

## Letter of Intent to Purchase Business Assets

**INTRODUCTION:** This letter of intent (LOI) to buy and sell business assets dated \_\_\_\_\_, is non-exclusive and non-binding except as noted in Paragraph 15.

**1. DEFINITIONS:**

BUSINESS \_\_\_\_\_

Address \_\_\_\_\_

BUYER \_\_\_\_\_ SELLER \_\_\_\_\_

SIGNING: Signing of this LOI by both Buyer and Seller.

CLOSING: Transfer of ownership and possession of business assets from Seller to Buyer.

DAYS: Calendar days.

ASSETS: All of the tangible and intangible assets of the Business, including goodwill, but not including bank accounts, deposits, cash, accounts receivable (unless specified in section 4) and financial records.

**2. CONSIDERATION:** The Consideration will be \$ \_\_\_\_\_ paid or credited as follows

a. \$ \_\_\_\_\_ as a deposit by Buyer upon opening of escrow or signing an Asset Purchase Agreement, whichever occurs first, and included as part of the down payment.

b. \$ \_\_\_\_\_ cash deposited by Buyer in escrow \_\_\_\_\_ days before Closing.

c. \$ \_\_\_\_\_ cash payment provided from third party financing as described in section 5.c.

d. \$ \_\_\_\_\_ Total Cash at Closing  
       (a+b+c)

e. \$ \_\_\_\_\_ approximate balance of a non-negotiable promissory note payable to Seller in equal monthly installments, including \_\_\_\_\_ % per annum interest computed from Closing, so as to fully amortize over \_\_\_\_\_ months (i.e., \$ \_\_\_\_\_ per month), (the "Seller Note"). Seller Note will be secured by a security agreement on the Assets. Seller Note will be subordinated to any third party financing described in 5.c. If Buyer is a corporation or other entity, its owners will personally guarantee the Seller Note.

g. \$ \_\_\_\_\_ Total  
       (d + e)

**3. INVENTORY:**

The Assets and Consideration do not include Inventory.

The Assets and Consideration will include Inventory of \$ \_\_\_\_\_. If the actual amount of Inventory at Closing is different than this figure, the Consideration will be increased or decreased accordingly. Notwithstanding the above, Inventory will not exceed \$ \_\_\_\_\_ (and Buyer can reject any part of the Inventory over that amount) or be less than \$ \_\_\_\_\_.

**4. ACCOUNTS RECEIVABLE ("AR"):**

The Assets and Consideration do not include AR.

The Assets and Consideration include AR of \$ \_\_\_\_\_.

**5. CONDITIONS:** The transaction contemplated by this LOI is subject to the following conditions:

a. Target date for completing Buyer and Seller due diligence and opening escrow is on or before \_\_\_\_\_.

b.  Lease: Execution of a new lease acceptable to the Buyer or assignment of lease acceptable to both parties.

\_\_\_\_\_  
 Buyer    Buyer    Seller    Seller

- c.  Third Party Financing: Buyer will:
  - i. Provide a conditional approval letter for third party financing of \$ \_\_\_\_\_ within \_\_\_\_\_ days after Signing.
  - ii. Obtain funding in the amount indicated in 5.c.i within \_\_\_\_\_ days after Signing.
- d. Asset Purchase Agreement ("APA"): Prior to expiration of this LOI and prior to Closing, Buyer and Seller will execute a binding APA based on the terms of this LOI and additional terms and conditions acceptable to both parties. The APA will include customary terms, such as representations, warranties and indemnities and be prepared using:
  - The California Association of Business Brokers APA form
  - An APA prepared by Buyer's attorney
- e. Other Conditions:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_

6. **ESCROW:** The Consideration will be paid through a licensed, independent escrow company.

7. **CLOSING:** The estimated date for Closing is \_\_\_\_\_, 20 \_\_\_\_\_

8. **TRAINING:** Seller and \_\_\_\_\_, individually, will train Buyer for a period of \_\_\_\_\_ weeks from Closing, for up to \_\_\_\_\_ hours per week, without additional cost to Buyer.

9. **COVENANT NOT TO COMPETE:** For a period of \_\_\_\_\_ years from Closing, Seller and \_\_\_\_\_, individually, will not directly or indirectly carry on a similar business  within a radius of \_\_\_\_\_ miles of the present location of the Business, or  within \_\_\_\_\_

10. **AGENCY DISCLOSURE AND CONFIRMATION:** Seller and Buyer acknowledge having received and signed a Disclosure Regarding Real Estate Agency Relationship. The following agency relationships are hereby confirmed for this transaction, and supersede any prior agency relationships:

|                            |                             |
|----------------------------|-----------------------------|
| Buyer's Broker _____       | Seller's Broker _____       |
| Buyer's Broker DRE # _____ | Seller's Broker DRE # _____ |
| Buyer's Agent _____        | Seller's Agent _____        |
| Buyer's Agent DRE # _____  | Seller's Agent DRE # _____  |

11. **BROKER(S)' FEE:** Broker(s)' fee will be payable at Closing. The Broker(s) identified in section 10 has/have acted as the only Broker(s) for this sale and will be paid as per applicable representation agreement between Seller and/or Buyer and their respective Broker(s).

12. **BROKER:** Buyer acknowledges that Broker has furnished and/or will furnish to Buyer financial and other information obtained from Seller and other sources, the accuracy and completeness of which are not verified or warranted by Broker, and that Buyer is relying solely on Buyer's own inspection of the Business, its Assets, financial statements, business records, contracts, any assumed liabilities, operational history, future profitability and the representations by the Seller, and not on any representations of the Broker. Seller acknowledges that Seller is relying solely on its own investigation of the Buyer's creditworthiness and ability to complete this sale and to successfully operate the Business, and not on any representations of the Broker. Should any such representations of Seller or Buyer be untrue, Buyer and Seller agree to look solely to each other for relief and will release, hold harmless, indemnify and defend the Broker from any such claims. Buyer and Seller acknowledge and agree that Broker may receive a referral fee from institutional lenders, financial service companies, landlords, etc.

13. **CONFIDENTIALITY:**  
 Buyer acknowledges having received and signed a confidentiality agreement for this Business which will remain in full force.

If the box above is not checked and no such agreement exists, the following will apply: Any information Buyer is given about the Business, including its availability for acquisition, will be treated as confidential and proprietary. Buyer will not disclose, without prior written permission from Seller or Seller's authorized representative, any such information to any third party except Buyer's representatives/affiliates engaged in evaluating the information, and will obtain a written agreement of such third parties to maintain confidentiality. If Buyer decides not to purchase the Business, Buyer will promptly notify the Broker of this fact and will promptly return all documentation without retaining copies, summaries, analyses or extracts.

- 14. **BUYER & SELLER COSTS:** Buyer and Seller will each pay their own legal, accounting, advisor and finance costs and one half of the escrow fee and costs. Buyer will pay at Closing any sales taxes assessed on the Business Assets.
- 15. **BINDING TERMS:** This is a non-binding LOI and may be cancelled by either party at any time except for paragraphs 11,12, 13, 14 and 16 which are binding and will survive this LOI, even if any above conditions are not met or this LOI is cancelled.
- 16. **TERM AND TERMINATION:** This LOI will expire \_\_\_\_\_ days after Signing or upon execution of an APA, whichever comes first. Unless accepted in writing by Seller, this LOI will automatically expire if Buyer proposes a change to the terms outlined in Section 2 above.

**NOTE: LIBERTY BUSINESS ADVISORS OF SAN FRANCISCO, INC. MAKES NO REPRESENTATION AS TO THE LEGAL VALIDITY OR ADEQUACY OF ANY PROVISION OF THIS FORM IN ANY SPECIFIC TRANSACTION. A BUSINESS BROKER IS NOT LICENSED OR QUALIFIED TO PROVIDE LEGAL, ACCOUNTING OR TAX ADVICE. SELLER AND BUYER ARE ADVISED TO CONSULT WITH INDEPENDENT ATTORNEYS, ACCOUNTANTS AND OTHER COMPETENT PROFESSIONALS WHEN ENTERING INTO AND COMPLETING THE TRANSACTION.**

This LOI is subject to the attached addendum dated \_\_\_\_\_.

THE ABOVE TERMS ARE AGREED TO AND ACCEPTED BY:

**BUYER**

**SELLER**

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Print Name/Title

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Corporation (or other entity)

\_\_\_\_\_  
Corporation (or other entity)

by: \_\_\_\_\_

by: \_\_\_\_\_

Print Name and Title

Print Name and Title

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

\_\_\_\_\_  
Signature \_\_\_\_\_ Date

Address \_\_\_\_\_

Address \_\_\_\_\_

City, State Zip \_\_\_\_\_

City, State Zip \_\_\_\_\_

\_\_\_\_\_  
Buyer      Buyer      Seller      Seller