

State of \_\_\_\_\_

# CROSS-PURCHASE BUY-SELL AGREEMENT

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This Cross-Purchase Buy-Sell Agreement (this "Agreement") is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and among \_\_\_\_\_ [Company name], a \_\_\_\_\_ [State]  corporation  limited liability company  partnership located at \_\_\_\_\_ [Address] (the "Company") and each of the individuals listed on Schedule A attached hereto (each a "Owner" and collectively, the "Owners").

## ARTICLE I PURPOSE

1. **Interests.** The Owners own all of the outstanding interests of the Company (the "Interests") in the amounts outlined in Schedule A.

2. **Purpose.** The Owners have entered into this agreement to: (Check all that apply)

- Restrict the transfer of the Interests by Owners
- Ensure any sale of the Interests is in accordance with established procedures
- Provide stability and continuity in the management of the Company
- Maintain ownership or control of the Company
- Create a market for Owners to sell Interests
- Determine how Interests will be transferred in the event of a death, disability, or other involuntary transfer of Interests
- Set an estate tax value for a deceased Owner's Interests
- Establish an accepted purchase price for Interests
- Other: \_\_\_\_\_

## ARTICLE II RESTRICTIONS ON TRANSFER

1. **Restriction on Transfer.** Except as permitted in this Agreement, the parties will not sell, transfer, pledge, assign, hypothecate, encumber or alienate (each a "Transfer") any of the Interests. Any Transfer not in accordance with this Agreement shall be void.

2. **Certificates.** (Check one)

- Not applicable.
- All certificates representing the Interests now owned or hereafter acquired by each Owner shall have the following legend conspicuously printed on its face:

"The interests represented by this certificate are subject to certain restrictions contained in a Buy-Sell Agreement among the Company and the Owners. A copy of the Buy-Sell Agreement is on file at the principal office of the Company."

## ARTICLE III VOLUNTARY TRANSFERS



1. **Permitted Transfers.** (Check one)

- The Owners shall NOT be allowed to Transfer any Interests except as provided in this Agreement.
- The Owners shall be allowed be allowed to Transfer Interests: (Check all that apply)
  - Transfers to other owners
  - Transfers to the owner's immediate family
  - Other: \_\_\_\_\_

Any permitted transferee shall hold the Interests subject to the provisions of this Agreement.

2. **Notice of Transfer.** In the event an Owner wishes to sell any Interests (the "Offering Owner") other than pursuant to a permitted transfer as described above (if any), the Owner shall provide a written notice to: (Check one)

- The other Owners (the "Remaining Owners")
- The other Owners (the "Remaining Owners") first and then the Company
- The Company
- The Company first and then the other Owners (the "Remaining Owners")

of its intention to sell the Interests (a "Notice of Transfer"). A Notice of Transfer shall specify the following:

- The name and address of the purchaser (the "Third Party Purchaser")
- The number of interests being sold (the "Offered Interests")
- The price per interest
- The payment and other terms of the proposed sale

3. **Transfer of Interests.** (Check one)

- (Select if written notice is provided to the **Remaining Owners only**)  
For \_\_\_\_\_ days after receipt of a Notice to Transfer, the Remaining Owners shall have the option to purchase the Offered Interests at the price and in accordance to the terms in the Notice to Transfer in proportion to their respective ownership interests of the outstanding Interests. If any Remaining Owner fails to give timely notice or declines to purchase its proportionate interest, the other Remaining Owners shall have the option to purchase that Remaining Owner's proportionate Interest of the Offered Interests, in proportion to their respective ownership interests of the outstanding Interests. If the Remaining Owners elect to purchase less than all of the Offered Interests, the Offering Owner may sell (Check one)  the Offered Interests to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer  any Offered Interests not purchased by the Remaining Owners to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer.
- (Select if written notice is provided to the **Remaining Owners first and then the Company**)  
For \_\_\_\_\_ days after receipt of a Notice to Transfer, the Remaining Owners shall have the option to purchase the Offered Interests at the price and in accordance to the terms in the Notice to Transfer in proportion to their respective ownership interests of the outstanding Interests. If any Remaining Owner fails to give timely notice or declines to purchase its proportionate interest, the other Remaining Owners shall have the option to purchase that Remaining Owner's proportionate interest of the Offered Interests, in proportion to their respective ownership interests of the outstanding Interests. At the end of the \_\_\_\_\_-day option period, the Remaining Owners



shall notify the Company of the number of Offered Interests they intend to purchase. For \_\_\_\_\_ days after receipt of such notification, the Company shall have the option to purchase any Offered Interests not being purchased by the Remaining Owners at the price and in accordance to the terms in the Notice to Transfer. If the Remaining Owners and/or the Company elect to purchase less than all of the Offered Interests, the Offering Owner may sell (Check one)  the Offered Interests to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer  any Offered Interests not purchased by the Remaining Owners and/or the Company to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer.

(Select if written notice is provided to the **Company only**)

For \_\_\_\_\_ days after receipt of a Notice to Transfer, the Company shall have the option to purchase the Offered Interests at the price and in accordance to the terms in the Notice to Transfer. If the Company elects to purchase less than all of the Offered Interests, the Offering Owner may sell (Check one)  the Offered Interests to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer  any Offered Interests not purchased by the Company to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer.

(Select if written notice is provided to the **Company first and then the Remaining Owners**)

For \_\_\_\_\_ days after receipt of a Notice to Transfer, the Company shall have the option to purchase the Offered Interests at the price and in accordance to the terms in the Notice to Transfer. At the end of the \_\_\_\_\_-day option period, if the Company has elected to purchase less than all of the Offered Interests, it shall notify the Remaining Owners of the number of Offered Interests remaining available for purchase. For \_\_\_\_\_ days after receipt of such notification, the Remaining Owners shall have the option to purchase any Offered Interests not being purchased by the Company at the price and in accordance to the terms in the Notice to Transfer in proportion to their respective ownership interests of the outstanding Interests. If the Company and/or the Remaining Owners elect to purchase less than all of the Offered Interests, the Offering Owner may sell (Check one)  the Offered Interests to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer  any Offered Interests not purchased by the Company and/or the Remaining Owners to the Third Party Purchaser at the price and in accordance to the terms in the Notice to Transfer.

**4. Duties of Transferees.** Unless otherwise provided in this Agreement, as a condition to any Transfer, each Third Party Purchaser and any other purchaser or subsequent transferee must agree to be bound by the terms of this Agreement.

Adoption Agreement (Check one)

Not applicable.

Each Third Party Purchaser and any other purchaser or subsequent transferee shall become a party to this Agreement by executing the Adoption Agreement attached hereto as Annex A.

#### **ARTICLE IV INVOLUNTARY TRANSFERS**

**1. Involuntary Transfers.** The following events shall each constitute an “Involuntary Transfer Event” and the affected Owner shall be referred to as the “Withdrawing Owner” and the remaining Owners shall be referred to as the “Non-Withdrawing Owners”: (1) the death of an Owner; (2) the total mental or physical disability of an Owner; (3) the termination of an Owner’s employment with the Company; and (4) the bankruptcy or insolvency of an Owner.



2. **Sale of Interests.** Upon the occurrence of any of the events specified in Paragraph 1, the Withdrawing Owner or the personal representative of the Withdrawing Owner shall notify the Company of the Involuntary Transfer Event.

Upon receipt of such notice, the Company shall notify the Non-Withdrawing Owners of the Involuntary Transfer Event and the number of Interests owned by the Withdrawing Owner. The Non-Withdrawing Owners shall purchase all of the Interests owned by the Withdrawing Owner on a pro-rata basis within \_\_\_\_\_ days from receipt of the notice.

## ARTICLE V VALUATION OF Interests

1. **Purchase Price.** The purchase price per interest to be paid for any Transfer of Interests due to an Involuntary Transfer Event (the "Purchase Price") shall be: (Check one)

\$ \_\_\_\_\_ per interest.

**The book value per interest of the Interests.** The book value of the Interests shall be determined by the Company's regular independent certified public account. If the Company does not have a regular independent certified public account, the Company shall select an independent certified public account. The book value shall be calculated in accordance with generally accepted accounting principles.

**The fair market value per Interest of the Interests.** The fair market value of the Interests shall be set and agreed upon by the Company and the Owners within \_\_\_\_\_ days after an event requiring a determination of the purchase price of the Interests. If the parties are unable to agree on a fair market value, the fair market value shall be set by a mutually agreed upon qualified independent appraiser. If the parties cannot in good faith agree upon an independent appraiser, the independent appraiser shall be chosen by a court of competent jurisdiction.

**Determined by an agreed upon appraiser.** Within \_\_\_\_\_ days after an event requiring a determination of the purchase price of the Interests, the Company and the selling Owners shall select a mutually agreed upon qualified appraiser to appraise the value of the Company and set a purchase price.

**Other:** \_\_\_\_\_

2. **Other Provisions.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## ARTICLE VI PAYMENT AND TRANSFER OF Interests

1. **Payment.** The Purchase Price for the Transfer any Interests due to the death of an Owner shall be payable out of the proceeds of any life insurance policy required to be carried on the life of the Withdrawing Owner by the Owners or the Company. To the extent there is no life insurance policy or the life insurance proceeds are less than the Purchase Price, the remaining amount shall be payable in/by: (Check one)

- Cash
- A negotiable promissory note
- \_\_\_\_\_ [Number] equal installment payments

All other payments shall be payable in/by: (Check one)



- Cash
- A negotiable promissory note
- \_\_\_\_\_ [Number] equal installment payments

2. **Transfer of Title.** The Selling Owner or Withdrawing Owner shall deliver the certificates representing the Interests being transferred, properly endorsed for transfer or accompanied by an assignment agreement to the transferee.

3. **Life Insurance.** Each Owner shall carry a life insurance policy on the life of the Owner. Each Owner shall be responsible for all premiums and costs related to such life insurance policy. Each life insurance policy shall carry a minimum payout of at least \$\_\_\_\_\_.

## ARTICLE VII TERM AND TERMINATION

1. **Term.** This Agreement shall be effective and binding upon the parties as of the Effective Date.

2. **Termination.** This Agreement will terminate in the event one of the following occurs:  
(Check all that apply)

- Written consent of a majority of the Owners
- Death or incapacity of all of the Owners
- Bankruptcy, receivership or dissolution of the Company
- A single Owner becoming the owner of all of the Interests
- Other: \_\_\_\_\_

## ARTICLE VIII MISCELLANEOUS

1. **Amendments.** This Agreement may be amended or modified only by a written agreement signed by all of the parties.

2. **Notices.** Any notice or other communication given or made to any party under this Agreement shall be in writing and delivered by hand, sent by overnight courier service or sent by certified or registered mail, return receipt requested, to the Company at the address stated above and to the Owners at the address in the Company's records.

3. **No Waiver.** No party shall be deemed to have waived any provision of this Agreement or the exercise of any rights held under this Agreement unless such waiver is made expressly and in writing. Waiver by any party of a breach or violation of any provision of this Agreement shall not constitute a waiver of any other subsequent breach or violation.

4. **Assignment.** No party hereto shall have the right to assign its rights or delegate its duties hereunder without the written consent of the other parties, which consent shall not be unreasonably withheld.

5. **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable in whole or in part, the remaining provisions shall not be affected and shall continue to be valid, legal and enforceable as though the invalid, illegal or unenforceable parts had not been included in this Agreement.

6. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, heirs, administrators, executors, successors and permitted assigns.



7. **Headings.** The section headings herein are for reference purposes only and shall not otherwise affect the meaning, construction or interpretation of any provision in this Agreement.

8. **Governing Law.** The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_, not including its conflicts of law provisions.

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

- Court litigation. Disputes shall be resolved in the courts of the State of \_\_\_\_\_.  
(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 and costs) 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.

10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together, shall constitute one and the same document.

11. **Entire Agreement.** This Agreement contains the entire understanding between the parties and supersedes and cancels all prior agreements of the parties, whether oral or written, with respect to such subject matter.

12. **Miscellaneous.** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

\_\_\_\_\_  
**Company Name**                      **Representative Signature**                      **Representative Name and Title**

Owners

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_



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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**

Name: \_\_\_\_\_ Type of Interest: \_\_\_\_\_ Number of Interests: \_\_\_\_\_

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**Owner Signature** **Owner Full Name**



**SCHEDULE A**

<b>Name</b>	<b>Type of Interests</b>	<b>Number of Interests</b>





ANNEX A

**ADOPTION AGREEMENT**

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This Adoption Agreement (this "Agreement") is executed as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the undersigned (the "Transferee") pursuant to the Buy-Sell Agreement dated as of September 28, 2020 (the "Buy-Sell Agreement") by and between \_\_\_\_\_ (the "Company") and the Owners listed in Schedule A thereto.

WHEREAS, the Transferee is hereby acquiring certain interests of the Company (the "Interests") which are restricted by and subject to the terms and conditions of the Buy-Sell Agreement; and

WHEREAS, the Transferee has received and reviewed a complete copy of the Buy-Sell Agreement.

NOWHEREFORE, as partial consideration for transfer of such Interests, the Transferee hereby agrees as follows:

1. **Agreement.** The Transferee hereby agrees, that upon the execution of this Agreement, the Transferee shall become a party to the Buy-Sell Agreement, and shall be fully bound by and subject to the terms and conditions of the Buy-Sell Agreement as though an original party thereto.

2. **Notices.** Any notice required pursuant to the Buy-Sell Agreement shall be delivered to the Transferee at the following address:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

3. **Governing Law.** The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of \_\_\_\_\_, not including its conflicts of law provisions.

IN WITNESS WHEREOF, the Transferee has executed this Agreement as of the date first written above.

\_\_\_\_\_  
**Transferee Signature**

\_\_\_\_\_  
**Transferee Full Name**

