed at hourly rates established by the Firm and otherwise in the manner that other clients of the Firm are billed.

4.4 During the period from _____, 19____, through _____, 19____, _____ shall be required to bill clients of the Firm a minimum of 1500 hours.⁶ If Lawyer fails to record at least 1500 hours of billable time in such year, his compensation for such year shall be reduced by multiplying the aggregate number of units deemed held by Lawyer pursuant to Paragraph 5 of this Agreement by a fraction, the numerator of which shall be the number of full billable hours actually recorded by Firm during 19____ and the denominator of which shall be 1500. The product of such multiplication shall be rounded to the nearest tenth and shall be used to calculate Lawyer's compensation for the calendar year ending _____, _____. Lawyer acknowledges that the provision of this Paragraph 4.4 shall apply whether or not the Firm has established minimum hours for the partners of the Firm for any particular fiscal year.

4.5 In accordance with the provisions of the Partnership Agreement and except as otherwise provided in this Agreement, Lawyer covenants that during the term of this Agreement he will not perform legal services for any other person or entity. Lawyer further agrees that any clients introduced to the Firm by him or any clients for which he performs legal services during the term of this Agreement shall be and become clients of the Firm.

4.6 Lawyer agrees that all legal fees earned and received by him in the conduct and practice of law, including, but not limited to, all sums, whether paid to Lawyer or to the Firm, received as an executor, administrator, guardian, trustee, appraiser, director, or officer of a corporation; royalties from the sale of books, magazine articles, and pamphlets concerning subjects related to the practice of law; salaries, fees and honoraria from speeches and teaching engagements concerning subjects related to the practice of law, and expense allowances in connection with speeches and teaching

engagements, less the amount of expensed actually incurred by Lawyer, shall be income of the Firm.

4.7 No salaries, commissions, fees, gratuities, or other things of value with a fair market value exceeding one thousand (\$1,000) dollars shall be accepted, directly or indirectly, by Lawyer personally from any client of the Firm or any officer, director, or principal thereof, unless with the express consent of the Firm, and the fair value of any such item received with such consent, though retained by Lawyer, shall be treated for accounting purposes a compensation to the Firm and shall be treated for accounting purposes a compensation to the Firm and shall be charged against Lawyer's compensation. The Executive Committee of the Firm may authorize, however, any exception to any provision of Paragraph 4.1, and this Paragraph 4.7 shall not apply to any benefits or compensation received by Lawyer from the ABC Company for services rendered prior to the date of this Agreement. The Firm hereby acknowledges that Lawyer will continue to receive a salary and benefits from the ABC Company through _____, 19____, and a retirement allowance thereafter, but that no services will be performed therefor after _____, 19____.

4.8 In all matters affecting the Firm's practice of law, Lawyer shall maintain a standard of professional conduct that shall in all respects conform with the standards of the Canons of Ethics of the Bar Associations of the State of Anystate, as such Canons may be applicable to him or the Firm, and such additional generally acceptable standards as may be required by the Executive Committee of the Firm.

4.9 Lawyer agrees to devote his full working time⁷ and attention to the Firm's business and practice and exert his best efforts for the successful conduct, operation, and management of the Firm. It is, however, specifically understood that Lawyer may have, and may continue to have and further acquire, financial and business interests and investments as will in no way interfere with the full-time practice of law, and such conduct shall not be considered a breach on his part of the requirement of this Agreement with respect to the time and attention to be devoted to the business and practice of the Firm.

4.10 Lawyer shall not, after the date hereof, accept a position as an officer or director of a corporation or similar entity, a trustee of a trust, a

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general partner of a partnership or any other position involving management or control of an entity (hereinafter collectively called a "Position") without first giving at least fourteen (14) days' prior written notice to the Executive Committee of the Firm and his intention to accept a Position. The Executive Committee may, by written notice to Lawyer within fourteen (14) days of its receipt of the notice, prohibit Lawyer from accepting the Position if the Executive Committee determines that Lawyer's taking the Position would adversely affect the Firm. The provisions of this Paragraph 4.10 shall not apply to a Position held by Lawyer and members of his extended family. For purposes of this paragraph, Lawyer's extended family shall include all persons to whom Lawyer or his spouse is related by blood or adoption up to the fourth (4th) degree of consanguinity. Nothing in this paragraph shall, however, be deemed to abrogate the provisions of Paragraph 4.6 of this Agreement.

4.11 Lawyer shall charge reasonably for all professional services rendered by him, following generally the policies of the Firm as to fees charged. Lawyer may serve professionally without charge to any member of his own family, any relative or any client entitled to such legal aid as may be permitted under the canons of professional ethics; and, with the consent of the Firm, may serve without charge or less than regular charge the organized bar, or any civic, educational, religious, or charitable organization or project.

4.12 Lawyer shall at all times duly and punctually pay and discharge his separate and private debts and engagements, whether present or future, and keep the Firm indemnified therefrom and from all actions, proceedings, costs, claims, and demands in respect thereof.

4.13 Lawyer agrees to be bound by the provisions of Section _____ of the Partnership Agreement, provided, however, that Lawyer may exercise any stock options that he received in his capacity as an employee of the Corporation or any subsidiary or affiliate thereof at any time. Lawyer agrees to notify the Executive Committee of the Firm at least three (3) business days prior to disposing of any stock acquired by virtue of the exercise of such options (the "stock"). Lawyer further agrees not to dispose of such stock at that time, if, within two (2) business days following receipt of such notice, the Executive Committee of the Firm notifies Lawyer that he may not dispose of

such stock at that time and the Executive Committee of the Firm has a reasonable basis for doing so.

5. Compensation

In consideration of the services performed by Lawyer, the Firm shall pay to Lawyer an amount equal to the amount to which Lawyer would be entitled, pursuant to the provisions of the Article _____ of the Partnership Agreement, if he were a partner of the Firm,⁸ except as provided in Paragraph 4.4 of this Agreement. Because Lawyer's compensation is dependent on the profitability of the Firm, Lawyer shall be entitled to receive the same information and reports regarding the finances of the Firm as if he were a partner of the Firm and shall have the same rights as a partner of the Firm to inspect the Firm's books and accounts, as provided in Section _____ of the Partnership Agreement. The compensation provided hereunder shall be paid at the times and in the same manner as if Lawyer were a partner of the Firm; provided, however, that the Firm agrees, at Lawyer's request, to defer the income receivable by him from the Firm during 19_____, until January 1, 19_____.

6. Expenses

The Firm shall directly pay or shall fully reimburse Lawyer for all reasonable expenses that are customarily paid on behalf of, or reimbursed to, associates of the Firm.⁹ The Firm shall provide errors and omissions insurance on behalf of the Firm and Lawyer in the same manner as if Lawyer were a partner or associate of the Firm.¹⁰ The Firm acknowledges and agrees that Lawyer is an employee¹¹ for purposes of the law of the State of Anystate that provides for indemnification of employees. Lawyer agrees to cooperate with the Firm in the defense of any action against Lawyer or the Firm arising out of or in any way connected with his activities on behalf of the Firm and further agrees to make himself available for purposed of the defense of any such action.

7. Benefits

Lawyer shall participate in and shall receive benefits under all formal and informal employee benefit plans, understanding, arrangements, or programs now or hereafter generally made available to the Firm's associates

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and their families, including, but not limited to, any group health, life, dental, disability, or other insurance, or any pension or profit-sharing plans or arrangements, or any other type of benefit.¹²

8. Vacation

Lawyer shall be entitled to vacation time at the rate of fifteen (15) business days for each twelve (12) months of service. Lawyer shall also be entitled to all holidays observed by the Firm, its partners or employees.

9. Termination

This agreement shall automatically terminate on _____, 19____, and shall remain in effect until such date unless terminated

2. The voluntary or involuntary dissolution of the Firm;

3. The bankruptcy or insolvency of the Firm.

10. Trade Secrets

10.1 For the purpose of this Agreement, "trade secrets" shall mean (a) any information that is used in the Firm's business and that derives independent economic value from not being generally known to the public or to persons who can obtain economic value from its development or use, and (b) the Firm's information encompassed in all client files, computer printouts, manuals, plans, proposals, marketing and sales plans, financial information, costs, pricing information, client lists, and all concepts or ideas on or reasonable related to the business of the Firm that have not been publicly released by duly authorized representatives of the Firm (except Lawyer's personal files and form files).

10.2 Lawyer agrees to regard and preserve as confidential information all trade secrets pertaining to the Firm's business that have been or may be obtained by Lawyer by reason of his services for the Firm. Lawyer further agrees that he shall not, without written authorization from the Executive Committee of the Firm, use for his own benefit or purposes or disclose to others, either during the term of this Agreement or thereafter, any trade secret or other confidential information connected with the business or other development of the Firm. Lawyer agrees that he shall not remove the Firm's document, client files, computer printouts, manuals, plans, proposals, reports,

strictly in accordance with any of the following provisions:

9.1 The Firm may terminate this Agreement at any time upon thirty (30) days' prior written notice to Lawyer.

9.2 Lawyer may terminate this Agreement at any time upon thirty (30) days' prior written notice to any member of the Executive Committee of the Firm.¹³

9.3 This Agreement shall automatically terminate on the occurrence of any of the following events;

1. The death, disability or incapacity of Lawyer.

studies, client lists, or other documents or things at all related to or connected with the Firm's trade secrets (except Lawyer's personal files and form files). Lawyer further agrees to be bound by Section _____ of the Partnership Agreement, regarding files of the Firm.

11. Integration Agreement

Except as otherwise provided in the Partnership Agreement, this Agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties. No amendments to this Agreement, except as expressly provided herein to the contrary, may be made except by a writing signed by both parties.

12. No Waiver

No waiver by the Firm or any term, provision or condition of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or be construed as a further continuing waiver by the Firm of any such term, provision, or condition of the Agreement.

13. Partial Invalidity

In the event that any provision of this agreement shall be held to be unenforceable, invalid, or inoperative for any reason, the validity of the remainder of the terms and provision of this Agreement shall not be affected thereby in any respect.

14. Arbitration

14.1 In any case disagreement, difference, or controversy shall arise between Lawyer, his heirs, executors, or administrators and the Firm with respect to any matter in relation to or arising out of or under this Agreement, whether as to the construction or operation thereof, or the respective rights and liabilities of the Firm or otherwise, and the parties to the controversy cannot mutually agree as to the resolution thereof, then such disagreement, difference, or controversy shall be determined by arbitration under the commercial arbitration rules of the American Arbitration Association.

14.2 The power hereby given to the arbitrators shall not terminate or be recovered by the death of Lawyer, and the arbitrators shall proceed with the arbitration notwithstanding such death. Any award made by a majority shall be final, binding, and conclusive upon all parties and those claiming under them. The arbitrators shall have no power to make any award inconsistent with or contrary to the terms and provisions of this Agreement. The cost and expensed of any arbitration shall be borne and paid as the arbitrators shall, by their award, direct.

14.3 The submission to arbitration in accordance with the requirements of this Section 14 of any and all agreements, differences, or controversies that may arise hereunder is made a condition precedent to the institution of any action at law or in equity with respect to the controversy involved, and no such action at law or equity shall be instituted by anyone until after an award has

been made by the arbitrators and shall be restricted solely to the subject matter of the challenge of such award on the grounds and only in the manner permitted by law. Such action at law shall not be a trial de novo as to the merits but shall be restricted to a challenge of the award on such grounds as are permitted by law.

15. Notices

15.1 Any notice to the Firm required or permitted hereunder shall be given in writing to the Firm, either by personal service or by registered or certified mail, postage prepaid, duly addressed to the Firm c/o the Executive Committee of the Firm at its Anystate office, with a copy to the "Administrative Partner in Anytown." Any such notice to Lawyer shall be given in a like manner and, if mailed, shall be addressed to Lawyer at the last known address shown in the files of the Firm.

15.2 Any such notice to either party so deposited in the mail shall be deemed for all purposes of this Agreement to have been given forty-eight (48) hours after such deposit.

IN WITNESS WHEREOF, the parties hereby execute this Agreement, as of the date hereof.

DATED: _____

DATED: _____

Appendix A Notes

¹ Some states require Of Counsel to be licensed to practice in the same state where the firm is located. See Chapter 3.

² Formal Opinion 330 precludes Of Counsel's status from being like that of a partner. See Chapters 2, 4, and 5.

³ Including this type of provision may expose Of Counsel to partnership liability. See Chapters 4 and 9.

⁴ Requiring work to be performed on the employer's premises may indicate an employer-employee relationship. See Chapter 4.

⁵ See Chapter 4.

⁶ Requiring Of Counsel to work full-time may indicate an employer-employee relationship. See Chapter 4.

⁷ See Chapter 4.

⁸ See Chapters 4 and 5.

⁹ See Chapter 4.

¹⁰ For a discussion of errors and omissions insurance coverage and its effect on Of Counsel status, see Chapter 5.

¹¹ A blanket characterization as "employee" may not guarantee employee status, particularly where the agreement uses partnership traits.

¹² For a discussion of employee benefits and Of Counsel's status, see Chapter 5.

¹³ A termination clause is a common provision. See Chapter 5.