

# BOARD MEMBER AGREEMENT

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This Board Member Agreement (this "**Agreement**") is entered into as of **[EFFECTIVE DATE]** (the "**Effective Date**") by and between:

**[COMPANY LEGAL NAME]**, a **[STATE] [ENTITY TYPE, e.g. corporation]** with its principal place of business at **[COMPANY ADDRESS]** (the "**Company**"); and

**[DIRECTOR NAME]**, an individual residing at **[DIRECTOR ADDRESS]** (the "**Director**").

The Company and the Director are each a "**Party**" and together the "**Parties**."

**Recitals.** The Director has been **[appointed / elected]** to serve on the Company's board of directors (the "**Board**") and is willing to serve on the terms below. This Agreement supplements, and does not replace, the Company's certificate of incorporation, bylaws, and applicable corporate law, which together govern the duties, rights, and removal of directors. In consideration of the mutual promises below, the Parties agree as follows.

## 1. Appointment and Service

**1.1 Position.** The Director will serve as a member of the Board, effective as of the Effective Date, subject to the Company's certificate of incorporation, bylaws, and applicable law. The Director **[will / will not]** serve as **[Chair / committee member of [COMMITTEE]]**.

**1.2 Acceptance.** The Director accepts the appointment and agrees to discharge the duties of a director in good faith and in a manner the Director reasonably believes to be in the best interests of the Company and its shareholders.

**1.3 Governing documents control.** If any provision of this Agreement conflicts with the Company's certificate of incorporation, bylaws, or applicable law, those governing documents and the law control.

## 2. Duties and Responsibilities

**2.1 Fiduciary duties.** The Director owes the Company the fiduciary duties of care and loyalty, including the duty to act in good faith, to exercise reasonable care, and to avoid conflicts of interest, in each case as defined by applicable law.

**2.2 Participation.** The Director will use reasonable efforts to: (a) attend and prepare for meetings of the Board and any committee on which the Director serves; (b) review materials provided in advance of meetings; and (c) be reasonably available for Company matters between meetings.

**2.3 Confidential governance.** The Director will keep Board deliberations, materials, and Company Confidential Information (as defined in Section 6) confidential, and will support Board decisions properly adopted, even those the Director did not favor.

2.4 **Compliance.** The Director will comply with the Company's governance policies, including any code of conduct, insider-trading policy, and related-party transaction policy, and with applicable securities and corporate law.

### 3. Independence and Conflicts of Interest

3.1 **Disclosure.** The Director will promptly disclose to the Board any actual or potential conflict of interest, including any interest in a transaction with the Company or any relationship with a competitor, customer, or supplier.

3.2 **Recusal.** The Director will recuse the Director from voting on, and where appropriate from deliberations regarding, any matter in which the Director has a conflict of interest, as required by the Company's policies and applicable law.

3.3 **Corporate opportunities.** The Director will present to the Company business opportunities that come to the Director in the Director's capacity as a director and that fall within the Company's line of business, to the extent required by applicable law and the Company's governing documents.

### 4. Term and Resignation

4.1 **Term.** The Director's term begins on the Effective Date and continues until the Director's successor is elected and qualified, or until the Director's earlier resignation, removal, death, or disqualification, in accordance with the Company's bylaws and applicable law.

4.2 **Resignation.** The Director may resign at any time by written notice to the Board. The resignation is effective on receipt or at the later time stated in the notice.

4.3 **Removal.** The Director may be removed in accordance with the Company's certificate of incorporation, bylaws, and applicable law. This Agreement does not limit any removal right.

4.4 **Effect of departure.** On the end of the Director's service, the Director will return Company property and Confidential Information and will reasonably cooperate in transitioning Board responsibilities.

### 5. Compensation and Expenses

5.1 **Director compensation.** The Company will compensate the Director as follows: **[cash retainer of [AMOUNT] per [period] / equity award of [NUMBER OF SHARES / PERCENT] subject to the Company's equity plan and a separate grant agreement / no cash compensation]**. Equity, if any, vests as stated in the grant agreement, which controls regarding the equity.

5.2 **Expense reimbursement.** The Company will reimburse the Director for reasonable, documented out-of-pocket expenses incurred in attending meetings and performing Board duties, in accordance with Company policy.

5.3 **Taxes.** The Director is responsible for the Director's own taxes on compensation received. The Director serves as a director and not as an employee unless separately agreed.

### 6. Confidentiality

6.1 **Confidential Information.** "Confidential Information" means non-public information the Director learns in connection with Board service, including financial information, business and strategic plans, Board materials and deliberations, personnel matters, and customer and investor information.

**6.2 Obligations.** The Director will hold Confidential Information in confidence, use it only to perform Board duties, and not disclose it to any third party, including the Director's other affiliations, during and after the term, until the information ceases to be confidential through no fault of the Director.

**6.3 Exclusions and compelled disclosure.** Confidentiality obligations do not apply to information that is or becomes public through no fault of the Director or is independently known. The Director may disclose Confidential Information to the extent required by law or legal process, after giving the Company prompt notice where legally permitted.

## 7. Indemnification and Insurance

**7.1 Indemnification.** The Company will indemnify and hold harmless the Director to the fullest extent permitted by the Company's certificate of incorporation, bylaws, and applicable law for claims arising from the Director's service on the Board, including advancement of expenses where permitted. **[A separate, more detailed indemnification agreement is strongly recommended — discuss with counsel.]**

**7.2 D&O insurance.** The Company will use reasonable efforts to maintain directors' and officers' liability insurance covering the Director on terms no less favorable than those provided to the Company's other directors, for so long as the Director serves and for a reasonable tail period thereafter.

**7.3 No personal liability beyond law.** Nothing in this Agreement expands the Director's personal liability beyond what applicable law imposes, and the Director is entitled to all protections, including any exculpation, available under the Company's governing documents and law.

## 8. Representations

**8.1 Director representations.** The Director represents that (a) the Director is not subject to any agreement or legal restriction that would prevent serving on the Board, and (b) the Director's service will not breach any duty owed to a third party.

**8.2 No guarantee of re-election.** This Agreement does not guarantee the Director continued service, re-election, or any minimum term, all of which remain subject to the Company's governing documents and shareholder action.

## 9. General Provisions

**9.1 Governing law and venue.** This Agreement is governed by the laws of the State of **[STATE]** (and, as to internal corporate matters, the law of the Company's state of incorporation), without regard to conflict-of-laws rules. The Parties submit to the jurisdiction of the state and federal courts located in **[COUNTY, STATE]**.

**9.2 Survival.** Sections 6, 7, and 9, and any accrued obligations, survive the end of the Director's service.

**9.3 Assignment.** This Agreement is personal to the Director and may not be assigned by the Director. The Company may assign it to a successor.

**9.4 Notices.** Notices must be in writing and sent to the addresses above (or as updated in writing) and are effective on receipt.

**9.5 Entire agreement; amendment.** This Agreement, together with the Company's governing documents, any indemnification agreement, and any equity grant, is the entire agreement between the Parties on its subject. It may be amended only by a writing signed by both Parties.

**9.6 Severability and waiver.** If any provision is unenforceable, the rest remains in effect. A Party's failure to enforce a provision is not a waiver.

9.7 **Counterparts and electronic signature.** This Agreement may be signed in counterparts and by electronic signature, each of which is an original and all of which together form one agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the Effective Date.

**COMPANY**

**DIRECTOR**

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

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

Printed name: **[NAME]**

Printed name: **[NAME]**

Title: **[TITLE]**

Title: N/A

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

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

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