

Offer to Purchase (Business)

, of , (the “Buyer”) hereby offers to purchase from , of (the “Seller”), all of the undertaking, property and assets of the Seller used in its (the “Business”) as a going concern, of every kind and description and wherever situated, including but not limited to the assets described in Schedule “A” hereto (the “Assets”), upon and subject to the following terms and conditions:

1. **Purchase Price.** The purchase price (the “Purchase Price”) payable by the Buyer to the Seller for the Assets shall be plus the value of the inventory of the Business on hand as of the Closing Date (hereafter defined), valued at lower of cost and realizable value, as determined by the Seller and the Buyer by conducting of a physical inventory thereof on or immediately before the Closing Date.
2. **Payment of Purchase Price.** The Purchase Price shall be paid and satisfied at Closing by the Buyer as follows:
 - (a) by delivering to the Seller’s attorneys, upon execution of this Offer, a cheque payable to the Seller’s attorney in trust in the amount of as a deposit (the “Deposit”); and
 - (b) by delivering to the Seller the balance of the Purchase Price, subject to the usual adjustments, on the Closing Date by certified cheque or bank draft.
 - (c) If the Buyer fails to complete this transaction as a result of the breach by the Buyer of its obligations in this Offer, the Deposit, together with interest thereon may be retained by the Seller as liquidated damages and shall be obtained by the Seller making the requisite demand upon the Seller’s Attornies. If the Buyer fails to complete this transaction for any other reason, including but not limited to the non-fulfillment of any of the conditions for the Buyer’s benefit set forth in this Offer, the Seller shall not be entitled to the Deposit and it shall be forthwith released to the Buyer.
3. **Taxes.** Any sales tax, use tax, excise tax, transfer tax, recordation tax, or other tax imposed upon the transfer of the Assets from the Seller to the Buyer shall be divided equally between the Seller and the Buyer. All state and local personal property taxes shall be adjusted as of the Closing Date.
4. **Allocation of Purchase Price.** The Purchase Price shall be allocated among the Assets according to an allocation which the parties undertake settle upon, acting reasonably, prior to Closing. The Seller and the Buyer agree that the amounts so attributed to the Assets are the respective fair market values thereof, and shall file in mutually agreeable

form all elections required or desirable under the *Internal Revenue Code of 1986*, as amended in respect of the foregoing allocations.

5. **Investigation.** After fulfillment or waiver of all conditions in this Offer which are intended for the benefit of the Buyer, the Buyer and its advisers shall during business hours have reasonable access to the Premises, books, leases and other records of the Business for the purpose of investigating the business and affairs of the Business.
6. **Closing Date.** Time shall be of the essence of this Offer. The closing of this transaction shall take place at 2:00 p.m. on _____ or such earlier or later date as may be mutually acceptable to the parties hereto (the "Closing Date" or "Closing") at the office of the Buyer's attorneys in _____ or at such other place as may approved in writing by the parties hereto or their respective attorneys.
7. **Insurance.** The Seller shall, up to Closing maintain in force all insurance presently in force on the Assets or in respect of the Business. Any proceeds of insurance payable in respect of any event which occurs on or prior to the Closing Date shall be received in trust for the Buyer and shall promptly be paid over to the Buyer at Closing if the Buyer shall complete the purchase of the Assets, failing which the Seller shall be absolutely entitled to such proceeds. The Buyer acknowledges that it will be responsible for placing its own insurance in respect to the Assets and Business at or before Closing if the Seller's insurance is not transferred to the Buyer on Closing or if the Seller's insurance is not transferred to the Buyer on Closing.

SAMPLE



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