

# BUSINESS PURCHASE AGREEMENT

1. **THE PARTIES.** This Business Purchase Agreement (the "Agreement") is dated as of \_\_\_\_\_ (mm/dd/yyyy) (the "Effective Date") and is made and entered into by and between:

**Buyer:** \_\_\_\_\_ (Buyer name), with a mailing address of \_\_\_\_\_, (the "Buyer"), and

**Seller:** \_\_\_\_\_ (Seller name), with a mailing address of \_\_\_\_\_, (the "Seller").

The Buyer and Seller shall be collectively known as the "Parties."

IN CONSIDERATION of the provisions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the Parties agree as follows:

2. **DESCRIPTION OF BUSINESS.** The Seller agrees to sell the following business entity and all its Assets, excluding those listed in Section 4, to the Buyer:

Business Entity Name: \_\_\_\_\_ (the "Business").

Business Type:

- ☐ - Corporation
- ☐ - Limited Liability Company (LLC)
- ☐ - Partnership
- ☐ - Limited Partnership (LP)
- ☐ - Limited Liability Partnership (LLP)
- ☐ - Sole Proprietorship
- ☐ - Other: \_\_\_\_\_.

Entity Mailing Address: \_\_\_\_\_

State of Incorporation/Organization: \_\_\_\_\_

Business Description: \_\_\_\_\_

3. **ASSETS.** The Assets of the Business include, but are not limited to, the furniture, fixtures, equipment, parts and supplies, leasehold interest, and the goodwill of the business together with the exclusive right to the Buyer to represent itself as carrying on business in succession to the Seller. A complete list of the Assets is detailed in Exhibit A attached hereto (the "Assets").

**4. EXCLUDED ASSETS.** The Seller will not sell, assign, transfer, convey, or deliver the following assets to the Buyer: (check one)

☐ - Some excluded assets of the Business, which are as follows:

\_\_\_\_\_.

☐ - All assets set forth in Exhibit B attached hereto.

☐ - Not applicable.

**5. PURCHASE PRICE.** The purchase price of the Business shall be \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Purchase Price").  
The Purchase Price shall be paid to the Seller in the following manner: (check one)

☐ - To be paid at Closing, less any Deposit paid in Section 6, using the following payment method(s): (check all that apply)

☐ - Wire

☐ - Cash

☐ - Check

☐ - Other: \_\_\_\_\_.

☐ - To be paid with Owner Financing provided by the Seller in accordance with the following payment structure:

a) Down Payment (at Closing): \$\_\_\_\_\_

b) Interest Rate: \_\_\_\_\_%

c) Term: \_\_\_\_\_ ☐ Months ☐ Years

d) Payment Due: On the \_\_\_\_\_ of every month.

**6. DEPOSIT.** As part of this Agreement, the Seller: (check one)

☐ - Requires a deposit in the amount of \$\_\_\_\_\_ (the "Deposit"). The Deposit must be paid within \_\_\_\_\_ days from the Effective Date of this Agreement.

☐ - Does NOT require a deposit. The Buyer's consideration shall be their full-faith commitment to purchase the Business under the terms of this Agreement.

**7. CLOSING.** The closing shall occur on \_\_\_\_\_ (mm/dd/yyyy) at \_\_\_\_\_  
☐ AM ☐ PM or earlier at an agreed upon location by the Parties (the "Closing"). Any extension of the Closing must be agreed upon, in writing, by Buyer and Seller.

a) Closing Costs. All costs associated with the Closing shall be the responsibility of: (check one)

☐ - The Buyer

☐ - The Seller

☐ - Both Parties bearing their own expenses.

- b) Period Until Closing. Until the Closing, the Seller assumes all risk of loss, damage, or destruction to the Assets subject to this Agreement. If the Assets are damaged or lost prior to the Closing that their valuation is affected, the Seller agrees to negotiate, in good faith, a reasonable reduction in the Purchase Price due to such loss. The Parties shall have \_\_\_\_\_ days to negotiate such loss of value or this Agreement shall be considered void with any Deposit made by the Buyer to be refunded.

**8. DUE DILIGENCE PERIOD.** The Buyer: (check one)

- ☐ - Requires a due diligence period to inspect the finances and agreements of the Entity. The decision as to whether the Business is suitable for its intended purposes shall be the sole decision of the Buyer, determined in the absolute discretion of the Buyer, with the Buyer's decision being final and binding upon the Parties. The Buyer shall have until \_\_\_\_\_ (mm/dd/yyyy) at \_\_\_\_\_  
☐ AM ☐ PM to notify the Seller of its termination of this Agreement (the "Inspection Period"). If the Buyer decides to terminate this Agreement during the Inspection Period, any Deposit made shall be returned to the Buyer.
- ☐ - Does NOT require a due diligence period to review the finances and agreements of the Business.

**9. MEDIATION AND ARBITRATION.** If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If the dispute is not resolved through mediation, the parties agree to submit the dispute to binding arbitration under the rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator may be entered in any court with jurisdiction to do so. The prevailing party shall be entitled to recover its costs and reasonable attorney's fees. Mediation and arbitration shall take place in \_\_\_\_\_ County, State of \_\_\_\_\_.

**10. NON-COMPETE.** The Parties hereby agree that the Seller:

- ☐ - CANNOT engage in any business activity similar to that of the Business in any capacity for a period of \_\_\_\_\_ years, \_\_\_\_\_ months after the Closing. This includes providing similar industry products and services, engaging in a business, either directly or indirectly, as an owner, partner, manager, or agent, becoming an employee of any third party that is engaged in such a business, and soliciting customers and clients of the Business for the benefit of a third party that is engaged in such a business.
- ☐ - CAN engage in any business activity similar to that of the Business.

**11. REPRESENTATIONS AND WARRANTIES OF SELLER.** To induce the Buyer to enter into and perform its obligations under this Agreement, the Seller hereby represents and warrants to the Buyer, and covenants with the Buyer, as follows:

- a) Capacity. The Seller has all requisite power, authority, and capacity to enter into this Agreement. The execution, delivery, and performance of this Agreement by the Seller does not, and the consummation of the transaction contemplated hereby will not, result in a breach of or default under any agreement to which the Seller is a party by which the Seller is bound.
- b) Binding Agreement. This Agreement has been duly and validly executed and delivered by the Seller and constitutes the Seller's valid and binding agreement, enforceable against the Seller in accordance with and subject to its terms.
- c) Title to Business. The Seller is the lawful, record and beneficial owner of the Business and all its assets, free and clear of any liens, claims, agreements, charges, security interests and encumbrances whatsoever. The sale, conveyance, assignment, and transfer of the Business in accordance with the terms of this Agreement transfers to the Buyer legal and valid title to the Business, free and clear of all liens, security interests, hypothecations, or pledges.
- d) Taxes. The Seller claims that all taxes related to the Business have been paid in full.
- e) Insurance. If there is any insurance on the Assets, the Seller agrees to provide the Buyer with a copy of the current insurance policy, if any, to the Buyer within a reasonable time period. The Buyer has the option to assume the policy subject to the insurer's approval.
- f) Outstanding Suits. There are no actions, suits, proceedings, or investigations pending or, to the knowledge of the Seller, threatened against or involving the Seller or brought by the Seller or affecting the Business in any way at law or in equity or admiralty or before any Federal, State, Municipal, or other governmental department, commission, board, agency, or instrumentality, domestic or foreign, nor has any such action, suit, proceeding, or investigation been pending during the preceding date hereof.

**12. REPRESENTATIONS AND WARRANTIES OF BUYER.** To induce the Seller to enter into and perform their obligations under this Agreement, the Buyer represents and warrants to the Seller as follows:

- a) Capacity. The Buyer has all requisite power, authority, and capacity to enter into this Agreement. The execution, delivery, and performance of this Agreement by the Buyer does not, and the consummation of the transaction contemplated hereby will not, result in a breach of or a default under any agreement to which the Buyer is a party or by which the Buyer is bound.
- b) Judgments. There are no judgments, proceedings, or liens that against the Buyer that would adversely affect their ability to perform their obligations under this Agreement.
- c) Disclosure. The Buyer is aware of the risks involved in purchasing the Business and accepts that its value can change rapidly and unpredictably.

**13. PARTIES' REPRESENTATIONS.** The Parties represent and agree to the following:

- a) Compliance with Agreement. The representations and warranties of the Seller contained in this Agreement, or any certificate or document delivered pursuant to the provisions hereof or in connection with the transactions contemplated hereby, shall be true on and as of the Closing as though such representations and warranties were made at and as of such date, except if such representations and warranties shall be true as of such date.
- b) Injunction. On the day of Closing, there shall be no effective injunction, writ, preliminary restraining order, or any order of any nature issued by a court of competent jurisdiction directing that the transactions provided for herein or any of them not to be consummated as herein provided.
- c) Buyer's Approval. All actions, proceedings, instruments, and documents required to carry out this Agreement, or incidental thereto, and all other related legal matters shall have been approved by counsel for the Buyer.
- d) Casualty. The Assets, or any substantial portion thereof, shall not have been adversely affected in any material way as a result of any fire, accident, flood, or other casualty or act of God or public enemy, nor shall any substantial portion of the purchased property have been stolen, taken by eminent domain, or subject to condemnation. If the Closing occurs hereunder despite such casualty as a result of the waiver of this condition by the Buyer, the Seller shall assign or pay over to the Buyer the proceeds of any insurance or any condemnation proceeds with respect to any casualty involving the Assets that occur after the date hereof.
- e) Adverse Change. Between the date of this Agreement and the Closing, there shall be no material adverse change of the Business.

**14. SELLER'S INDEMNIFICATION.** The Seller agrees to jointly and severally indemnify and hold the Buyer, and assigns, harmless from any and all claims of any nature whatsoever, including without limitation:

- a) Claims. Tort claims and claims made by creditors; and
- b) Taxes. Claims that may be made hereinafter on account of Federal and State taxes, including, but not limited to, sales taxes, franchise taxes, unemployment taxes, Social Security taxes, excise taxes, and any other taxes of any nature or form on account of the Buyer ending on and accruing up to the Closing.

**15. ACCESS TO INFORMATION:** After the execution of this Agreement, the Buyer shall have full access to any and all information in reference to the Business. The Buyer shall maintain a fiduciary duty to keep the information that it obtains confidential and agrees to not share with any third (3rd) party unless the Seller gives their written consent.

**16. RETURN OF MATERIALS.** Any information that is obtained by the Buyer through the Seller shall be returned if there is no Closing.

**17. CONFIDENTIALITY.** All negotiations regarding the Business between the Buyer and Seller shall be confidential and not to be disclosed with anyone other than respective advisors and internal staff of the Parties and necessary third (3rd) parties. No press, or other public releases, will be issued to the general public concerning the Business without the mutual

consent or as required by law, and then only upon prior written notice to the other party unless otherwise not allowed.

**18. SEVERABILITY.** In case any provision or wording in this Agreement shall be held invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**19. GOVERNING LAW.** This Agreement shall be construed, interpreted, and enforced in accordance with, and shall be governed by, the laws in the State of \_\_\_\_\_ without reference to, and regardless of, any applicable choice or conflicts of laws principals.

**20. ADDITIONAL TERMS & CONDITIONS.**

**21. ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding and agreement of the Parties relating to the subject matter hereof and supersedes any and all prior understandings, agreements, negotiations and discussions, both written and oral, between the Parties hereto with respect to the subject matter hereof.

**Buyer's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_

**Seller's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_

----- **WITNESSES (Optional)** -----

**Witness 1 Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_

**Witness 2 Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_