

State of _____

BUSINESS PURCHASE AGREEMENT

This Business Purchase Agreement (this "Agreement") is entered into as of the _____ day of _____, 20____ (the "Effective Date") by and among/between:

Seller(s): _____, (collectively the "Seller") and

Buyer(s): _____, (collectively the "Buyer").

WHEREAS, the Seller owns and operates a business known as _____ [Business name], a _____ [State]: (Check one)

- Corporation
- Sole proprietorship
- Limited liability company
- Partnership
- Limited partnership
- Limited liability partnership

located at _____ [Address] that engages in the business of: _____ [Description] (the "Business"); and

WHEREAS, the parties intend that the Seller shall sell to the Buyer the Business for the price, terms and conditions described below, and pursuant to the attachments and exhibits, if any, annexed to this main document.

NOW THEREFORE, for the reasons set forth, and in consideration of the mutual covenants and promises of the parties hereto, and intending to be legally bound, the Seller and the Buyer agree as follows:

1. Sale of Business. On the terms and subject to the conditions set forth in this Agreement, the Seller agrees to sell, assign, transfer, convey and deliver to the Buyer, and the Buyer agrees to purchase and acquire from the Seller all rights, title and interests of the Seller in and to the Business, including:

(Check one)

- The assets described in Exhibit A attached hereto.
- ALL inventory, receivables, equipment, patents, trademarks, licenses, business records, goodwill, going concern and other assets of the Business, whether tangible or intangible.
- The following assets only: (Check all that apply)
 - (a) Cash. Cash and cash equivalents of the Business on hand or in financial institutions.
 - (b) Receivables. Accounts receivable, notes receivable and other amounts owed or payable to the Business.
 - (c) Inventory. All inventory and works in progress, wherever located.



- (d) Intellectual Property. All intellectual property of the Business, including patents, copyrights, trade secrets, know-how, trademarks, software and other content created for the Business.
- (e) Goodwill. The Seller's goodwill and going concern with respect to the Business.
- (f) Licenses and Permits. All transferable licenses, permits, approvals, registrations, certificates and other authorizations relating to the Business.
- (g) Contracts and Other Agreement. All contracts and other agreements, including leases, supply contracts, purchase orders and other third-party contracts used in the operation of the Business.
- (h) Books and Records. All books, records, surveys, ledgers, files, documents, lists, reports and other related materials and data related to the Business.
- (i) Prepayments. All prepaid expenses paid by the Business.
- (j) Equipment and Fixtures. All equipment, fixtures, and other tangible assets of the Business.
- (k) Real Property. All real property, including all buildings, fixtures, structures, signage and improvements, owned by the Business.
- (l) Insurance. All insurance policies of the Business and claims, refunds or proceeds thereunder.
- (m) Tax Refunds. All refunds or claims for any federal, state, local or foreign taxes paid by the Business.
- (n) Subsidiaries and Investments. All membership or equity interests in any subsidiary, joint venture or other investment of the Business.
- (o) Personnel Records. All personnel records and files of employees of the Business.
- (p) Claims or Rights. All claims, causes of action or rights of recovery related to the Business.
- (r) Other: _____

2. Excluded Assets. Notwithstanding anything to the contrary in this Agreement, the Seller will not sell, assign, transfer, convey or deliver to the Buyer the following assets: (Check one)

- Not applicable.
 - Assets listed in Exhibit B attached hereto.
 - Excluded Assets: _____
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3. Assumed Liabilities. Unless otherwise specified herein, the Buyer agrees to assume and be responsible for: (Check one)

- The liabilities listed in Exhibit C attached hereto.
- ALL current liabilities incurred by the Seller in connection with the Business.
- The following liabilities only: (Check all that apply)
 - (a) Accounts Payable. All accounts payable of the Business.
 - (b) Accrued Payroll. All accrued payroll owed to employees of the Business or other amount owed in relation to any employee benefit plans.
 - (c) Employee-Related Expenses. All liabilities related to employees, including severance or costs associated with termination of employees.
 - (d) Tax Payable. Any taxes or liabilities relating to the Business or ownership of the Business.
 - (e) Environmental Liabilities. All liabilities and obligations related to environmental laws or regulations.



- (f) Contractual Obligations. All obligations and liabilities in connection with the contracts and other agreements included in the sale of the Business.
- (g) Accrued Other Business Expenses. All other current expenses and liabilities relating to the Business.
- (h) Other: _____

4. Excluded Liabilities. Notwithstanding anything to the contrary in this Agreement, the Buyer will not assume or be liable for: (Check one)

- Not applicable.
- Any liabilities related to any excluded assets, in addition to the liabilities listed in Exhibit D attached hereto.
- Any liabilities related to any excluded assets, in addition to the following liabilities: _____

5. Purchase Price. Buyer will pay to the Seller the purchase price for the sale of the business in the total sum of \$_____ (the "Purchase Price"), payable by wire transfer: (Check one)

- At the time of closing.
- Including a deposit as follows:
 - (a) \$_____ at or before the signing of this Agreement, which sum shall be held in escrow and applied to the Purchase Price at the time of closing hereunder; and
 - (b) The remaining balance at the time of closing hereunder, subject however to any adjustments provided for in any other part of this agreement.

6. Allocation of Purchase Price. The Purchase Price shall be allocated in accordance with the Internal Revenue Code §1060: (Check one)

- As agreed upon by the parties within thirty (30) days of the closing date.
- As follows:

Asset	Value
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____
	\$ _____

7. Adjustments at Closing. (Check one)

- Not applicable.
- Adjustments shall be made at the time of closing as follows: _____



8. Closing Date. The sale and transfer of assets and the closing under this Agreement shall take place on _____, 20____ (the "Closing"). At that time Seller shall deliver possession of the tangible property and all assets included in the sale to the Buyer and all other instruments and documents necessary to transfer the Business and assets to Buyer. Seller shall at that time execute and deliver all papers and instruments suitable for filing and/or which are necessary to transfer ownership of the trade name to Buyer, and Seller shall thereafter cease to use said name in any manner or purpose. When that delivery is made to Buyer and when Seller receives the balance due on the Purchase Price, the sale by Seller to Buyer shall be completed and effective, and Buyer shall have ownership and possession of the Business and the assets.

9. Representations and Warranties of Seller. Seller represents and warrants that:

(Check all that apply)

- (a) Seller is duly qualified and organized, and is validly existing and in good standing, under the laws of its state of formation.
- (b) Seller has the requisite power and authority to enter into and perform under this Agreement.
- (c) Seller is the owner of and has good and marketable title to the property involved in this sale, free of all restrictions on transfer or assignment and all encumbrances except for those that are set forth in this Agreement.
- (d) Seller is not required to acquire any consents, approvals or authorizations by any governmental authority to execute, deliver and perform its obligations under this Agreement.
- (e) The execution and delivery of this Agreement by Seller will not conflict with or result in a violation of or default under any material agreements to which Seller is a party or create a lien upon the Business.
- (f) There are no proceedings, judgments, or liens are now pending or threatened against Seller or against the Business.
- (g) Seller has complied with all applicable federal, state, and local statutes, laws, and regulations affecting Seller's properties or the operation of Seller's business, and Seller has received no notice of a violation or citation same from any governmental agencies.
- (h) Seller has not otherwise contracted to sell, pledge, or mortgage all or part of the Business.
- (i) Seller has all necessary licenses and permits required to operate the Business.
- (j) Seller has paid all taxes, federal, state and local.
- (k) Seller has in full force and effect a general liability and casualty insurance policy in such amounts as are carried by similar companies.
- (l) Seller has presented to Buyer true, complete, and correct information and documents regarding the Business, and none of the information contains an untrue statement of material fact or omits to state a material fact.

10. Representations and Warranties of Buyer. Buyer represents and warrants that:

(Check all that apply)

- (a) Buyer is duly qualified and organized, and is validly existing and in good standing, under the laws of its state of formation.
- (b) Buyer has the requisite power and authority to enter into and perform under this Agreement.



- (c) Buyer is not required to acquire any consents, approvals or authorizations by any governmental authority to execute, deliver and perform its obligations under this Agreement.
- (d) There are no proceedings, judgments, or liens are now pending or threatened against Buyer that may effect of delay its purchase of the Business.
- (e) The execution and delivery of this Agreement by Buyer will not conflict with or result in a violation of or default under any material agreements to which Buyer is a party.
- (f) Buyer understands that Seller is making no other representations or warranties other than as provided in this Agreement.

11. Covenants. Between the signing of this Agreement and the date of the Closing:

- (a) Buyer shall have the right at any reasonable time prior to the Closing, at Buyer's expense, to inspect or have inspected by a certified public accountant or other financial expert, the books and records of the Business.
- (b) Seller will operate the Business in the usual and ordinary manner and will not enter into any contract except as may be required in the regular course of business.
- (c) Seller shall not remove or cause to be removed any inventory of the Business except upon sale in the ordinary course of business or in the event of return to a supplier for credit.
- (d) Seller will pay all taxes, federal, state and local.
- (e) Seller will not do anything to cause a violation or breach of any contracts relating to the Business.
- (f) Seller will pay and will not increase the salary or commissions of any employee, agent, or representative of the business.

12. Conditions Precedent. (Check one)

- Not applicable.
 - The Closing is subject to the satisfaction of the following conditions on or prior to the date of the Closing: _____
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13. Covenant Not to Compete. (Check one)

- Not applicable.
- Seller agrees to a non-compete.
 - (a) Seller shall not engage in a business similar to that involved in this transaction in any capacity, directly or indirectly, either as a principal, agent, manager, owner, partner, employee, officer, director, or stockholder of any company or corporation, or engage in or become interested financially or otherwise in any business, trade, or occupation similar to or in competition with the business sold hereunder, within a radius of _____ miles from the City of _____, for a period of _____ months years from the date of closing or so long as Buyer or his successors carry on a like business, whichever first occurs. The parties agree that this provision is an essential part of this Agreement and is material to the sale and purchase of Seller's business. For purposes of this Agreement, "business similar to that involved in this transaction" includes within its scope any of the following: _____.



(b) (Check if applicable, strike out if not)

The parties agree that Buyer shall have the right to assign this restrictive covenant in the event that Buyer sells the business, and Seller agrees to remain obligated by the covenant to any subsequent purchases from Buyer.

(c) Seller shall pay the sum of \$_____ to Buyer for each week in which or during which Seller may breach or violate the restrictive covenant not to compete contained herein. Buyer's receipt of such sums each week shall not be deemed a waiver or release of Buyer's rights to prevent further violations by seeking equitable relief in a court of law.

14. Notices. All notices given under this Agreement must be in writing. A notice is effective upon receipt and shall be sent via one of the following methods: delivery in person, overnight courier service, certified or registered mail, postage prepaid, return receipt requested, addressed to the party to be notified at the address designated by either party upon reasonable notice to the other party.

15. Amendment. This Agreement may be amended or modified only by a written agreement signed by both of the parties.

16. Survival of Terms. All covenants, warranties, and representations herein shall survive this Agreement and the closing date.

17. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns. Neither party may assign its rights or delegate its duties under this Agreement without the other party's prior written consent.

18. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of _____, without regard to the principles of conflict of laws.

19. Disputes. Any dispute arising from this Agreement shall be resolved through:

Court litigation. Disputes shall be resolved in the courts of the State of _____. Each party waives any objection to the laying of venue for any such suit, action or proceeding in such court.

(Check if applicable, strike out if not)

If either Party brings legal action to enforce its rights under this Agreement, the prevailing party will be entitled to recover from the other Party its expenses (including reasonable attorneys' fees) incurred in connection with the action and any appeal.

Binding arbitration. Binding arbitration shall be conducted in accordance with the rules of the American Arbitration Association.

Mediation.

Mediation, then binding arbitration. If the dispute cannot be resolved through mediation, then the dispute will be resolved through binding arbitration conducted in accordance with the rules of the American Arbitration Association.



EXHIBIT B



EXHIBIT C



EXHIBIT D

