

**LETTER AGREEMENT**

**DATE:** \_\_\_\_\_, 20\_\_ (“Effective Date”)

**BETWEEN:**

Investee (“**Entrepreneur**”)

\_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

**AND,**

Investor (“**Investor**”)

\_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, this Letter Agreement (“Agreement”) is entered into effective \_\_\_\_\_, 20\_\_:

1. Definitions.

- 1.1 “Annual Return Payment” means an amount equal to \_\_\_\_\_ percent (\_\_\_%) of Entrepreneur’s Gross Annual Income for each 12-month period beginning on January 1 and ending on December 31, with any partial year being prorated based on number of days.
- 1.2 “Appreciation” means (i) the FMV of each non-liquid asset of Entrepreneur at any given time after the date of this Agreement minus (ii) the FMV of each non-liquid asset of Entrepreneur as of the date of this Agreement (or the date of acquisition of such non-liquid asset, if after the date hereof), as set forth on Schedule A to this Agreement. For the purpose of clarity, “Appreciation” for a non-liquid asset may be a negative number.
- 1.3 “FMV” means fair market value. The fair market value of any asset shall be determined by agreement of the parties. If the parties are unable to reach agreement on the fair market value of any asset, determination of such fair market value shall be determined by a third party appraiser reasonably agreed to by the parties.
- 1.4 “Gross Annual Income” means the total gross income of Entrepreneur listed on line 22 of IRS Form 1040, as amended from time to time (or a successor form).
- 1.5 “Investment Amount” means an amount equal to \_\_\_\_\_ THOUSAND DOLLARS (\$\_\_\_\_,000.00).
- 1.6 “Non-cash Income” means the net Appreciation on all non-liquid assets of Entrepreneur, including, without limitation, all ownership interests in entities (e.g., corporations, limited liability companies, partnerships, joint ventures), real estate holdings, securities, etc. Entrepreneur shall list all of his *{her}* nonliquid assets as of the date of this Agreement on his PFS, which shall be attached as Schedule B, and Schedule B shall be updated as of December of each year and delivered to

Investor on or before May 1 of the following year, in connection with the delivery of the PFS (defined herein).

- 1.7 “Non-liquid Assets” means all assets of Entrepreneur, subject to the following:
- (a) Assets with a purchase price of \$5,000 or less shall be excluded from the definition of “Non-liquid Assets, unless such assets are (i) generally known to be collectible items that appreciate over time such as baseball cards, comic books, art, furniture, fine wine, jewelry, and similar items, in which case such items, regardless of the purchase price of such asset, shall be treated as Non-liquid Assets.
  - (b) Assets that would normally be included on a typical PFS under Generally Accepted Accounting Principles, consistently applied, shall be included in the definition of “Non-liquid Assets” regardless of purchase price (e.g., significant office equipment, copyright and other intellectual property rights, going concern, receivables, prepaids, etc.) shall be listed on the PFS and treated as a Non-liquid Asset.
  - (c) If at any time an asset that would not otherwise be considered a Non-liquid Asset because it has a purchase price of less than \$\_\_\_\_,000 (pursuant to subsection (a) above) appreciates to an FMV in excess of \$\_\_\_\_,000 it shall be thereafter be considered a Non-liquid Asset.
- 1.8 “Option” means the right of Entrepreneur to terminate this Agreement by notification of his *{her}* intent to do so and by payment of the Termination Amount. The Option may be exercised by delivering written or email notice of the intent to do so to Investor at the address listed above and payment in full of the Termination Amount.
- 1.9 “PFS” means the most recent unaudited, compiled personal financial statement of Entrepreneur prepared by a reputable certified public accountant, which shall be updated at least once per year and delivered to Investor on or before May 1 of each year.
- 1.10 “Termination Amount” means an amount equal to \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_.00) plus \_\_\_\_ percent (\_\_\_%) of the Non-cash Income as determined on the date that is 365 days following the date of notice of exercise of the Option.
2. Investment in Entrepreneur. In consideration of the terms and conditions contained herein, Investor shall each provide to Entrepreneur the Investment Amount, payable in immediately available funds pursuant to Section 3. The Investment Amount shall be provided without restrictions on use. That is, Entrepreneur may use the Investment Amount for any purpose; however, it is the parties’ expectation and intention that Entrepreneur will use the Investment Amount for income generating projects and/or retirement of personal debt.
3. Payment of Investment Amount. The Investment Amount shall be payable by Investor as follows:
- 3.1 Investor. Investor shall pay the Investment Amount on the terms and conditions set form in Schedule A.

- 3.2 Early Payment. Notwithstanding anything in Section 3.1 Investor may, but shall not be obligated to, make any payments required pursuant hereto in advance of the due date for such payment.
4. Ongoing Obligation of Entrepreneur. In consideration of the investment in Entrepreneur pursuant to Section 2, on or before May 1 of each year of the Term, Entrepreneur shall pay to Investor the Annual Return Payment for the prior year.
5. Term. This Agreement shall commence on the date first set forth above and shall continue until the day that is 365 days after notice of exercise of the Option, provided the Termination Amount has been paid in full by such date. Unless and until the Termination Amount has been paid in full, this Agreement shall remain in full force and effect in accordance with its terms until \_\_\_\_\_ 1, 21\_\_; provided, however, that, notwithstanding the foregoing, this Agreement is subject to early termination as follows:
- 5.1 This Agreement shall terminate 365 days following the date of death of Entrepreneur and payment of a final payment equal to the sum of the Annual Return Payment for such 365 day period plus \_\_\_% of the Non-cash Income as of such date.
- 5.2 If a doctor designated mutually by Entrepreneur (or Entrepreneur's estate if Entrepreneur is not then able of indicating his selection), Investor concludes that Entrepreneur is permanently disabled, this Agreement shall terminate 730 days following the date of such determination.
- 5.3 If Investor defaults in his {her} obligation to pay the Investment Amount as and when due under Section 3.1 or Section 3.2 respectively, Entrepreneur shall have the option to either (A) terminate this Agreement and repay to Investor all amounts paid by Investor to Entrepreneur, without interest or premium, within 180 days of Entrepreneur's election of this option and, at the time of such repayment, this Agreement shall terminate and each parties' rights and obligations hereunder shall terminate; or (B) if Entrepreneur does not elect to terminate this Agreement pursuant to (A) of this Section 5.3, this Agreement shall continue; in accordance with its terms unless and until terminated by Entrepreneur; provided, however, that (i) Entrepreneur shall be entitled to exercise the option to terminate so long as Investor is in default and (ii) Investor shall have the right to remedy such default at any time and become current on payment of the Investment Amount so long as the Agreement has not been terminated, in which case Entrepreneur may no longer terminate this Agreement pursuant to (A) of this Section 5.3. Entrepreneur's sole remedy for failure of Investor to pay the Investment Amount shall be termination of this Agreement pursuant to this Section 5.3. If the Agreement is terminated pursuant to Section 5.1 or Section 5.2, neither Entrepreneur, nor his/her estate, as the case may be, shall be obligated to repay the Termination Amount, and subject to payment of any amounts due prior to termination, the Agreement and all obligations hereunder shall terminate.
6. General Provisions.
- 6.1 Consistent Reporting. Each party agrees to treat payment of the Investment Amount, the Annual Return Payment and the Termination Amount consistently for financial accounting purposes and tax reporting purposes. The parties shall reasonably coordinate and discuss proper treatment of such transactions. Investor ("Indemnitor") agrees to indemnify, defend and hold Entrepreneur

harmless from any tax liability, costs, expenses, liabilities, obligations, penalties, actions, judgments, suits, claims, and disbursements (including, without limitation, the reasonable fees and expenses of counsel for Entrepreneur in connection with any investigative, administrative or judicial proceeding) (collectively, "Losses"), which may be imposed on, incurred by, or asserted against Entrepreneur in any matter related to the tax treatment of the payment to Entrepreneur of the Investment Amount hereunder, including, without limitation, any and all liability for taxes, duties, levies ("Taxes") on the Investment Amount as income to Entrepreneur and all Losses related to or arising from such Taxes. The parties acknowledge that the foregoing indemnification is limited exclusively to Losses that directly and solely relate to the Federal or state tax treatment of Entrepreneur's receipt of the Investment Amount and for no other Losses experienced by Entrepreneur, whether pursuant to this Agreement or otherwise.

- 6.2 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state of \_\_\_\_\_, exclusive of choice-of-laws provisions.
- 6.3 Assignment. No party may assign such party's rights or obligations under this Agreement without the consent of all parties hereto.
- 6.4 Amendment; Waiver. This Agreement may not be amended, supplemented, canceled or discharged, except by written instrument executed by the party against whom enforcement is sought. No failure to exercise, and no delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof. No waiver of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision.

This Agreement is executed as of the date first set forth above.

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Investor

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Entrepreneur

Schedule A  
TERMS AND CONDITIONS OF PAYMENT OF INVESTMENT AMOUNT

*(The terms, conditions, and dates of payment of the investment amount are determined jointly between the Investor and Entrepreneur)*

Schedule B  
PERSONAL FINANCIAL STATEMENT  
(attached)