**Employee Retention Agreement**

THIS EMPLOYEE RETENTION AGREEMENT is made on [Insert Date] by and between [Insert Company Name] of [Insert Company Address] (hereinafter the “Company”) and [Insert Employee Name Name] of [Insert Employee Address] (hereinafter the “Employee”), with reference to the following facts:

**RECITALS**

It is expected that the Company may from time to time consider the possibility of an acquisition by another company or other change of control. The Board of Directors of the Company (the "Board") recognizes that such consideration can be a distraction to the Employee and can cause the Employee to consider alternative employment opportunities. The Board has determined that it is in the best interests of the Company and its stockholders to assure that the Company will have the continued dedication and objectivity of the Employee, notwithstanding the possibility, threat, or occurrence of a Change of Control of the Company. The Board believes that it is in the best interests of the Company and its stockholders to provide the Employee with an incentive to continue his employment and to motivate the Employee to maximize the value of the Company upon a Change of Control for the benefit of its stockholders. In consideration of the mutual covenants herein contained, and in consideration of the continuing employment of Employee by the Company, the parties agree as follows:

**I. Cash Retention Bonus.**

**1. Retention Bonus Trigger.**

In the event of a Change of Control (as defined below) occurring within 0 months of the Effective Date of this Agreement, the Employee shall be entitled to receive a lump sum cash payment equal to $0.00 (the "Retention Bonus") provided that the employee meets the eligibility requirements set forth herein.

**2. "Change of Control" Defined.**

For purposes of this Agreement, the term "Change of Control" shall mean (i) a corporate reorganization of the Company which results in the stockholders of the Company immediately prior to such reorganization owning less than 50% of the combined voting power of the capital stock of the surviving company immediately following such reorganization, or (ii) the sale of all or substantially all of the assets of the Company.

**3. Retention Bonus Eligibility.**

Employee shall be eligible to receive the Retention Bonus if:
Employee is employed by the Company as of the date of closing (the "Closing Date") of an event which constitutes a Change of Control (regardless of whether the Employee is terminated by the Company or its successor, or terminates his or her employment with the Company or its successor, following the Closing Date);
Employee's employment is terminated by the Company without Cause (as defined below) prior to the Closing Date;

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**4. Payment of Retention Bonus.**

The Retention Bonus will be paid to Employee not later than 0 business days after the Closing Date.

**5. Termination for "Cause" Defined. For purposes of this Agreement, the term "Cause" shall mean:**

a. Conviction of a crime involving moral turpitude;
b. Employee's neglect or inadequate performance of his duties as determined at any time in the sole and absolute discretion of the Board of Directors
c. Employee's breach of this Agreement or malfeasance in connection with his employment; or
d. Employee personally engaging in knowing and intentional illegal conduct which is seriously injurious to the Company or its affiliates.

**II. Miscellaneous.**

**1. Term of Agreement.**

The terms of this Agreement shall be effective for 0 months from the Effective Date; provided, however, that if the Employee is terminated by the Company for Cause or voluntarily terminates his employment with the Company at any time prior to the Closing Date, this Agreement shall expire on the effective date of such termination and the Company shall have no further obligations under this Agreement, including no obligation to pay the Retention Bonus.

**2. Withholding.**

The Company shall make such deductions, withholdings, and other payments from all sums payable to Employee pursuant to this Agreement which is required by law or as Employee requests for taxes and other charges.

**3. Arbitration.**

Any controversies or disputes arising out of or relating to this Agreement shall be resolved by binding arbitration in accordance with the then-current Arbitration Rules of the American Arbitration Association. The parties shall select a mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location that is reasonably centrally located between the parties or otherwise mutually agreed upon by the parties. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made available to the other party for review and copying no later than 30 days after the notice of arbitration is served. The arbitrator(s) shall not have the authority to modify any provision of this Agreement or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The agreement to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Agreement.

**4. Assignment.**

Neither party may assign or transfer this Agreement without the prior written consent of the non-assigning party, which approval shall not be unreasonably withheld.

**5. Waiver of Contractual Right.**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**6. Severability.**

If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**7. Governing Law.**

This Agreement shall be construed in accordance with the laws of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**8. Counterparts.**

This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**9. Attorneys' Fees.**

In the event any party hereto commences arbitration or legal action to enforce this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees, costs, and expenses incurred in such action.

**10. Entire Agreement.**

This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Agreement. This Agreement supersedes any prior written or oral agreements between the parties.

**11. Amendment.**

This Agreement may be modified or amended in writing if the writing is signed by the party obligated under the amendment.

**12. Signatures.**

This Agreement shall be signed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on behalf of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth.

EMPLOYEE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date

EMPLOYER:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date
By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, its \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_